

RESOLUTION NO. 3453, as Amended

A RESOLUTION of the Port Commission of the Port of Seattle authorizing the Chief Executive Officer to enter into an Intergovernmental Agreement with Klickitat County for the provision of waste disposal services for certain categories of solid waste materials.

WHEREAS, the Port of Seattle regularly generates large volumes of non-hazardous solid waste through its development and operation activities on Port property, and the cost of disposal of these wastes can often form a significant portion of the overall project cost; and

WHEREAS, the Port whenever possible wants to support efforts by rural Washington counties to promote and sustain economic development activities; and

WHEREAS, Klickitat County is the site of a large, professionally managed solid waste landfill, the operation of which is a significant economic engine in its community, and the County has indicated a willingness to allow the Port to designate this site for the disposal of Port wastes, using selected portions of the County's own agreement with the landfill operator;

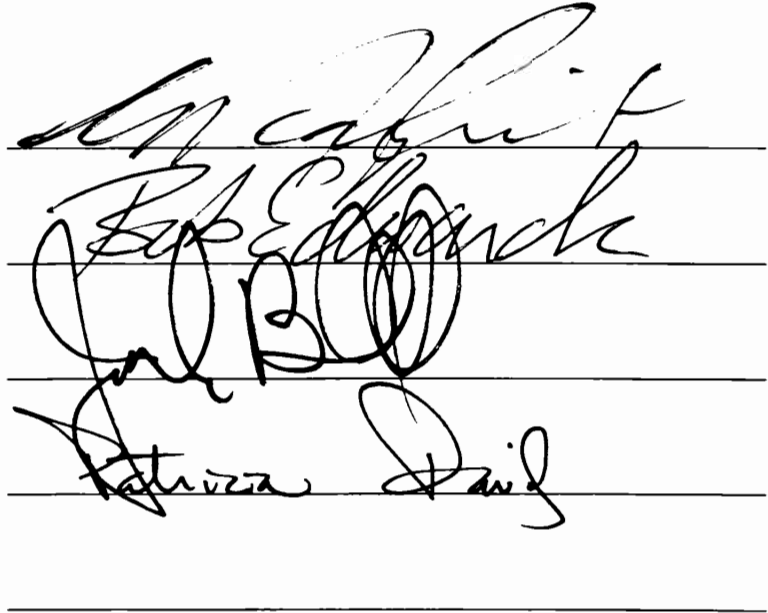
NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle that:

Section 1. The Chief Executive Officer is hereby authorized to execute an Intergovernmental Agreement with Klickitat County substantially in the form attached hereto as Exhibit A and by this reference incorporated herein.

Section 2. Port staff is authorized to take all necessary actions to fulfill the terms of the Agreement.

Section 3. A copy of the final executed Agreement shall be attached to this resolution as Exhibit "B" and by this reference incorporated herein.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting thereof, held this 27th day of March, 2001, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission.

The image shows four handwritten signatures in black ink on a white background with horizontal lines. The signatures are written in a cursive style. The first signature is the most legible and appears to be 'M. ...'. The second signature is 'Bob Edwards'. The third signature is a large, stylized 'W'. The fourth signature is 'Katherine ...'. Below the fourth signature, there is a horizontal line.

Port Commission

**INTERGOVERNMENTAL AGREEMENT
REGARDING SOLID WASTE TRANSPORT AND DISPOSAL**

This Intergovernmental Agreement regarding solid waste transport and disposal is entered into by and between Klickitat County and the Port of Seattle, both municipal corporations of the State of Washington ("County-Port Agreement").

RECITALS

WHEREAS, Klickitat County ("County") has established a solid waste disposal system ("System") consistent with Chapters 36.58 and 70.95 RCW and the Klickitat County Solid Waste Management Plan ("Klickitat Plan"). Pursuant to RCW 36.58.040, the County has designated the Roosevelt Regional Landfill ("Site") as its disposal site. The County has entered into an agreement with Regional Disposal Company (the "Contractor") to, *inter alia*, operate the Site and to accept solid waste generated within the County (Second Amended Agreement Regarding Solid Waste Handling Between Klickitat County and Regional Disposal Company, dated June 8, 1992, as amended (the "County-Contractor Agreement")). A copy of the current County-Contractor Agreement is attached as Attachment #1.

WHEREAS, under Section 10 of the County-Contractor Agreement, the County expressly reserved the right to enter into intergovernmental contracts with other municipal corporations for disposal of solid waste or designation of solid waste handling facilities, so long as the contract does not conflict with the County's obligations to the Contractor.

WHEREAS, the Port of Seattle ("Port") is responsible for the proper management of various types of non-hazardous solid waste which it generates in the course of operating and redeveloping its properties and improvements. Such wastes can include, for example, construction wastes; demolition debris and other inert wastes; and contaminated soils. The Port desires to arrange for a means to dispose of waste materials originating from Port facilities and intended for disposal in a solid waste landfill in an efficient, timely, low-risk and cost-effective manner.

WHEREAS, under RCW 39.34.080 and 53.08.240, the Port may contract with the County to carry out any governmental function and service which each is authorized to perform, provided that the governing bodies of the County and the Port so authorize. Here, each entity is authorized to contract to dispose of the solid waste that it generates.

WHEREAS, the Port and the County find that it is reasonable and feasible to enter into this Agreement in order to provide the Port with the ability to dispose of certain solid wastes at the Site, and to use selected terms of the County-Contractor Agreement. Subsequent to entering into this agreement, the Port will enter into a separate contract with the Contractor (the "Port-Contractor Agreement") to set commercial terms such as types of waste, tipping fees, and shipping dates and to specify responsibilities related to waste management, waste certification and testing requirements.

1. Purpose.

The purpose of this agreement is to protect public health and safety, and to provide for the safe and efficient transportation and disposal of solid waste originating from the Port. The County and the Port enter into this County-Port Agreement pursuant to Chapters 39.34 and 53.08 RCW to allow the Port to use the disposal site designated by Klickitat County pursuant to RCW 36.58.040 for disposal of its waste, and to access other terms of the County-Contractor Agreement.

2. Recital. (Adopted)

2.1 Recital 2.2 contained in the County-Contractor Agreement, which concerns the competitive bid process, shall apply and is incorporated herein.

3. Definitions. (Adopted)

The definitions contained in Section 3 of the County-Contractor Agreement shall apply and are incorporated herein.

4. General Provisions. (Adopted)

4.1 The following General Provisions contained in the County-Contractor Agreement shall apply and are incorporated herein: 4.1 (State Law); 4.2 (Contractor Skill); 4.3 (Warranty of Personnel and (Equipment)); 4.10 (No Public Official Liability); 4.11 (Severability); 4.12 (Agreement Provision Applied); 4.13 (Non-Waiver); 4.14 (Venue); 4.16 (No Third Party Beneficiary); 4.17 (Headings); 4.18 (Construction) and 4.19 (Complete Agreement).

5. Port Responsibilities.

5.1 The Port shall use and designate the Site for the disposal of all Acceptable Waste that (a) originates from Port properties or otherwise comes under the Port's control, and that (b) is intended for disposal at a solid waste landfill and (c) for which there is a signed Service Agreement with the Contractor, except to the extent that the management of such waste is controlled by a local flow control ordinance.

5.2 For all Acceptable Waste tendered by Port, the Port shall be responsible for assuring compliance with the Klickitat Plan requirements with respect to waste reduction and recycling, and screening procedures to exclude hazardous waste from the waste stream.

5.3 The Port shall tender only Acceptable Waste placed in containers or other equipment suitable for rail and road shipment.

6. County Responsibilities.

6.1 For the duration of this Agreement, the County permits the Port's use of the County solid waste system for all Acceptable Waste received from the Port.

6.2 In the event of a Category D default by the Contractor under the County Contractor Agreement, the County shall take no action to prevent the Contractor from accepting Port's Acceptable Waste, but shall look only to the Contractor for liquidated damages pursuant to the County-Contractor Agreement.

6.3 County shall not be responsible for:

6.3.1 disposal of, nor claims that this County-Port Agreement extends to, any solid waste generated through waste reduction or waste recycling activities carried on by or within Port;

6.3.2 collection of any solid waste within Port property or transportation of Solid Waste to the Site;

6.3.3 fees incurred by Port under this Agreement; and

6.3.4 solid waste collection or transportation activities or facilities.

7. Contractor's Responsibilities.

7.1 The Contractor's operational responsibilities and procedures shall be detailed in the separate Port-Contractor Agreement. However, the following provisions of the County-Contractor Agreement shall also apply:

7.1.1 Section 6 of the County-Contractor Agreement, related to provision of a Contractor's Representative, shall apply and is incorporated herein

7.1.2 Section 7 of the County-Contractor Agreement, related to Independent Contractor status, shall apply and is incorporated herein

8. Allocation of Risk/Force Majeure. (Adopted)

8.1 The following provisions of Section 14 of the County-Contractor Agreement, dealing with allocation of risk, shall apply and are incorporated herein: 14.5; 14.6; and 14.7.

9. Title of Waste, Handling of Unacceptable or Hazardous Waste.

9.1 The following provisions of Section 15 of the County-Contractor Agreement, dealing with title of waste and handling of unacceptable or hazardous waste, shall apply and are incorporated herein: 15.1, 15.2, 15.3, 15.4; and 15.5.

10. Indemnification.

10.1 Section 16 of the County-Contractor Agreement, dealing with indemnification, shall apply in its entirety and is incorporated herein.

11. Correspondence.

11.1 Notices to either party shall be made by registered mail:

To the County: Solid Waste Director
 131 West Court Street
 Goldendale, WA 98620

To the Port: Senior Port Counsel
P.O. Box 1209
Seattle, WA 98111

12. Duration, Amendment and Termination.

12.1 This Agreement shall take effect upon its execution and shall continue to be in full force and effect until and including December 31, 2005, unless terminated as described in Section 12.2 below. County acknowledges that this Agreement is a "contract with term in excess of three (3) years" pursuant to Section 27.2.4 of the County-Contractor Agreement.

12.2 This Agreement may be amended, supplemented or terminated upon the agreement of both parties. Any amendment, supplement or termination shall be in writing as authorized by resolutions of the commissioners of the Port and County.

13. Arbitration.

13.1 The parties shall attempt to resolve by good faith negotiations any and all disputes or claims between the parties arising out of or relating to this Agreement. Following good faith negotiations, when a party desires to initiate the dispute resolution process set forth in this article, it shall do so by giving a written dispute notice to the other party. If any dispute is not resolved by negotiations of the parties within twenty days after the date either party delivers a dispute notice, either party shall have the option to submit that dispute for resolution pursuant to arbitration as provided in this Article.

13.2 The party requesting arbitration shall deliver a demand for final and binding arbitration to the other party and shall file a copy of the demand for arbitration at the nearest office of the American Arbitration Association, together with the appropriate filing fee. The arbitration shall be conducted in accordance with the Commercial Rules of the American Arbitration Association. Provided, the parties shall select the arbitrator. If an arbitrator has not been selected within ten days of filing the demand for arbitration, the arbitrator shall be selected pursuant to AAA Commercial Arbitration Rules.

13.3 The arbitrator shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator. The award rendered by the arbitrator shall set forth detailed findings of fact and conclusions of law and shall be final, and judgment on the award may be entered in any court having jurisdiction thereof. A failure by the arbitrator to make findings of fact and conclusions of law shall invalidate the award. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver or the right of any party to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

13.4 In any arbitration proceeding, the arbitrator is authorized to apportion costs and expenses, including investigation, legal and other expense, which will include, if applicable, a reasonable estimate of allocated costs and expense or in-house legal counsel and legal staff. Such costs and expenses are to be awarded only after the conclusion of the arbitration and will not be advanced during the course of such arbitration.

14. Legislative Authorization

14.1 The enabling resolutions of the governing bodies of the parties shall contain a clause ratifying the terms of this agreement.

This Intergovernmental Agreement has been executed on the dates below shown, on one or more originals.

KLICKITAT COUNTY

PORT OF SEATTLE

By: Donald G. Strunk
Chair, Board of County
Commissioners
Authorized by Resolution No. _____
Date of Execution: 4-16-2001

By: M. J. S. Sorensen
Executive Director
Authorized by Resolution No. 3452, as Amended
Date of Execution: 4-20-2001

SECOND AMENDED
AGREEMENT
REGARDING SOLID WASTE HANDLING
BETWEEN

KLICKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

AUGUST 7, 1995

COPY

TABLE OF CONTENTS

| <u>Article</u> | <u>Subject</u> | <u>Page</u> |
|----------------|--|-------------|
| 1. | INTRODUCTION | 1 |
| 2. | RECITALS | 2 |
| 3. | DEFINITIONS | 3 |
| 4. | GENERAL PROVISIONS | 11 |
| 5. | INTENT OF THE AGREEMENT | 18 |
| 6. | CONTRACTOR'S REPRESENTATIVE | 19 |
| 7. | INDEPENDENT CONTRACTOR | 20 |
| 8. | SUBCONTRACTORS | 21 |
| 9. | CONTRACTOR'S BASIC RESPONSIBILITIES | 22 |
| 10. | SEPARATE CONTRACTS | 24 |
| 11. | COUNTY'S BASIC RESPONSIBILITIES | 25 |
| 12. | AGREEMENT FEES -- COUNTY COMPENSATION | 27 |
| 13. | TIPPING FEES -- CONTRACTOR COMPENSATION | 32 |
| 14. | ALLOCATION OF RISK/FORCE MAJEURE | 34 |
| 15. | TITLE OF WASTE, HANDLING OF UNACCEPTABLE OR HAZARDOUS WASTE | 36 |
| 16. | INDEMNIFICATION | 38 |
| 17. | INSURANCE | 41 |
| 18. | CORRESPONDENCE AND NOTICE | 48 |
| 19. | AGREEMENTS WITH HAULERS AND REGULATIONS | 49 |
| 20. | PERFORMANCE OF SERVICES | 50 |
| 21. | PERMITS AND REGULATIONS | 56 |
| 22. | DEMOLITION AND CONSTRUCTION OR APPROVED WASTE | 57 |
| 23. | SCHEDULE | 60 |
| 24. | TAXES AND FEES | 61 |

| <u>Article</u> | <u>Subject</u> | <u>Page</u> |
|----------------|---|-------------|
| 25. | CLOSURE AND POST CLOSURE | 62 |
| 26. | PERFORMANCE BOND | 63 |
| 27. | RIGHTS AND REMEDIES FOR DEFAULTS IN PERFORMANCE OF THE AGREEMENT | 64 |
| 28. | ARBITRATION, JUDICIAL VENUE AND GOVERNING LAW . . . | 74 |
| 29. | ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS | 75 |
| 30. | SYSTEMS | 77 |
| 31. | COMMUNITY RELATIONS | 79 |
| 32. | GUARANTEES AND WARRANTIES | 82 |
| 33. | DISSOLUTION OF THE COUNTY AND SUCCESSOR TO THE COUNTY | 83 |
| 34. | THE RABANCO COMPANIES' GUARANTY | 84 |
| 35. | TERM | 85 |
| 36. | SIGNATURE - EXECUTION | 86 |

APPENDIX A TECHNICAL SPECIFICATION

APPENDIX B OTHER WASTE PROTOCOL

1. INTRODUCTION

This Agreement Regarding Solid Waste Handling ("Agreement") is entered into this 26th day of May, 1989 as later amended, between Klickitat County, a political subdivision of the State of Washington ("County"), and Regional Disposal Company, a Washington general partnership ("RDC" or "Contractor").

2. RECITALS

2.1 This Agreement is in furtherance of, among other things, the County's authority to provide for public health, safety and welfare, and is consistent with Washington Constitution article 11, section 11. Consistent with Chapter 70.95 RCW, this Agreement provides a program for the orderly development of solid waste handling facilities, including solid waste disposal sites.

2.2 The County undertook a competitive process in accordance with Chapter 36.58 RCW to select a firm to develop and operate transfer or collection and recycling stations, transport facilities and final disposal of solid waste originating within and without the County. The County determined that the competitive process is advantageous for the County in the awarding of this Agreement; that Contractor is best qualified to provide the services sought by the County; and that Contractor has offered to provide those services in a manner and at rates that the County finds to be in the best interests of the ratepayers living and doing business within the County, in a manner that the County finds to be financially sound and advantageous compared to other methods, and in a manner that the County finds to be in the public interest. Therefore, it is the intent of this Agreement to provide a long-term relationship between the County and Contractor for Waste disposal at a sole Disposal Site within the County.

2.3 The cities of Bingen, Goldendale and White Salmon operate or contract for solid waste collection within their boundaries and those cities have determined or may in the future determine that it is in the best interest of their citizens that the County provide for a long-term method of solid waste disposal.

2.4 Cities and counties within and without the State of Washington may provide for solid waste handling or designation of solid waste handling facilities by agreement with County or with Contractor, and in cooperation with the County.

2.5 Nothing in this Agreement authorizes or shall be construed to authorize the operation of a solid waste collection system by the County.

3. DEFINITIONS

For the purposes of this Agreement and the Agreement Documents, the following words and terms shall have the meanings set forth below; however, words and terms describing material or work that have well-known technical or trade meanings, unless otherwise specifically defined in the Agreement, shall be construed in accordance with such well-known meanings generally recognized by solid waste professionals, engineers and trades.

3.1 "Acceptable Waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, waste paper and cardboard; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; the term includes other materials and substances that may now or in the future be included in the definition of "Solid Waste" in RCW 70.95.030 or regulations promulgated thereunder, but the term does not include:

- 3.1.1 Dangerous wastes as defined by Chapter 70.105 RCW or Chapter 173-303 WAC, or their successor provisions.
- 3.1.2 Radioactive wastes, as defined by Chapters 402-12 and 402-19 WAC, or their successor provisions.
- 3.1.3 Any other Unacceptable Waste.

Acceptable Waste must be subject to a governmentally approved recycling program prior to disposal at the Disposal Site.

3.2 "Agreement" and "Agreement Documents" are synonymous: either of these terms means

- 3.2.1 This Agreement, as amended, including the Agreement and the Performance Bond,
- 3.2.2 The Specifications,
- 3.2.3 Any and all addenda to the Agreement, and
- 3.2.4 Any and all appendices, amendments, change orders, or extensions to or extensions of the foregoing documents that the Parties have agreed to in the manner prescribed by the Agreement.

In the event of conflict among Agreement Documents, the Agreement shall be given priority, and subsequent Agreement Documents given priority in the order listed in this Section 3.2.

The RFQ/P and Contractor Response to the RFQ/P shall serve as subsidiary documents for clarification of ambiguities in the Agreement Documents but shall not impose conditions or create duties not described in the Agreement Documents.

3.3 "Asbestos" means Waste containing asbestos and required to be managed according to 40 C.F.R. Part 61, Subpart M.

3.4 "City" or "Cities" means one or more of the incorporated cities or towns in Klickitat County participating in the Comprehensive Solid Waste Management Plan and authorizing the County to designate disposal sites for Waste originating in those cities or towns.

3.5 "Calendar Quarter" means one of the four three-month periods of a calendar year. The first calendar quarter means January 1 to March 31; the second calendar quarter means April 1 to June 30; the third calendar quarter means July 1 to September 30; the fourth calendar quarter means October 1 to December 31.

3.6 "Comprehensive Solid Waste Management Plan" or "Plan" means the County's Comprehensive Solid Waste Management Plan adopted in accordance with Chapter 70.95 RCW.

3.7 "Consumer Price Index" or "CPI" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) computed by the United States Department of Labor Statistics, for the Seattle-Everett Metropolitan Area, or a successor index produced by the United States. If the U.S. ceases to publish such an index for the Seattle area, then its index for the Puget Sound Region or the State of Washington shall be used, and if such indices are not available, a similar index published by another governmental agency shall be used.

3.8 "Contractor" means Regional Disposal Company, and its successors or assigns. Whenever the terms "bidder," "proposer" or "vendor" are used in the Agreement, those terms shall be deemed to include Contractor. Regional Disposal Company is the successor to Rabanco Regional Landfill Company.

3.9 "Contractor Response to the RFQ/P" means the response of Contractor to the RFQ/P submitted to the County on January 23, 1989 and all attachments and addenda thereto, including supplemental responses submitted on February 22 and March 19, 1989.

3.10 "Contractor's Representative." See Article 6.

3.11 "County" means Klickitat County, a political subdivision of the State of Washington.

3.12 "Disposal Site" means the Contractor-selected and the County-permitted landfill located in the County.

3.13 "Dollar" or "Dollars" means United States currency.

3.14 "Drop Box/Recycling Center" means a Facility where:

- 3.14.1 detachable containers are maintained for receipt of waste;
- 3.14.2 waste may be handled for recycling; and
- 3.14.3 other functions are performed consistent with this Agreement and the Specifications.

3.15 "Community Development Account." See Article 31.

3.16 "Facilities" means any or all of the Drop Box/Recycling Centers, transportation facilities, loading and unloading facilities, recycling facilities, Disposal Site, source for cover and liner material, and any other facilities described in the Specifications and used to carry out the Contractor's obligations under this Agreement.

3.17 "Final Permitting" means Contractor has acquired all permits necessary for operation of the Disposal Site and the earlier of:

- 3.17.1 the date on which the period for any administrative or judicial appeals in respect of such permits has lapsed;
- 3.17.2 the date on which any timely administrative or judicial appeals in respect of such permits (if any) have been successfully dismissed by final orders either not subject to appeals or in respect of which the period for administrative or judicial appeals has lapsed; or
- 3.17.3 the date Waste is first received at the Disposal Site.

3.18 "Haulers" means those Persons holding permits from the WUTC for Waste collection and transportation, and those Persons who commercially collect and transport Waste.

3.19 "Hazardous Waste" means any waste (even though it may be part of a delivered load of waste), or combination of wastes that:

- 3.19.1 is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or

- 3.19.2 contains polychlorinated biphenyls or any other substance at levels or concentrations such that its storage, treatment or disposal is subject to regulation under the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.3 contains one or more "hazardous substances" which equals or exceeds a "reportable quantity" for any such substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., and the regulations promulgated thereunder, or contains one or more "hazardous substances" which exceeds "cleanup standards" as defined in the Washington Model Toxics Control Act, Chapter 70.105D RCW, and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.4 is defined and subject to regulation as a source, special nuclear or byproduct material under the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., and the regulations promulgated thereunder, and Chapter 70.98 RCW and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.5 is defined and subject to regulation as "radioactive waste," "low-level radioactive waste" or "high-level radioactive waste" under the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10101 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.6 is defined and subject to regulation as "dangerous waste" or "extremely hazardous waste" under the Washington Hazardous Waste Management Act, Chapter 70.105 RCW, and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.7 is defined and subject to regulation as "biomedical waste" or "infectious waste" under Chapter 70.105 RCW and the regulations promulgated thereunder, and the Biomedical Waste Act, Ch. 14, 1992 Wash. Legis. Serv. 32 (West) (to be codified as a new chapter to Title 70 RCW) and any regulations promulgated thereunder, as now or hereafter amended.

3.20 "Letter of Credit" means a letter of credit furnished by Contractor pursuant to the provisions of Article 26.

3.21 "Municipal Solid Waste" means Waste, excluding Asbestos, Problem Waste, and Special Incinerator Ash.

3.22 "Other Waste" means any waste (even though it may be part of a delivered load of waste), or combination of wastes, that is: .

- 3.22.1 containerized waste (e.g., a drum, barrel, portable tank, box, pail or similar container) of a type listed in 3.22.3 through 3.22.9 of this definition, below;
- 3.22.2 waste transported in a bulk tanker;
- 3.22.3 liquid waste;
- 3.22.4 sludge;
- 3.22.5 waste from an industrial process that requires a separate permit from the jurisdictional health authority;
- 3.22.6 waste from a pollution control process that requires a separate permit from the jurisdictional health authority;
- 3.22.7 residue from an incinerator or energy recovery facility;
- 3.22.8 residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 3.22.1-.6 or 3.22.9 of this definition;
- 3.22.9 soil, water, residue, debris or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 3.22.1-.7 of this definition; or
- 3.22.10 Waste that is delisted as a Hazardous Waste under 40 CFR 260; or exempted or declassified as a dangerous waste under Washington Law.

3.23 "Owner" means, as determined by the context, Contractor or any other owner of property used to perform services under the Agreement.

3.24 "Party" or "Parties" means the County and/or the Contractor.

3.25 "Performance Bond" means bond or other financial guarantee furnished pursuant to the provisions of Article 26.

3.26 "Person" means any individual or legal entity, including without limitation any corporation, partnership or business trust.

3.27 "Prime Rate" means that rate of interest announced from time-to-time by Key Bank of Washington or successor as its prime rate.

3.28 "Problem Waste" (contaminated soils) means:

3.28.1 Soils removed during the cleanup of a remedial action site, or a dangerous waste site closure or other cleanup efforts and actions and which contain harmful substances but are not designated dangerous wastes; or

3.28.2 Dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and one dredge spoils are not dangerous waste and are not regulated by Section 404 of the Federal Clean Water Act (PL 95-217).

3.29 "Project" means any and all matters and things which the Agreement requires to be done, kept, performed and furnished.

3.30 "Project Manager" means the County's representative for all purposes of this Agreement, from time to time designated as such by the County.

3.31 "The Rabanco Companies" means the Washington general partnership operating under that name and any successor corporation, limited partnership, general partnership or person to that general partnership. "Rabanco Ltd., Inc." is a Washington corporation, a partner in The Rabanco Companies, and any successor corporation, limited partnership, general partnership or person to that corporation.

3.32 "RCW" means Revised Code of Washington.

3.33 "Representative" means, depending on the context, the Project Manager for the County or the Contractor's Representative for the Contractor.

3.34 "RFO/P" means the Request for Qualifications and Proposals, Klickitat County Solid Waste Landfill issued October 3, 1988, and dated October 7, 1988, together with all attachments and addenda thereto.

3.35 "Special Incinerator Ash" means residues resulting from the operation of incinerator or energy recovery facilities managing municipal solid waste, including solid waste from residential, commercial, and industrial establishments, if the ash residues: (a) would otherwise be regulated as hazardous wastes under Chapter 70.105 RCW; and (b) are not regulated as a hazardous waste under the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

3.36 "Specifications" means the Technical Specification dated the date of this Agreement, attached and incorporated herein by this reference.

3.37 "Subcontractors" means Contractor's agent or any Person who has a contract with the Contractor for the supply of any goods or services for the Project. Subcontractors do not include individuals normally treated as employees nor does the term include lawyers or accountants. Subcontractors include Haulers.

3.38 "Surety" means such Letter of Credit bank or other Person approved by the County that provides the Performance Bond under Article 26 of this Agreement.

3.39 "Suspicious Waste" is waste that the Contractor reasonably suspects or should suspect may be Unacceptable Waste.

3.40 "Term" or "Term of Agreement" shall mean the term determined in accordance with Article 35, together with any renewal terms or extensions.

3.41 "Tipping Fees" means the rates or charges imposed by the Contractor on Persons who deliver Waste to a Facility, fixed to the extent provided in Article 13.

3.42 "Tons Per Quarter" means the total weight of Waste delivered to and accepted at the Disposal Site in a Calendar Quarter.

3.43 "TPY" means tons per year.

3.44 "Unacceptable Waste" means any and all waste that is:

3.44.1 waste that is prohibited from disposal at a solid waste landfill by state or federal law, regulation, rule, code, permit or permit condition, or by jurisdictional health authority; or

3.44.2 Hazardous Waste; or

3.44.3 Other Waste without a separate waste permit in accordance with the Specifications; or

3.44.4 Other Waste identified in 3.22.10 not approved by the County under Appendix B; or

3.44.5 any other wastes expressly excluded from Acceptable Waste as defined above.

3.45 "Uncontrollable Circumstances" means only the following and no other events: riots, wars, civil disturbances, insurrections, acts of terrorism, volcanic eruptions, lightning or earthquakes at or near any of the Facilities and/or that directly affect the operation of a Facility.

3.46 "WAC" means the Washington Administrative Code.

3.47 "WUTC" means the Washington Utilities and Transportation Commission.

3.48 "Waste" means Acceptable Waste, as the latter term is defined herein unless indicated otherwise.

3.48.1 "In-County Waste" means Waste originating within the unincorporated areas of the County or within Cities.

3.48.2 "In-County Waste" shall not include waste from any business or entity established after the Second amendment to the Agreement and disposing of amounts of 1,000 TPY or more in any calendar year. Contractor shall maintain a County-approved system of records and controls to assure that such business or entity within the County or Cities is subject to disposal fees only after disposal of 1,000 TPY or more in any calendar year.

3.48.3 In no event shall Waste originating outside of the County or Cities, but subject to processing or handling within the County or Cities, be considered In-County Waste.

4. GENERAL PROVISIONS

4.1 State Law. This Agreement shall be deemed to have been made in and shall be construed under the laws of the State of Washington.

4.2 Contractor Skill. The Contractor and its officers, employees, agents and subcontractors shall perform each and every service to be performed under this Agreement in a skillful and competent manner in accordance with solid waste disposal standards in Washington State. The Contractor shall be responsible to the County for any and all errors or omissions in the performance of this Agreement by Contractor and Subcontractors and for any and all failures to perform this Agreement.

4.3 Warranty of Personnel and Equipment. The Contractor warrants that the Facilities, materials, equipment and personnel used in the performance of this Agreement shall conform with the Specifications and shall conform to the design, operating specifications and training requirements of applicable law.

4.4 Compliance With Law.

4.4.1 General. In performing each and every service to be performed under this Agreement, the Contractor, its officers, employees, agents and subcontractors shall comply with all applicable laws, regulations, ordinances, building codes, orders and all other requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Project, and the Contractor shall accordingly give all notices and shall be responsible for obtaining all licenses and permits so required by law. The latter requirements of law include, but are not limited to, all applicable statutes, regulations and orders concerning minimum wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and nonburning requirements, permits, fees and similar subjects. The County shall have the right to inspect copies of all correspondence or any other documents sent to or from the Contractor, its officers, employees, agents or subcontractors to any government agency, federal, state, regional, county or local, relative to any and all of the requirements of law relating to this Agreement. To the extent such correspondence or other documents were submitted by the Contractor or its officers, employees, agents or Subcontractors with a designation that such correspondence or documents, or materials incorporated therein, be treated as confidential, the County agrees that such correspondence and documents shall be subject to the provisions of Section 4.5 below. All agreements between the Contractor and Subcontractors employed for this Agreement shall contain this section's requirements. The

requirements of this section shall survive the expiration of the Agreement.

4.4.2 Environmental Compliance.

(a) The County's plans and studies and federal, state and local siting and development standards indicate that Facilities could potentially be designed, constructed and operated without causing significant adverse environmental impacts that cannot be reasonably and sufficiently mitigated. The County's Comprehensive Solid Waste Management Plan identified the plan alternatives that will be implemented by the County at the project level. Any Environmental Impact Statement ("EIS") or environmental document on the Facilities shall rely on these plan-level analyses and decisions and shall focus on the project-level impacts and alternatives, including mitigation measures, specific to the Facilities. Nothing in this Agreement is intended or shall be construed as causing an adverse environmental impact or limiting the choice of reasonable project-level alternatives until a final EIS or determination of nonsignificance ("DNS"), as appropriate for a particular Facility, is issued by the County's responsible official.

(b) To further ensure that the County's reasonable alternatives for achieving lawful Waste disposal at the project-level are in no way limited by this Agreement prior to the completion of a final project-level EIS, the Comprehensive Solid Waste Management Plan and the Parties have identified reasonable alternative standby systems for disposal. In the event the Project's environmental impacts are determined to be significant and adverse and reasonable mitigation measures are insufficient to mitigate the identified impact, Waste will be handled by backup methods provided in this Agreement. The County agrees that to the extent Facilities can be developed without causing significant adverse impacts that cannot be reasonably and sufficiently mitigated under Article 4 of this Agreement and RCW 43.21C.660, the County is bound by this Agreement to allow the development of the Facilities.

4.4.3 Comprehensive Solid Waste Management Plan Updates. The County's Comprehensive Solid Waste Management Plan will be reviewed from time to time during the term of this Agreement. With respect to such reviews, the Contractor and County acknowledge that any program or plan level environmental analyses for a solid waste management plan revision may occur concurrently with project level environmental analyses related to the Contractor's construction, operation or closure of Facilities.

4.5 Confidentiality.

4.5.1 The Contractor may designate certain documents or records as Confidential Business Records, and those documents or records may be inspected by an independent accountant or other

third party designated by the County and approved by the Contractor (which approval shall reasonably be given); the third party shall summarize the contents of designated confidential materials for the County and shall be instructed to comply with the provisions of Section 4.5.3.

4.5.2 "Confidential Business Records" include all trade secrets, proprietary plans, and financial data, and the ideas and information reflected therein, which Contractor has made or may hereafter make available to the County.

4.5.3 Except as required otherwise by law, the County shall at no time use or knowingly permit any other Person or entity to examine, use or derive benefit from Contractor's Confidential Business Records without the express written consent of Contractor. The County shall not disclose any Confidential Business Records to anyone other than employees or outside consultants, attorneys or accountants who require access to such Confidential Business Records on the County's behalf; all such consultants, attorneys or accountants shall be instructed to comply with the provisions of this Section 4.5.3. Whenever the County believes that it is required by law to disclose Confidential Business Records, the County shall give prior reasonable notice to Contractor before disclosing such Confidential Business Records.

4.5.4 All documents or materials, and copies thereof, shall at all times remain the exclusive property of Contractor. The County shall not assert any proprietary rights in the Confidential Business Records.

4.5.5 Pursuant to Section 4.5.4 above, Contractor shall retain and make available for inspection by the County or its agents originals, as revised or amended, of all records and documents reasonably relating to (a) the selection of Contractor following the RFQ/P; (b) the design and construction of the Disposal Site; (c) the operation and closure of the Disposal Site; and (d) "as built" records and plans for all Facilities.

4.5.6 Contractor shall pay all costs, fines, judgments or other amounts, including but not limited to reasonable attorney fees, ordered, levied or imposed against the County as a result of the nondisclosure of Confidential Business Records.

4.5.7 This Section 4.5 shall survive termination or expiration of this Agreement.

4.6 Time of Essence. Time limits stated in this Agreement are of the essence. No waiver of the Agreement time limits or schedule dates is to be construed by either Party's failure to object to untimely performance under the Agreement. In any event, any waiver of such time limits or schedules shall not be construed as a waiver of any future time limits or schedules.

4.7 Accounting Systems. The Contractor shall at all times maintain an accounting system that uses generally accepted accounting principles for all services rendered and materials supplied in connection with this Agreement. The Contractor's accounts and records covering these charges and all invoices and payments on account of this Agreement shall be open to inspection for any reasonable purpose by the County, any City, their authorized representatives and officers or employees of the State of Washington at all reasonable times during the Term of Agreement and for six (6) years thereafter. The County shall have the right to inspect and copy all records and documents, to interview any persons, and to review any evidence in Contractor's possession or control which may assist the County in determining what amounts are owed to the County. All records and documents subject to this Section 4.7 shall be subject to the provisions of Section 4.5.

4.8 Payment to Subcontractors.

4.8.1 Except where a reasonable dispute exists concerning a payment, the Contractor shall promptly pay all Subcontractors or laborers engaged for purposes of this Agreement in accordance with any and all contracts between any such persons (or entities) and Contractor. The Contractor agrees promptly to remove or have removed any liens or encumbrances which, because of any act or default of Contractor, its officers, employees, or agents or of Contractor's Subcontractors or sub-subcontractors, or Facility owners or operators, are filed against a Facility or against any property, real or personal, which Contractor, its officers, employees, Subcontractors, and other agents would require to fully perform this Agreement; and to defend, indemnify, and save the County harmless pursuant to Article 16 of this Agreement.

4.8.2 Contractor shall not be deemed in violation of this Section 4.8 with respect to mechanics', workers' or material suppliers' liens arising in the ordinary course of business with respect to obligations which are being contested in good faith; Contractor shall not be entitled to rely on this Section 4.8.2 unless Contractor also establishes to the County's reasonable satisfaction that in the event Contractor loses such contest, Contractor has made adequate provisions to pay for the liability claimed under the lien.

4.9 Compliance With RCW 36.58.090(7). The Contractor shall comply with applicable requirements of RCW 36.58.090(7).

4.10 No Public Official Liability. No provision or provisions of this Agreement nor any authority granted by this Agreement is intended to create or result in any personal liability for any public official or employee or agent of the County, nor shall any provision or provisions of this Agreement be construed to create any such liability.

4.11 Severability. If any term or provision of this Agreement, or the application thereof to any Person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. Further, the Parties shall negotiate in good faith regarding amendments to this Agreement that would, to the maximum extent possible, effectuate the intent of any provision determined to be invalid or unenforceable.

4.12 Agreement Provisions Applied. The Contractor shall comply with each and every provision of the Agreement binding on Contractor, and County shall comply with each and every provision of the Agreement binding on County.

4.13 Non-Waiver. A waiver by either Party of any breach of any provision hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of the breach. Where the condition to be waived is a material part of the Agreement such that its waiver would affect the essential bargains of the Parties, the waiver must be supported by consideration and take the form of an Agreement modification.

4.14 Venue. The Parties agree that proper and exclusive venue for any and all actions under this Agreement shall be either in the Superior Court of the State of Washington in Klickitat County or the U.S. District Court for the Eastern District of Washington, at Yakima.

4.15 Facility Ownership--Covenants--Title Insurance.

4.15.1 The Contractor warrants that it owns or will own the Facilities or has or will have rights to use the Facilities in the manner contemplated herein, and that the use of the Facilities as contemplated herein will conform to Washington state and local land use, environmental and other applicable laws. Within ten days of Agreement execution or within ten (10) days of Facility acquisition, Contractor shall execute and deliver to the County a covenant with respect to the Disposal Site or Drop Box/Recycling Centers and shall record in the County that covenant. The covenant shall have a term at least as long as the Term of Agreement, and shall be in a form approved by the County's Prosecuting Attorney. That covenant shall be attached to a copy of this Agreement (which shall be incorporated by reference in the covenant) and shall provide, among other things, that:

(a) Owner grants to the County a covenant that touches and concerns all real property used for the Disposal Site, Drop Box/Recycling Centers, and sites for cover/liner materials for the Disposal Site;

(b) Except as otherwise provided in this Agreement for Drop Box/Recycling Centers, owner covenants that such property is and shall be kept free of all liens, mortgages, encumbrances, and any other interests which could in any way interfere with the performance of this Agreement or with any of the County's remedies against Contractor or Surety for any default under this Agreement;

(c) Owner covenants that any transfer of any interest in said property and any liens or encumbrances placed against the property shall render the claims and rights of transferee, the lienors, the Contractor and the Surety subordinate to the claims and rights of the County under this Agreement; and

(d) The covenant shall run with the land.

4.15.2 The following shall not be considered defaults under the covenant(s) required under Section 4.15.1: (a) liens for taxes not yet delinquent or being contested in good faith by appropriate proceedings; and (b) mechanics', workers', or material suppliers' liens arising in the ordinary course of business with respect to obligations which are being contested in good faith. Contractor shall not be entitled to rely on this good faith contest provision unless Contractor also establishes to the County's reasonable satisfaction that in the event Contractor loses such contest, Contractor has made adequate provision to pay for the liability claimed under the lien.

4.15.3 Within ten (10) days of Contractor's acquisition of property rights for Disposal Site and Drop Box/Recycling Centers the Contractor shall provide the County with copies of current title insurance policies, each guaranteeing that the Contractor has good title to that real property and that there are no liens or encumbrances against that property that would prevent the Contractor from using it for the purposes contemplated herein. Within ten (10) days of Contractor's acquisition of property rights for Facilities the Contractor shall record in the County a memorandum of agreement with respect to this Agreement.

4.15.4 In the event Contractor believes that construction and operation of the Disposal Site will be primarily for in-County Waste only, and that accordingly, after the eighth anniversary of this Agreement, Disposal Fees may not be in the best interest of the County, Contractor shall notify County, and Contractor and County shall meet to determine the continuing desire of County for the Disposal Site. If the Parties agree to defer Contractor's obligation to construct the Disposal Site,

then the provisions of this Section 4.15 shall not apply to the Disposal Site until such time as a determination is made to construct the Disposal Site. If the Parties agree to delete Contractor's obligation to construct the Disposal Site, the Parties shall negotiate in good faith the termination or modification of this Agreement (including without limitation appropriate modification of the Performance Bond).

4.16 No Third Party Beneficiary. The rights and obligations created by this Agreement are for the sole benefit of the Parties, their successors or assigns and no Person not a Party shall be a beneficiary, intended or otherwise, of any such rights or be entitled to enforce any of the obligations created by this Agreement.

4.17 Headings. Any headings to articles, sections or paragraphs appearing herein are not part of the terms of this Agreement and shall not be interpreted as such.

4.18 Construction. This Agreement has been freely and fairly negotiated by the Parties hereto and has been reviewed and discussed by legal counsel for each of the Parties, each of whom has had the full opportunity to modify the draftsmanship hereof and, therefore, the terms of this Agreement shall be construed and interpreted without any presumption or other rule requiring constructional interpretation against the Party causing the drafting of the Agreement.

4.19 Complete Agreement. This Agreement contains the complete statement of the understanding of the Parties with respect to the subject matter of this Agreement. There are no other representations, agreements, or understandings, oral or written, by the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. Each Party acknowledges and represents to the other Party that it is executing this Agreement solely in reliance upon its own judgment and knowledge and that it is not executing this Agreement based upon the representation or covenant of the other Party, or anyone acting on such Party's behalf, except as expressly stated herein. Any modifications or amendments to this Agreement shall be approved in writing by both Parties.

5. INTENT OF THE AGREEMENT

5.1 All services that are necessary to complete and carry out the Project within the limits and in the manner established by this Agreement shall be considered as a part of the Project and such services shall be executed by Contractor without extra compensation.

5.2 Unless expressly agreed otherwise, Contractor shall provide and pay for, as provided in this Agreement, all recycling, transfer, transport and Disposal Site access, services, labor, overtime labor, standby labor, methods, materials, equipment, transportation, power, fuel, water, taxes and all other Facilities and services, and all other items and Facilities of every kind necessary for performance of the Project.

5.3 The Agreement and each of the Agreement Documents are complementary, and they shall be interpreted so that what is called for by one shall be as binding as if called for by all. Should a Party observe any conflicts between or duplications of any provisions of the Agreement or any material omissions from the Agreement, it shall bring them to the attention of the other Party for decision and mutual revision immediately after originally observed.

5.4 The Contractor and the County shall meet to resolve in good faith omissions or discrepancies in the provisions of this Agreement.

5.5 It is understood and agreed that, by execution of this Agreement, the County does not waive or surrender any of its governmental powers.

5.6 It is the intent of the Parties that the authorization to receive Waste from cities and counties within and without the State of Washington under Section 2.4 not be superceded by federal law enacted subsequent to May 26, 1989; provided, however, that such authorization to receive Waste may be broadened by federal law enacted subsequent to May 26, 1989.

6. CONTRACTOR'S REPRESENTATIVE

6.1 The Contractor shall provide the services of a Representative for the Term of Agreement.

6.2 The Contractor's Representative shall be the Contractor's agent and shall be in charge of the Project at all times. The Contractor's Representative shall have authority to furnish estimates on behalf of the Contractor and the Representative's statements, representations, actions and commitments shall fully bind the Contractor.

6.3 The Contractor's Representative shall represent Contractor for all purposes of this Agreement, and all directions, instructions, or notices given to that Representative by the County shall be as binding upon Contractor as if delivered personally to the Contractor.

6.4 The Contractor's Representative shall inform the County of any changes the Contractor proposes to make with respect to actions required of it under this Agreement.

6.5 The Contractor promptly shall inform the County in writing of any change in the Person designated as Contractor's Representative.

7. INDEPENDENT CONTRACTOR

7.1 The Contractor shall perform all work under this Agreement as an independent contractor. The Contractor is not and shall not be considered an employee, agent or servant of the County for any purposes, under this Agreement or otherwise; neither shall any of Contractor's Subcontractors, employees or agents be, nor shall they be considered, employees, agents, subagents or servants of the County for any purposes under this Agreement, or otherwise.

7.2 The Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all Persons performing the same. The Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the County and the Contractor. Nothing in the Agreement shall be construed as giving the County any duty to supervise or control any acts or omissions of any Person, entity or party, which acts or omissions are in any way connected with the Disposal Site or with the performance of services under the Agreement.

8. SUBCONTRACTORS

8.1 The Contractor shall submit to the County the names and addresses of all proposed Subcontractors for each of the major items of the Project (over \$100,000 total, or per year). All Subcontractors shall be subject to review by the County. All Subcontractors specified in the Specifications shall be subject to approval by the County.

8.2 All contracts in connection with the Agreement entered into by Contractor with its Subcontractors, officers, employees, and agents, including all contracts relating to operation or ownership of Disposal Sites and any other Facilities shall be subject to each and every term and condition of this Agreement. All written subcontracts with Subcontractors (other than those written subcontracts in the form of standard purchase orders involving less than \$100,000 in goods or services) shall contain a clause which provides that if the Contractor defaults in performance of the Agreement and the County accepts assignment of the subcontract under Article 27, the Subcontractor shall recognize the County or its assignee as Contractor and the County or its assignee shall have all the rights, remedies and responsibilities of the Contractor under the relevant subcontract. The Contractor shall be as fully responsible to the County for the acts and omissions of its Subcontractors and of the subcontractors, suppliers, employees, firms, agents or servants of each Subcontractor, as it is for the acts or omissions of its own employees or agents.

8.3 The Contractor shall exercise all reasonable efforts to employ Subcontractors doing business in the County.

9. CONTRACTOR'S BASIC RESPONSIBILITIES

9.1 The Contractor shall construct or otherwise provide for, test, obtain all approvals for and/or, except as otherwise provided in this Agreement, operate, in accordance with the Specifications and Schedule:

9.1.1 Four (4) Drop Box/Recycling Centers, to be constructed at such time as Contractor constructs the Disposal Site. The Drop Box/Recycling Centers shall be located at or near Goldendale; Dallesport; B-Z Corners, White Salmon or other location in western County approved by County; and the Disposal Site, or at such other locations as may be agreed upon by the Parties. The Drop Box/Recycling Centers may be leased by the Contractor to Haulers for the consolidation of Waste commercially collected within unincorporated Klickitat County and within the Cities, and transfer of Waste by such Haulers to the Disposal Site;

9.1.2 Loading and unloading Facilities at the Drop Box/Recycling Centers (loading and unloading operations at the centers may be undertaken by the lessee Haulers);

9.1.3 Facilities for recycling Waste handled at the Drop Box/Recycling Centers and transporting to appropriate facilities such recyclable waste;

9.1.4 Final disposal of the Waste referred to in Section 9.1.1;

9.1.5 Household Hazardous Waste drop-off Facilities in accordance with the Specifications; and

9.1.6 One Disposal Site.

During the Term of Agreement, the Contractor shall accept and dispose of all the Waste referred to in Section 9.1.1, using the Facilities described above.

9.2 The Contractor shall be responsible for obtaining all required permits and approvals for, and mitigating impacts of, its operations and activities under this Agreement in accordance with law.

9.3 The Contractor shall be solely responsible for the Facilities closure and post-closure activities.

9.4 The Contractor shall pay all Agreement fees, federal, state and local taxes and other fees and taxes imposed on the Contractor in connection with the Facilities and Contractor's operations.

9.5 The Contractor shall make available and use backup Facilities in accordance with this Agreement and the Specifications.

9.6 The Contractor shall enter into contracts with Waste Haulers, and with Persons who deliver substantial volumes of Waste to the Facilities, in accordance with Article 19 of this Agreement. Nothing in this Agreement shall preclude Contractor's development of other facilities outside of Klickitat County, provided, however, that Contractor shall continue to use its reasonable efforts for continued, preferential use of the Disposal Site for the term of this Agreement.

9.7 The Contractor shall promptly notify the County of any other major customers whom it anticipates serving with any of the Facilities. The notice shall include proposed volumes, type of service, length of contract and tipping fees, and a copy of any contract executed with that customer. The Contractor shall also notify the County of any losses of major customers served by the Facilities.

9.8 Contractor will comply with all federal, state, or local employment and equal opportunity laws. Contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, handicap, marital status or sex. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, handicap, marital status or sex.

9.9 Contractor shall not construct, own or operate in the County a facility for:

9.9.1 Storage or treatment of Hazardous Waste, except as necessary to comply with Contractor's obligations under this Agreement.

9.9.2 Disposal of Hazardous Waste.

10. SEPARATE CONTRACTS

The County reserves the right to let other contracts in connection with the collection and/or recycling of in-County Waste, and interlocal contracts with other municipal corporations for disposal of Waste or designation of solid waste handling Facilities, so long as those other contracts do not conflict with the County's obligations to the Contractor under this Agreement. The Contractor shall use its reasonable best efforts to cooperate with other Persons, contractors, or subcontractors engaged by the County, and with City-regulated or WUTC-certified Haulers, so that the Project and the County's Comprehensive Solid Waste Management Plan may be implemented in the most efficient and timely manner, without any interference with work on related projects.

11. COUNTY'S BASIC RESPONSIBILITIES

11.1 So long as Contractor's Facilities are operationally available, the County shall designate those Facilities so as to cause all Waste commercially collected in unincorporated areas of Klickitat County and not diverted from the wastestream by legal self-haul, self-disposal or curbside (pre-collection) recycling activities to be delivered to the Contractor for transfer and disposal in accordance with this Agreement. The County shall enact, maintain and enforce appropriate laws to carry out the requirements of this Section. However, the County does not guarantee the amount of Waste that will originate within the County within any time period.

11.2 The County shall use its reasonable best efforts to enter into and maintain and enforce intergovernmental agreements with the Cities. The County shall use its reasonable best efforts to obtain in those agreements:

11.2.1 Authority to designate Facilities for Waste commercially collected in those Cities; and

11.2.2 Each City's agreement to enact, maintain and enforce appropriate laws to carry out the provisions of this Section 11.2.

11.3 When the County reviews or revises the Plan, the County shall use its reasonable best efforts to maintain the Plan in a form consistent with the provisions of this Agreement.

11.4 The County and Contractor shall cooperate to establish and maintain an educational program for its residents regarding Hazardous Waste reduction and disposal.

11.5 In response to Contractor's reasonable requests for information and assistance, consistent with the terms of this Agreement, the County shall cooperate with the Contractor and exercise reasonable best efforts to help secure Waste from outside the County for the Disposal Site, and to provide information and assistance to the Contractor.

11.6 The County shall cooperate with Contractor and exercise reasonable best efforts to assist Contractor in the processing of permits, licenses, and certificates for the Project.

11.7 It is not the County's responsibility to notify the Contractor when to begin, cease or resume the Project, nor to give early notice of rejection of faulty work, nor in any way to supervise so as to relieve the Contractor of any liability, any responsibility or any consequences for neglect, negligence or carelessness or for substandard or defective work or for use of substandard or defective materials or equipment by the Contractor, its officers, employees, Subcontractors or agents.

11.8 Exclusivity and Rights of First Offer.

11.8.1 During the Term of Agreement, the County shall not enter into any contracts or take other action to allow any out-of-County waste to enter the County for purposes of disposal at a landfill located in the County unless the Contractor has, during each of the prior two (2) calendar years, disposed of Waste at the Disposal Site in quantities greater than 50,000 tons less than Approved Waste Volumes. In the event that, pursuant to the foregoing exception, the County decides to entertain any proposals or offers from third parties for the siting, construction, or operation of a landfill in the County that accommodates out-of-County solid wastes, the following right of first offer procedures shall apply: prior to requesting (or otherwise entertaining) proposals or offers from third parties, the County shall request a proposal or offer from the Contractor. Contractor shall have a reasonable period in which to respond. If Contractor responds and the County elects not to accept Contractor's offer or proposal, the County shall thereafter be free to request offers or proposals on the same basis as requested of the Contractor, from third parties but the County shall not accept offers unless Contractor is given a reasonable opportunity to match third parties' terms. In the event the Contractor fails to match third parties' terms, or in the event the Contractor does not respond within a reasonable period of time to the County's original request, the County shall be free of any further restrictions under this Section with respect to the request for proposal or offer initially presented to the Contractor.

11.8.2 Nothing in this Section 11.8 shall impair, restrict or otherwise limit the County's exercise of its police power.

11.9 Interlocal Agreements.

The County shall provide Contractor with written notice 30 days prior to the anticipated effective date of any interlocal agreement for disposal at the Disposal Site of out-of-County Waste. Such notice shall state the material terms of the proposed interlocal agreement, including but not limited to any provision for assignment of rights relating to indemnification and insurance, and an estimate of waste volumes to be delivered pursuant to the proposed interlocal agreement. Contractor shall notify County of its assent, conditional assent or refusal to accept such out-of-County Waste not less than 21 days prior to the anticipated effective date of the proposed interlocal agreement.

12. AGREEMENT FEES -- COUNTY COMPENSATION

12.1 Initial Fee. Within thirty (30) days of the execution of this Agreement, Contractor shall first pay to the County \$400,000. Within thirty (30) days of the execution of the first Amendment of this Agreement, Contractor shall pay to the County \$25,000, and within sixty (60) days of the execution of the first Amendment of this Agreement, Contractor shall pay to the County an additional \$25,000.

12.2 Administrative Fee. The Contractor shall pay quarterly to the County an Administrative Fee, as follows:

| <u>Tons per Quarter (TPQ)</u> | <u>Quarterly Administrative Fee</u> |
|-------------------------------|---|
| 0 to 20,000 TPQ | \$10,000; |
| 20,000 to 62,500 TPQ | \$.50/Ton (Delivered Tons) (\$.50); |
| 62,500 to 125,000 TPQ | \$.40/Ton (62,500) (\$.50) + (Delivered Tons - 62,500) (\$.40); |
| 125,000 to 187,500 TPQ | \$.30/Ton (62,500) (\$.50) + (62,500) (\$.40) + (Delivered Tons - 125,000) (\$.30); |
| 187,500 to 250,000 TPQ | \$.25/Ton (62,500) (\$.50) + (62,500) (\$.40) + (62,500) (\$.30) + (Delivered Tons - 187,500) (\$.25). |

The Administrative Fee shall begin to accrue with the Final Permitting of the Disposal Site and shall be paid to the County within fifteen (15) days of the last day of each Calendar Quarter.

12.3 Quarterly Solid Waste Fee.

12.3.1 The Contractor shall pay quarterly to the County a Solid Waste Fee, as follows:

| <u>Tons per Quarter (TPQ)</u> | <u>Quarterly Solid Waste Fee</u> |
|-------------------------------|--|
| 0 to 62,500 TPQ | \$.50/Ton, but not less than \$15,000 per quarter; |
| 62,500 to 125,000 TPQ | \$1.75/Ton (62,500) (\$1.25) + (Delivered Tons - 62,500) (\$1.75); |
| 125,000 to 187,500 TPQ | \$2.25/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (Delivered Tons - 125,000) (\$2.25); |
| 187,500 to 250,000 TPQ | \$2.75/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (62,500) (\$2.25) + (Delivered Tons - 187,500) (\$2.75); |
| Over 250,000 TPQ | \$3.00/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (62,500) (\$2.25) + (Delivered Tons - 250,000) (\$3.00). |

The Solid Waste Fee shall be paid to the County within fifteen (15) days of the last day of each Calendar Quarter.

12.3.2 In addition to the Solid Waste Fee, above, Contractor shall pay to County twenty-five percent (25%) of the difference between the Threshold Fees in 12.3.2(a) and the actual Tipping Fee for each ton of Waste.

(a) Threshold Tipping Fees.

| | |
|--------------------------|-------------|
| Asbestos: | \$75/ton |
| Problem Waste: | \$30/ton |
| Special Incinerator Ash: | \$50/ton |
| Municipal Solid Waste: | \$22.50/ton |

(b) Adjustments. The Threshold Tipping Fee ("Threshold Fee") set forth at Section 12.3.2(a) shall be subject to upward or downward adjustment annually, and the Guaranteed

Disposal Fee under Article 13 shall be adjusted annually in accordance with this Section 12.3.2(b):

(i) For Changes in Law. The Threshold Fee and Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of a Change in Law. For purposes of this Section 12.3.2 and Article 13, "Changes in Law" means any change in or new law, order, rule, or regulation of any nature which requires the Contractor to make additional expenditures in Facilities, labor or equipment or to incur additional costs in connection with its performance of services hereunder or which has the result of decreasing the costs incurred by Contractor in connection with its performance of services hereunder. "Changes in Law" shall not be deemed to include new regulations under Chapter 70.105 RCW and under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (Subtitle D, 40 CFR Pt. 257), any court order in respect of which Contractor failed to pursue reasonable appeals, and any order or rule adopted, issued, or promulgated because of a failure of Contractor to meet its obligations under any law, rule, regulation, or permit or license. In determining increases or decreases in costs of performance to Contractor, capital costs or savings shall be amortized over the reasonably expected useful life of the item in question. Increases or decreases in costs of performance shall be based only on the actual cost increase or decrease (including a reasonable overhead factor) and shall not include any profit factor.

(ii) For Changes in Taxes. The Threshold Fee and the Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of Changes in Taxes. For purposes of this Section 12.3.2 and Article 13, Changes in Taxes means any ad valorem or similar tax which is imposed on or removed from the Facilities (including, without limitation, the Contractor's personal property used in connection with the same) or any increase or decrease in such types of taxes, or any tax, assessment or other charge which is imposed by any government entity on the Contractor in respect of the activities of the Contractor carried on in connection with its performance hereunder or any increase or decrease in such types of taxes. With respect to Article 13 Fees, under no circumstances shall Changes in Taxes provide for adjustment in connection with the imposition, removal or increase or decrease of taxes measured by Contractor's net income unless such newly imposed or removed taxes or such increases or decreases are imposed specifically on operators of solid waste landfills. The imposition, removal, increase or decrease of taxes measured by Contractor's net income may however constitute Changes in Taxes with respect to the Threshold Fee. This Section 12.3.2(b)(ii) shall not be construed to include Changes

in Taxes as a result of changes in assessed valuation of property for ad valorem taxation.

(iii) For Changes in Insurance Premiums. The Threshold Fee and Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of a change in Insurance Premiums. For purposes of this Section 12.3.2 and Article 13, "Changes in Insurance Premiums" means increases or decreases in premiums Contractor must pay to maintain the insurance coverage required pursuant to Article 17, except to the extent (1) such increases are attributable to failures by the Contractor to operate the Facilities in accordance with all applicable laws and permit conditions, requirements of the particular insurance policy or other requirements of this Agreement, or (2) such decreases are attributable to improvements made by the Contractor to the Facilities or their operations which were not required by law, rule, regulation, permit condition, or the terms of this Agreement.

(iv) For Changes in Facility Costs. The Threshold Fee shall be increased as necessary to reflect any actual increases or changes to Contractor's costs for separate Disposal Site facilities (including materials, operations or services) required for compliance with special terms of contracts for disposal purposes to the extent such costs are not reflected in paragraphs (i), (ii) or (iii) above.

(v) If either Party believes that a Change in Law, Change in Taxes, Change in Insurance Premiums or Change in Facility Costs has occurred that would entitle it to an adjustment in the Threshold Fee or Guaranteed Disposal Fee, it shall promptly notify the other Party. In the event Contractor gives such notice to County, Contractor shall provide adequate information and documentation (including, without limitation, back-up records on costs incurred or to be incurred by Contractor in connection with Changes in Law) to justify Contractor's proposed adjustment. In the event the County notifies Contractor that it believes it is entitled to an adjustment, Contractor shall provide its responding notice within sixty (60) days of the County's notice. Contractor's proposal shall become final and binding unless the County, within sixty (60) days of notice of the Contractor's proposal, notifies Contractor that it disagrees with Contractor's adjustment, in which event the Parties shall seek to resolve their differences in good faith within sixty (60) days of the County's notice of disagreement. If the Parties are unable to resolve the matter, the issue shall be settled by arbitration pursuant to the provisions of Article 28.

12.4 Annual Adjustments in Fees. The fees listed in Sections 12.2 and 12.3.1 were effective in 1989, and do not reflect subsequent adjustment under this Section. After the first year of the Agreement, the Administrative Fee and Solid

Waste Fee in Sections 12.2 and 12.3.1, and the Guaranteed Disposal Fee under Article 13 shall be adjusted annually, in the third Calendar Quarter of the year, by multiplying:

12.4.1 The relevant fee for the prior four (4) Calendar Quarters ("Base Year") (the fees for the Base Year shall include all adjustments made in such Base Year pursuant to Section 12.3.2), times

12.4.2 One (1) plus the product of (a) and (b) below:

(a) The weighted average of the Consumer Price Index ("CPI") adjustments allowed by the Contractor's Long Term Contracts (contracts for terms of five (5) or more years) for disposal of Waste at the Disposal Site. The weighted average under this Section 12.4 shall be calculated by multiplying (i) tonnage delivered under each Long Term Contract during the Base Year by (ii) the percentage CPI adjustments allowed under that contract. The sum of those calculations shall then be divided by the total volume of Waste delivered under Long Term Contracts during the Base Year. For example, if Contractor had two ten-year contracts and two fifteen-year contracts, the first two allowing a 90% CPI adjustment and the latter two allowing an 80% CPI adjustment, and Waste volumes delivered under the Long Term Contracts during the Base Year were 900, 800, 500 and 300, respectively, calculations under this Section 12.4 would yield:

$$\begin{array}{r} .90 \times 900 = 810 \\ .90 \times 800 = 720 \\ .80 \times 500 = 400 \\ .80 \times 300 = \underline{240} \\ \hline 2,170 / (900 + 800 + 500 + 300 = 2,500) = 86.8\% \end{array}$$

(b) The percentage change in the Consumer Price Index.

12.5 The Threshold Fee shall be adjusted annually by the percentage change in the CPI.

12.6 The Administrative Fee and the Solid Waste Fee shall not apply to in-County Waste delivered to the Disposal Site.

12.7 Nothing in this Article 12 shall impair the County's enforcement or collection of fees for licenses or permits granted to Contractor, or costs and legal fees incurred in the environmental and construction review, monitoring, or defense of issuance of such licenses or permits.

13. TIPPING FEES -- CONTRACTOR COMPENSATION

13.1 In-County Waste.

13.1.1 Disposal Fee: Prior to Disposal Site Operation.

(a) Contractor guarantees that disposal fees for in-County Waste delivered by a Hauler to a disposal site (other than Horsethief Landfill or the Disposal Site) shall not exceed twelve dollars (\$12.00) per ton ("Guaranteed Disposal Fee"). The Guaranteed Disposal Fee shall be subject to adjustment as set forth in Sections 12.3.2(b) and 12.4, commencing as of execution of this Agreement. The Parties recognize that any fees for transportation of in-County Waste in the circumstances contemplated by this Section 13.1.1(a) will be subject to regulation of Haulers by Cities or the WUTC, and will not be the Contractor's responsibility.

(b) The guarantee in Section 13.1.1(a) shall remain binding on Contractor for eight (8) years from the date of execution of this Agreement. Thereafter, the Disposal Fee shall be set by Contractor at commercially reasonable rates.

13.1.2 Disposal Fee: After Commencement of Disposal Site Operations.

(a) Upon Final Permitting of the Disposal Site, except as provided in Section 13.1.2(b), there shall be no disposal fee for in-County Waste received at the Disposal Site.

(b) In the event Contractor constructs the Disposal Site by agreement with the County under Section 4.15.4, the disposal fee for in-County Waste received at the Disposal Site shall be set by Contractor at commercially reasonable rates. Notwithstanding the foregoing, however, Contractor shall not charge a disposal fee for in-County Waste received at the Disposal Site greater than that charged for out-of-County Waste received at the Disposal Site.

13.1.3 Disputes. In the event of dispute concerning a Disposal Fee under this Section 13.1, the matter shall be submitted to arbitration pursuant to Article 28. For purposes of Section 13.1, "commercially reasonable rates" shall be determined to provide a commercially reasonable rate of return comparable to those of operations similar to Contractor in Eastern Washington and Eastern Oregon, with similarly designed, constructed and operated facilities.

13.2 Out-of-County Waste. Contractor shall have sole discretion in bidding and/or establishing tip and hauling fees for out-of-County Waste. Out-of-County Waste received at the Disposal Site under interlocal agreements between County and other municipal corporations shall be subject to Contractor's tip

(disposal) fee established from time-to-time, unless otherwise set forth in writing between County and Contractor.

14. ALLOCATION OF RISK/FORCE MAJEURE

14.1 Prior to submitting its response to the RFQ/P, the Contractor acquainted itself with potential disposal sites, other potential facility sites and all other conditions relevant to the Project, and made all investigations essential to a full understanding of the difficulties which may be encountered in performing the Project.

14.2 The Contractor warrants that prior to submitting its response to the RFQ/P and prior to signing this Agreement, it has examined carefully all of the Specifications, acquainted itself with Facilities and all other conditions and regulations relevant to the Project, and made all investigations essential to a full understanding of any and all difficulties which may be encountered in performing the Project.

14.3 By entering into the Agreement, the County does not warrant or admit the correctness of any investigation, interpretation, deduction or conclusion relative to the Disposal Site or any of the other Facilities. The Contractor has made and shall make its own deductions and conclusions as to any and all problems which may arise from Facility site conditions, and shall accept solely for itself full legal responsibility and liability therefor.

14.4 The obligations of the Contractor to perform the Project are subject to Uncontrollable Circumstances which necessarily and unavoidably prevent performance of the Project. Both Parties agree that no events other than Uncontrollable Circumstances, however catastrophic or uncontrollable, shall excuse nonperformance of the Project by Contractor.

14.5 In the event either Party is rendered unable, wholly or in part, by the occurrence of Uncontrollable Circumstances, to carry out any of its obligations under this Agreement, then the obligations of that Party, to the extent affected by such occurrence and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Any time that such a Party intends to assert the occurrence of an event of Uncontrollable Circumstances as a basis to suspend performance, that Party shall notify the other Party immediately or as soon as reasonably possible, setting forth the particulars of the situation. Notice shall again be given immediately after the effect of the occurrence of such event has ceased. If the Contractor notifies the County of its inability to carry out any provisions of the Agreement due to Uncontrollable Circumstances, the Contractor shall as soon as practicable submit to the County a plan for correcting or reconstructing the Facilities made inoperable due to those Uncontrollable Circumstances, together with the schedule, cost, and proposed financing method.

14.6 If any of the Facilities are damaged or destroyed due to explosion, landslides, floods, epidemics, fire, vandalism, or other events for which the Contractor is obligated to carry insurance, the Contractor shall act diligently to promptly collect and apply insurance proceeds to the correcting or reconstructing of those Facilities. Upon the occurrence of such an event, the Contractor shall as soon as practicable submit to the County a plan for correcting or reconstructing the Facilities, including the schedule and cost therefor.

14.7 Notwithstanding the provisions of Sections 14.5 and 14.6, in the event that Contractor fails or is unable to dispose of any in-County Waste which it is obligated to dispose of under the terms of this Agreement because Uncontrollable Circumstances or an event itemized in Section 14.6 materially and adversely affects Contractor's ability to accept or dispose of such Waste, the Contractor shall use its reasonable best efforts to make available to the County alternative disposal arrangements for disposal at another solid waste disposal site, at the prevailing solid waste disposal fee then in effect for the majority of Waste disposed of at that site, for the period during which such event continues. Failure of Contractor to secure alternative disposal arrangements when an event of Uncontrollable Circumstances has occurred shall not be deemed a breach of this Agreement if Contractor has exercised its reasonable best efforts to make such alternative arrangements.

15. TITLE OF WASTE, HANDLING OF UNACCEPTABLE OR HAZARDOUS WASTE

15.1 Title to any and all Waste or purported Waste or other materials contained in each load delivered to the Disposal Site, whether or not that waste is Acceptable Waste, shall pass to the Contractor if Contractor fails to indicate in writing on the manifest accompanying the waste delivery that Contractor has deemed the waste contained in the load of waste to be Suspicious Waste or Unacceptable Waste within three (3) hours, or such other period as may be reasonably agreed upon by County, after the load of waste is delivered to and unsealed at the Disposal Site. After any testing is performed on Suspicious Waste, title to such waste passes to Contractor unless the results of such testing indicate that the waste is Unacceptable Waste.

15.2 If the Contractor receives Unacceptable Waste, including Hazardous Waste, and fails to identify it within three (3) hours of delivery to and unsealing at the Disposal Site or such other period as may be reasonably agreed upon by County, the Contractor may at its option return that waste to the Person who delivered it in accordance with this Agreement or regulations established under Section 15.3, or may dispose of that Unacceptable Waste in a manner consistent with applicable law and charge the responsible Person for the cost of that disposal. If the Contractor is unable to identify the Person responsible for the nonconforming delivery and return the waste to that Person, the Contractor shall dispose of that Unacceptable or Hazardous Waste in accordance with law, at Contractor's sole expense.

15.3 Contractor shall establish procedures, consistent with good practice and procedures in the solid waste disposal industry, and reasonably acceptable to the County: (a) for identification of Unacceptable Wastes as soon as possible following delivery to Facilities, and (b) for Contractor's acceptance of Waste.

15.4 Under the procedures developed by the Contractor pursuant to Section 15.3, Contractor shall have the right to revoke acceptance of any wastes. Upon such revocation, title to such wastes shall be deemed to revert back to the Person who delivered such wastes.

15.5 In the event Contractor notifies any Person pursuant to Section 15.3 or 15.4 that delivered wastes may contain Unacceptable Wastes, such Person shall be required to remove those wastes from the Facilities and dispose of those wastes in a manner consistent with applicable law. In the event such Person fails or refuses to remove those wastes within a reasonable period of time, Contractor shall remove those wastes from the Facilities and shall dispose of them in a manner consistent with applicable law. The Contractor shall be responsible for all costs, damages, events or liability related to Unacceptable Waste and Hazardous Waste not returned to another Person in accordance with this Article 15. Nothing in this Article shall be construed

to impair Contractor's contractual or other rights to seek reimbursement for all such costs from Haulers or Persons who delivered such wastes to the Facilities.

15.6 Upon refusal to accept waste, or upon revocation pursuant to Section 15.4 and subsequent removal of waste from the Disposal Site, Contractor shall be entitled to a credit for fees paid under Article 12 in respect of such waste.

16. INDEMNIFICATION

16.1 The Contractor will at all times indemnify and hold harmless and defend the County and any City, their elected officials, officers, employees, agents and representatives (collectively "County") from and against any and all losses, damages, costs, charges, expenses, judgments and liabilities, including reasonable attorneys' fees (including attorneys' fees in establishing indemnification of whatsoever nature), collectively referred to herein as "losses," directly or indirectly resulting from, arising out of, or related to one or more claims, as hereinafter defined.

16.2 The Contractor shall indemnify and hold harmless the County from and against any and all claims, and all expenses arising from such claims, including but not limited to reasonable attorneys' fees and any and all costs, if such claims or expenses allegedly or actually arise or result, directly or indirectly, from, or are in any way connected with: (1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, Subcontractors, agents or servants; (2) any of the acts or omissions of Contractor, its officers, employees, Subcontractors, agents or servants at any of the Facilities; (3) the failure of Contractor, its officers, employees, Subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes, orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Facilities or relevant activities of the Contractor; or (4) any release or emission, or threatened release or emission by any Person, entity or entities at, onto, into, above, under, through or from any of the Facilities.

In addition, the Contractor shall upon demand of the County and at Contractor's sole cost and expense, defend and provide qualified attorneys acceptable to the County under service contracts acceptable to the County to defend the County, its officers, employees, agents and servants against any and all claims, causes of action, suits, demands, damages, penalties, charges, liabilities, losses, awards of damages, or judgments, of whatsoever character or kind, arising or resulting, directly or indirectly, or in any way connected with (1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, subcontractors, agents or servants; (2) any of the acts or omissions of Contractor, its officers, employees, subcontractors, agents or servants at or in connection with the Project; (3) the failure of Contractor, its officers, employees, subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes, orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Facilities or relevant

activities of the Contractor; or (4) any release or emission, or threatened release or emission by any Person, entity or entities at, onto, into, above, under, through or from any of the Facilities.

16.3 The term "claims" as used in this Article shall mean all claims, lawsuits, causes of action, damages, penalties, charges, judgments, losses, liabilities of any character or kind and other legal actions and proceedings of whatsoever nature, including but not limited to claims, lawsuits, causes of action, damages, penalties, charges, judgments, losses, liabilities of any character or kind and other legal actions and proceedings involving bodily or personal injury or death of any person or damage to any property (including but not limited to persons employed by the County, the Contractor or any other person and all property owned or claimed by the County, the Contractor, any affiliate of the Contractor or any other person). The term "claims" or "losses" as used in this Article shall not include claims or losses (as defined above) (a) initiated by the County against its own officers, employees, subcontractors, agents or servants, or (b) arising from the County's sole negligence or intentionally wrongful acts or omissions.

16.4 The obligations of the Contractor hereunder shall apply to all losses or claims, or both, that result from, arise out of, or are related to any event, occurrence, condition or relationship, whether such losses or claims, or both, are asserted. The County shall not be liable to the Contractor for, and the Contractor hereby releases the County from, all liability for any injuries, damages or destruction to all or any part or parts of any property owned or claimed by the Contractor that directly or indirectly results from, arises out of or relates to the Project or any part thereof, except where that liability arises from the County's sole negligence or intentionally wrongful acts or omissions.

16.5 In case any action shall be brought against the County in respect of which indemnity may be sought against the Contractor, the County shall promptly notify the Contractor in writing and the Contractor shall have the right to assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The County shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by the County unless the employment of such counsel has been authorized by the Contractor and the Contractor shall control the defense of claims against which it is providing indemnity hereunder.

16.6 Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to Persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, the

Contractor shall indemnify the County hereunder to the full extent of the Contractor's negligence.

16.7 It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties.

16.8 The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for any and all infringements of any patents which may occur in the Contractor's performance of this Agreement and shall save the County harmless from loss on account thereof.

16.9 The County shall have the sole and exclusive discretion to appear or not appear in defense of any claims arising out of the Second Amendment of the Agreement.

16.10 The Parties do not under this Article waive or surrender any indemnity available under any federal, regional, state or local law. This Article shall survive termination or expiration of this Agreement.

17. INSURANCE

17.1 General. The Contractor shall provide, from insurance companies reasonably acceptable to the County and licensed in the state of Washington, the insurance coverage designated below and pay all costs therefor.

In case of any breach of any provision of this Article, the County, at its option, may, if such breach is not cured within five (5) days of notice from the County to the Contractor, take out and maintain, at the expense of the Contractor, such insurance as the County may deem proper (but not in excess of what is required by this Article) and may require payment of the cost of such insurance from any money which may be due or become due the Contractor from Tipping Fees or other source under this Agreement.

Subsequent to the award but prior to the execution of this Agreement, the Contractor at its own expense shall obtain and file with the County a Certificate of Insurance for a primary policy of general comprehensive liability insurance (including all of the coverages set forth below). The limits of liability will be those which The Rabanco Companies have in force currently, until at such time as the Contractor commences operation of the Disposal Site. Upon commencement of operation of the Disposal Site the coverage will increase or decrease as is stated herein in this Article.

Such liability insurance must specifically name the County as an additional insured thereunder and must fully protect the County from any and all claims and risks and losses in connection with any activity performed by the Contractor by virtue of this Agreement.

Such liability insurance must be maintained in full force and effect at the Contractor's sole expense throughout the entire Term of Agreement. The County shall be given thirty (30) calendar days prior written notice by certified mail of any cancellation, reduction or modification of such insurance.

Said insurance policy and/or any endorsement thereto, as evidenced by the Certificate of Insurance, must provide the following minimum coverages and limits and contain the following provisions:

17.2 Coverages.

17.2.1 Coverages Provided.

- Extended Bodily Injury
- Employees as Additional Insured
- Premises/Operations Liability (M&C)
- Products and Completed Operations Liability through guarantee period

- Blanket Contractual Liability
- Broad Form Property Damage Liability (including completed operations)
- Personal Injury, including A, B, C, with no employee exclusion
- Stop Gap or Employers Contingent Liability
- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles
- Explosion, Collapse, Underground damage (referred to as "X.C.U.")
- Owners and Contractors Protective Liability

17.2.2 Minimum Limited.

All Coverages:

\$5,000,000 per occurrence, \$25,000 deductible;
 \$5,000,000 annual aggregate, \$25,000 deductible.
 (Any deductible over \$25,000 must have the prior written approval of the County.)

17.2.3 Excess/Umbrella Coverage.

To achieve a total coverage of \$7.5 million.

Providing coverage in these stated amounts shall not be construed to relieve the Contractor from liability in excess of such limits.

17.3 Required Endorsements. The following language shall be in all applicable policies and on the Certificate of Insurance:

17.3.1 Coverage.

The insurance company or companies designated on the front of this Certificate certify that the policy or policies described include the following minimum coverages and limits:

STANDARD COVERAGE

- Extended Bodily Injury
- Employees as Additional Insured
- Premises/Operations Liability (M&C)
- Products and Completed Operations Liability through guarantee period
- Blanket Contractual Liability
- Broad Form Property Damage Liability (including completed operations)
- Personal Injury, including A, B, C, with no employee exclusion
- Stop Gap or Employers Contingent Liability

- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles
- Explosion, Collapse, Underground damage (referred to as "X.C.U.")
- Owners and Contractors Protective Liability

STANDARD LIMITS

\$5,000,000 per occurrence, \$25,000 deductible; \$5,000,000 annual aggregate, \$25,000 deductible (or such other deductible as approved in writing by the County).

17.3.2 Additional Named Insured.

(a) Klickitat County is an additional named insured for all coverages provided by this policy of insurance and shall be fully and completely protected from all claims and risks by this policy and for any and every injury, death, damage and/or loss of any sort whatsoever, sustained by any person, organization or corporation in connection with any activity performed by the Contractor by virtue of the provisions of that agreement between Klickitat County and Regional Disposal Company, entitled Agreement for Waste Handling, and dated May 26, 1989, and amended June 8, 1992.

(b) The coverages provided by this policy to the County or any other named insured shall not be terminated, reduced or otherwise modified in any respect without providing at least thirty (30) calendar days prior written notice by certified mail to: Solid Waste Project Manager, Department of Public Works, Klickitat County Courthouse, 205 South Columbus Avenue, Goldendale, Washington 98620.

(c) The coverage provided by this policy is primary to any insurance maintained by the County.

17.3.3 ACORD Form Provisions. If an "ACORD" form of Certificate of Insurance is provided to the County pursuant to this Section, it must be modified in the following manner:

(a) Wording at Top of ACORD Form - "This Certificate is issued as a matter of information only and confers no rights upon the certificate holder" -- Shall Be Deleted In its entirety.

(b) Wording at Bottom of ACORD Form - "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the below-named Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company." -- Shall Be Changed To Read -- "Should any of the above-described policies be cancelled or reduced as to coverage before the

expiration date thereof, the issuing company shall mail thirty (30) calendar days prior written notice to the below-named Certificate holder and Additional Insured, Klickitat County, by certified mail."

(c) If the insurance provider will not accept the modification of the ACORD Form in accordance with the above, then Contractor will provide County with a certified copy of the policy.

17.3.4 Other.

(a) This/These policy(ies) shall be considered as primary insurance and exclusive of any insurance carried by the County and the insurance endorsed by this certificate shall be exhausted first, notwithstanding the fact that the County may have other valid and collectible insurance covering the same risk.

(b) No act on the part of the insured shall affect the coverage afforded to the County under the insurance covered by this certificate.

(c) This/These policy(ies) consist only of insurance on an occurrence basis or on a claims-made basis.

17.3.5 Unavailability. In the event that provisions of the type contemplated by Sections 17.3.3 and 17.3.4 are not reasonably available in the insurance marketplace despite Contractor's reasonable best efforts to obtain the same, Contractor shall secure policies with substitute provisions providing as much protection to the County as is reasonably available in the insurance marketplace and approved in writing by the County.

17.3.6 Term. Contractor shall maintain the above insurance described herein at all times until the termination of the Agreement.

17.4 Marine Operations. In the event of a barge or other marine operations, the following policy or policies set forth in this Section 17.4 shall be maintained by Contractor:

- 17.4.1 Vessel Hull and Machinery [As scheduled]
covering vessels used in
transportation of containers
moving under this Agreement
- 17.4.2 Protection and Indemnity \$5,000,000
covering Loss of Life/
Personal Injury, Damage to
Property or other vessels
for vessels operating in

connection with this Agreement

17.4.3 Water Pollution Liability:

- | | |
|--|-------------|
| (a) Pollution Liability covering claims under the Federal Water Pollution Control Act as amended for vessels used in this Agreement | Statutory |
| (b) Liability to Third Parties for Pollution Damage resulting from sudden discharge upon waters for vessels operating under this Agreement | \$5,000,000 |

17.4.4 Pollution Liability covering Bodily Injury and Property Damage to Third Parties occurring because of sudden or gradual pollution from all operations contemplated in the Agreement, including Facilities.

Amounts of Insurance under 17.4.4:

| | |
|---|-----------------|
| 0 to 5,000,000 tons* cumulative | **\$ 2,500,000; |
| 5 million to 10 million tons* cumulative | 5,000,000; |
| 10 million to 15 million tons* cumulative | 7,500,000; |
| 15 million tons* cumulative and over | 10,000,000. |

- * tons of wastes disposed of at landfill site
- ** all dollar amounts, per claim/per aggregate

This/These policy(ies) consists only of insurance on a claims-made basis.

17.5 Maintenance of insurance by the Contractor as specified in this Article shall in no way lessen or limit the liability or responsibility of Contractor under this Agreement and Contractor may carry, at its own expense, such additional insurance as it deems necessary.

17.6 The Contractor immediately shall increase the amounts of insurance required to reflect any changes in Washington State or federal law to ensure that the insurance provided shall cover the maximum limits under any applicable law. In no event shall

insurance coverage be decreased below the designated insurance requirements listed above.

17.7 Railroad Protective Coverage.

17.7.1 In addition to the insurance required by Sections 17.1, 17.2, 17.3 and 17.4, in the event that, in connection with its operations pursuant to this Agreement, Contractor engages in any railroad operations, Contractor shall obtain standard Railroad Protective Coverage insurance in the amounts required by the relevant railroads. Contractor shall have the County named as an additional named insured.

17.7.2 In the event that the County cannot be an additional named insured on such policies despite Contractor's reasonable best efforts to obtain the same, Contractor shall provide substitute provisions providing such similar Railroad Protective Coverage to the County as is reasonably available in the insurance marketplace, and approved in writing by the County.

17.8 In the event that insurance required by this Article 17 is on a claims made basis, Contractor shall at termination of this Agreement obtain extended discovery period coverage in respect of such insurance on such terms and with such conditions as are provided for in this Agreement.

17.9 In the event that insurance of the type contemplated by this Agreement is not reasonably available in the insurance marketplace despite Contractor's reasonable best efforts to obtain the same, Contractor shall secure policies with substitute provisions providing as much protection to the County as is reasonably available in the insurance marketplace and approved in writing by the County.

17.10 In the event that, in connection with any long term contract for the disposal of wastes at the Disposal Site, Contractor is required to maintain insurance in respect of Contractor's operations at the Disposal Site in excess of those amounts required by this Agreement, Contractor shall name the County as additional named insured on such policies unless the same is barred by the relevant long-term contract or insurance policy or unless the costs of adding the County as an additional named insured would be commercially unreasonable.

17.11 Commencing on the fifth anniversary of the execution of this Agreement, and every five (5) years thereafter, Contractor and County shall meet to review adjustment of minimum limited coverages provided by this Article. In the event the CPI has increased by more than twenty-five percent (25%) during a five-year period, and the Parties are unable to agree to adjustments of minimum limited coverages, then such adjustments may be submitted to arbitration pursuant to Article 28. The adjustments shall be based on the amounts of insurance coverage commonly required to be maintained of operators of facilities in

Washington comparable to the Facilities. In no event shall such adjustments take place in the event County has been named as an additional named insured on other policies pursuant to Section 17.10.

17.12 Failure of the Contractor to fully comply with any and all of the terms of the foregoing insurance provisions shall be considered a Category C default of this Agreement and cause for its immediate termination at the sole option of the County within five (5) days of notice from the County to the Contractor unless such breach is cured during such five (5) day period.

18. CORRESPONDENCE AND NOTICE

18.1 The Contractor shall address all correspondence for the County to the County's designated Project Manager.

18.2 All notices provided for herein shall be in writing and addressed to each of the Parties at the following addresses:

RDC: Regional Disposal Company
200 - 112th Ave. N.E., Suite 300
Bellevue, Washington 98004

Telephone: (206) 646-2400
Telecopy: (206) 646-2440

County: Resource Development Director
Department of Public Works
Klickitat County Courthouse
205 South Columbia Avenue
Goldendale, Washington 98620

Telephone: (509) 773-4616
Telecopy: (509) 773-5713

18.3 All notices shall be personally delivered, telegraphed, telecopied, or sent by United States mail (return receipt requested) or by reputable private independent courier. Except for personal delivery and confirmed telecopy (which will be effective upon receipt), all notices will be effective on the date delivered to the telegraph company, United States Post Office depository, or reputable private independent courier, as the case may be. Either Party shall have the right to designate a new address for the receipt of notices by giving written notice as herein provided, but notwithstanding the foregoing, such notice of a new address shall not be effective until actually received by the other Parties.

19. AGREEMENTS WITH HAULERS AND REGULATIONS

19.1 The Contractor shall enter into written agreements acceptable to the County with Haulers. Those agreements, which must be reviewed by the County prior to taking effect, shall at a minimum include provisions governing (1) the character of Waste and Other Waste, if any, to be delivered to the Facilities, (2) the prohibition of delivery of Hazardous Waste and the responsibility and liability of Persons who deliver Hazardous Waste, and (3) agreement by those Haulers and Persons to promptly pay Tipping Fees to the Contractor on a regular basis. Copies of all such agreements shall be transmitted to the County.

19.2 The Contractor may impose such reasonable regulations as it deems necessary on any Haulers or Persons who deliver Waste to the Facilities, subject to other provisions of this Agreement.

19.3 Contractor shall provide that Contractor's containers of Waste shall be sealed with cargo security seals to ensure that containers are not open during transit or storage.

19.4 Contractor shall provide that Contractor's containers of Waste shall be fully enclosed and sealed against leakage of any waste or other matter during handling.

20. PERFORMANCE OF SERVICES

20.1 Coordination-Management. The Contractor shall be responsible for coordination, orderly scheduling, and management of all work for this Agreement by officers, employees, Subcontractors and agents.

20.2 Project Meetings. Prior to the commencement of design, construction and operation of each component of the Project, the Contractor, the County, Subcontractors and others reasonably requested by either Party shall meet to discuss scheduling, processes, materials, change orders, personnel and such other matters the Parties deem appropriate.

20.3 Consulting Engineer. The County may designate an engineering firm or firms with experience in solid waste facilities, as a consulting engineer (the "Consulting Engineer"), with whom Contractor shall review the design and construction of the Project. The Consulting Engineer shall have reasonable access to the Facilities, as provided in Section 20.17 hereof. The Consulting Engineer will agree to be bound by the provisions of Section 4.5 hereof with respect to all Confidential Information furnished to it.

Contractor acknowledges that the Consulting Engineer may be retained by the County to provide general technical services with respect to the Project, including but not limited to reviewing and monitoring design and construction progress for the County, reviewing and advising the County with respect to proposed material changes to the Specifications, reviewing for the County the validity of any written notice from Contractor that an Uncontrollable Circumstance has occurred, reviewing and advising the County with respect to all changes to the Facilities during the Term of Agreement, reviewing on behalf of the County the Performance Testing and reported results thereof, and advising the County that the applicable standards have been met, the extent to which they have not been met, and providing certifications as may be required in accordance with this Agreement. Contractor agrees to cooperate with all reasonable requests made by the Consulting Engineer in connection with the performance of its duties for the County.

20.4 Design and Construction in Compliance with Law. Contractor will design, construct and equip the Facilities so that the Facilities will comply with all applicable local, state and federal laws, regulations and similar requirements, including requirements concerning noise, odors, effluent, emissions, and environmental control and monitoring systems applicable to the Facility.

In addition to the foregoing, Contractor shall design and construct the Facilities in accordance with the following standards:

20.4.1 Contractor shall perform, or cause to be performed, all work in strict accordance with the latest applicable codes and standards including the National Sanitation Foundation minimum specifications for geomembrane materials.

20.4.2 The Facilities shall be designed and constructed in accordance with Chapter 173-304 WAC, the Minimum Functional Standards for Solid Waste Handling (MFS).

20.4.3 The Facilities shall be designed and constructed in accordance with good engineering practices. All equipment and materials shall be new and unused; or if not new and unused such equipment and material shall meet or exceed industry standards, subject to County review.

20.5 Facilities Design. Contractor shall have full responsibility for all aspects of the design of the Project, and will design the Facilities in accordance with the Specifications.

20.6 Detailed Plans, etc.; Changes in Specifications; Extension of Scheduled Completion Date.

20.6.1 Role of Consulting Engineer in Development of Detailed Plans and Designs. Subject to compliance with Section 4.5 hereof, Contractor shall promptly provide the County and/or its Consulting Engineer with copies of engineering reports, detailed plans, drawings and models that relate to the design, construction, testing, and operation of each of the Facilities included in the Project, in the form of the final specifications for the Facility (the "Final Specifications") as the same become available. Contractor shall discuss in good faith with the County and/or its Consulting Engineer any aspect of the Final Specifications, provided that, notwithstanding any such review by and discussion with the County and/or its Consulting Engineer, the Final Specifications shall remain the responsibility of Contractor, which shall bear all the risks of any design failure or inadequacy and which shall not be required to comply with any recommendation by the County and/or its Consulting Engineer not required by law or by the express terms of this Agreement. No review by the County and/or its Consulting Engineer of the Final Specifications shall relieve Contractor of any of its responsibilities under this Agreement or be deemed to constitute a representation by the Consulting Engineer or the County that the Final Specifications are in accordance with the Specifications attached hereto or applicable law, or are adequate for the purposes intended.

20.6.2 Construction Monitoring. The County and Consulting Engineer shall have the right to monitor Contractor's performance of its obligations to construct and test the Facilities to verify Contractor's compliance with the applicable terms and provisions of this Agreement and to verify that such design, construction and testing is in accordance with the Specifications.

20.7 Disposal Site.

20.7.1 Commencement of Construction. Contractor shall give the County at least fifteen (15) days prior written notice of the estimated commencement dates of construction of environmental control systems at Disposal Site. Environmental control systems at the Disposal Site shall include but not be limited to the liner, geomembrane, cap, leachate collection and treatment systems and landfill gas collection and treatment systems.

20.7.2 Construction and Testing.

(a) Contractor shall be responsible for the construction and testing of the liner, geomembrane, leachate, collection and treatment systems, landfill gas collection and treatment systems and other Disposal Site facilities as required in the Specifications, and shall furnish all labor, supervision, materials, services, equipment and instrumentation necessary to perform and execute tests in accordance with the Specifications.

(b) The County and the Consulting Engineer shall have the right to inspect and to witness all testing pursuant to the test procedures required in the specifications for the purpose of ensuring compliance with said procedures and the integrity of the test results. Contractor shall cooperate fully with the County in this regard and shall promptly provide the County and the Consulting Engineer with copies of all test results and any laboratory analyses or data related thereto. Contractor shall perform all tests in strict accordance with the test procedures as required in the Specifications.

(c) As promptly as practical after completion of testing of a system and receipt of all laboratory analyses or data relating thereto, Contractor shall furnish the County, by certified or registered mail, postage prepaid, return receipt requested, with copies to the Consulting Engineer a certified written report describing (1) the results of the test together with all laboratory analyses, data, and pertinent records, and (2) Contractor's determination that the system has achieved passing test results as required in the Specifications.

(d) The County shall, within ten (10) business days of receipt of certification, determine whether it concurs or does not concur with such certification. If the County concurs with Contractor certification that the environmental control system has achieved passing test results, the system installation shall be deemed to be accepted. If the County disputes Contractor certification of the results of such testing, the County shall provide Contractor with a written notice describing in reasonable detail the basis of its disagreement. In such event, Contractor shall diligently pursue appropriate remedies and further testing as required in accordance with the Specifications.

20.7.3 Testing Requirements. The testing requirements for the Disposal Site are set forth in the Specifications.

20.7.4 Failure of Facility to Achieve Passing Test Results. Contractor shall make any necessary repairs, modifications, alterations and changes, at its sole cost and expense, required to enable a Facility to meet any testing requirements which the Facility has been demonstrated not to meet at the conclusion of the test.

20.8 Tools and Equipment. Contractor will furnish or cause to be furnished all required construction tools and equipment, all of which shall remain the property of Contractor, its Subcontractors or suppliers, and all of which shall be removed upon completion of construction.

20.9 Utilities. Contractor shall pay or cause to be paid all utility and similar expenses incurred in the construction, operation and testing of the Facilities.

20.10 Construction Laydown and Staging Areas. If a Facility site is insufficient for any laydown and staging areas required by Contractor, Contractor shall be responsible for obtaining such additional areas as it may require at its own cost and expense.

20.11 Security. Contractor, at its expense, shall be solely responsible for the security and protection of a Facility site and all equipment, materials, tools and temporary structures thereon. Contractor shall provide adequate protection for all construction in process against damage and deterioration (including dust, weather and construction activity in the immediate vicinity).

20.12 Adjacent Properties. Contractor shall protect all adjacent properties from damage, deterioration, injury or loss resulting from the construction or operation of a Facility. As between County and Contractor, Contractor shall be fully and solely responsible for the remedying of any such damage, deterioration, injury or loss. Contractor shall also keep the access roads and other properties adjacent to a Facility free from all rubbish or other materials arising from the construction or operation of a Facility.

20.13 Patents and Royalties. In the construction of a Facility, Contractor shall not use or furnish any licensed or patented method of construction, appliance, article or device unless it has authorization for such use. No approval of materials or methods by the Consulting Engineer or the County shall be deemed as a request to furnish any such patented or licensed method of construction, appliance or device.

20.14 Disposition of Drawings, Original Specifications and Manuals. Within one hundred (100) days after the commencement of

operations of a Facility, one (1) set each of such as-built drawings, specifications, operations and maintenance manuals, operation and closure plan, equipment manufacturer's guarantees and warranties, and all third-party agreements relating to the operation of a Facility shall be available to the County and Consulting Engineer by Contractor at Contractor's expense. All such drawings and documents shall be subject to Section 4.5, if applicable.

20.15 Construction Manager. During construction of a Facility, Contractor shall provide a Construction Manager who shall be present at the Facility. The County shall be informed of the identity of the Person serving from time to time as the Construction Manager and of the means by which such person may be located at all times. The Construction Manager may be the Contractor's Representative as defined in Article 6.

20.16 Access to Facility Site.

20.16.1 The County and its agents and representatives, including the Consulting Engineer, at any time during the Term of Agreement and upon prior reasonable notice to Contractor, shall have the right (a) to visit, and, on a reasonable basis, have Contractor take visitors through a Facility in order to observe the various services which Contractor performs, and (b) to cause to be conducted reviews of a Facility to determine whether Contractor is in compliance with its obligations under this Agreement; provided, however, that such visitations and reviews shall not interfere with Contractor rights and obligations under this Agreement. In connection with such visitations and reviews, the County shall cause its agents and representatives to comply with all reasonable rules and regulations adopted by Contractor, including reasonable, safety-related restrictions on access to portions of a Facility.

20.16.2 The provisions of Section 20.17.1 hereof notwithstanding, one or more representatives of the County may be present at the scale house during any time in which the Facility is receiving Waste.

20.17 Contractor Employees. Except as specifically provided in this Agreement, nothing in this Agreement shall be construed to restrict the right of Contractor to hire or release any Person employed in connection with the design, construction, equipping, testing, operation or maintenance of the Facility, or to engage, negotiate the compensation of, or terminate the engagement of, any contractor or subcontractor, or to determine all salaries, incentive compensation, wages, employee benefits, and labor relations policies for its employees, and the amount of any salary, incentive compensation, wage and employee benefits to be made available to such employees, and the hiring, promotion, demotion or termination of such employees shall be determined solely by Contractor in its discretion, subject to any labor

contract provisions, and the prevailing wage requirements of Chapter 39.12 RCW.

20.18 Site Expansion. The provisions of this Article 20 shall apply to any expansion of, or addition to, the Disposal Site.

21. PERMITS AND REGULATIONS

21.1 The Contractor shall have responsibility for obtaining, maintaining, and paying for all permits, licenses, certificates, inspection fees and surcharges and other approvals required by law, both temporary and permanent. The Contractor shall obtain any business licenses required by law.

21.2 The Contractor shall be liable for all fines or civil penalties which may be imposed by any regulatory agency for Contractor-caused violations of permits, laws or regulations; the County shall not be liable for and shall not reimburse Contractor for payment of any such fines or civil penalties. The Contractor reserves the right to contest any such fines in administrative proceedings or in court prior to any payment by the Contractor.

22. DEMOLITION AND CONSTRUCTION OR APPROVED WASTE

Until and unless the County's Comprehensive Solid Waste Management Plan is amended to provide otherwise, the volume approved by the County for disposal in the Disposal Facility pursuant to the Agreement (the "Approved Waste Volume") shall be: one million tons per year of any Acceptable Waste and one million tons per year of Demolition and Construction Waste.

Subject to applicable conditions of the County's Comprehensive Solid Waste Management Plan:

22.1 Amendment of Approved Waste Volume to 2,000,000 Tons per Year of Acceptable Waste. From the date of execution of the First Amendment to the Agreement or the adoption of any amendments to the County's Comprehensive Solid Waste Plan which may be necessary to accommodate this Section 22.1, whichever occurs latter, the Approved Waste Volume shall be: two million tons per year of Acceptable Waste.

22.2 Increase of Approved Waste Volume to 2,500,000 Tons Per Year of Acceptable Waste. At any time after January 1, 1994 the Contractor may submit a report to the County Commissioners requesting County approval of an increase in the Approved Waste Volume by 500,000 tons per year (to 2,500,000 tons per year of Acceptable Waste). Contractor's report, and the County's response, shall be subject to the following provisions:

22.2.1 Contractor's report shall state that:

(a) There are no outstanding notices of noncompliance, administrative orders, or other formal writings from jurisdictional agencies evidencing Contractor noncompliance with the Disposal Facility operating permit.

(b) There have been no defaults under Section 27.1.1, 27.1.2 or 27.1.3 of the Agreement in the six (6) months preceding submission of the Contractor's report.

(c) There has been no breach by Contractor of its payment obligations to the County pursuant to the Agreement in the twelve (12) months preceding submission of the Contractor's report. In addition, Contractor shall, at the County's request, provide a signed statement from an independent accountant (to be agreed upon by the parties). The signed statement shall be in a form acceptable to the County.

(d) There are no capital facilities (Disposal Facility, Drop Box/Recycling Centers or other major construction obligations) required of Contractor by the Agreement (i) that have not been built or (ii) for which plans have not been submitted to the County.

(e) There are no issues of continual and substantial noncompliance with the terms of the Agreement (including any of the performance standards, technical specification, conditions or other requirements of the Agreement) or of any permit required for proper operation of the Disposal Facility.

22.2.2 (a) Subject to the provisions of Section 22.2.2(b) below, the Commissioners shall have ninety (90) days to review the Contractor's submission. Before expiration of ninety (90) days from Contractor's submission of its report, the Commissioners shall issue either (a) written concurrence with the Contractor's report; (b) concurrence upon conditions agreed to by County and Contractor; or (c) written findings of fact stating with specificity any deficiencies in the Contractor's report.

(b) In the event Contractor submits its request for additional Approved Waste Volume in connection with a bona fide third-party request for proposals or other solicitation for solid waste disposal or transportation and disposal services (in excess of one hundred fifty thousand (150,000) tons per year), the following provisions shall apply:

(1) As soon as practicable, Contractor shall provide the County written notice of publication of the solicitation or initiation of discussions with the customer and shall expressly indicate projected waste volume and projected start date.

(2) County shall work diligently to confirm the volume and start date data provided by Contractor. Thereafter the time lines established in Section 22.2.2(a) shall be adjusted to provide for expedited review of the Contractor's submission within the longer of (a) 30 days for the Commissioners' review and findings of fact; or (b) a period that will provide Contractor final and binding notice of acceptance or rejection of its submission not less than thirty-five (35) days before the due date of responses to a potential customer as described in Section 22.2.2(b) above.

22.2.3 The Commissioners' review shall be suspended in the event that during the Commissioners' review of the Contractor's submission the County issues notice to Contractor of default under Section 27.1.1, 27.1.2 or 27.1.3 of the Agreement. Upon resolution of the notice of default, Commissioners' review shall be reinstated.

22.2.4 Disputes arising under this Article 22 (including without limitation dispute as to the accuracy of Contractor's affidavit or the significance of any noncompliance with terms and conditions of the Agreement or permit) shall be resolved by the parties through negotiation or, failing such resolution, shall be decided by arbitration. Either party may demand arbitration, which shall be conducted in accordance with

provisions of Article 28 of the Agreement and shall be concluded within thirty (30) days of its initiation.

~~22.2.5~~ Following County concurrence with the Contractor's report (or arbitral decision that the Contractor's report complies with the requirements of Section 22.2.1 of the Agreement), the Agreement shall immediately be deemed to provide for Approved Waste Volume of 2,500,000 tons per year of Acceptable Waste.

22.3 Increase of Approved Waste Volume to 3,000,000 Tons Per Year of Acceptable Waste.

22.3.1 At any time on or after January 1, 1995 the Contractor may submit a report to the County Commissioners requesting County approval of an increase in the Approved Waste Volume by an additional 500,000 tons per year (from 2,500,000 to 3,000,000 tons per year of Acceptable Waste). Contractor's report, and the County's response, shall be subject to the provisions of Section 22.2.1 through 22.2.4 above.

22.3.2 Following County concurrence with the Contractor's report submitted pursuant to section 22.3.1 above (or arbitral decision that the Contractor's report complies with the requirements of Section 22.2.1 of the Agreement), the Agreement shall thereafter be deemed to provide for Approved Waste Volume of 3,000,000 tons per year of Acceptable Waste.

23. SCHEDULE

23.1 All schedules submitted by Contractor as part of the Specifications shall be fully binding upon the Contractor.

23.2 At monthly intervals, and at all other times as reasonably requested by the County, the Contractor shall advise the County of the status of work on the Project through an itemized report thereof on marked copies of the current schedule, or in any other manner reasonably requested by the County. If any portion of the Project is not on schedule, the Contractor shall immediately advise the County in writing of any and all proposed action to bring the Project into compliance with the schedules in the Specifications.

24. TAXES AND FEES

As between the County and Contractor, the Contractor shall be responsible and liable for payment of all federal, state, regional, county and local taxes and fees, and surcharges of every form, which apply to any and all Persons, entities, property, income, equipment, materials, supplies, structures, or activities which are involved in the performance of this Agreement, including but not limited to any and all income taxes, real property taxes, excise taxes, sales and use taxes, assessments and fees that arise in connection with the Agreement. The County shall be responsible for payment of taxes charged to the County.

25. CLOSURE AND POST CLOSURE

Pursuant to law, Contractor shall establish closure and post-closure trust funds. Those accounts shall be generated by withholding a percentage of all Tipping Fees. Withholding of Tipping Fees shall be structured, and modified as necessary, to assure accumulation of funds sufficient to meet Contractor's closure and post-closure cost estimates, as those estimates are from time to time modified. Use of income accruing in excess of closure or post-closure cost estimates shall be at Contractor's discretion. Excess money in the closure trust funds following closure, and in the post-closure trust fund following all identified post-closure activities, shall be available to Contractor consistent with law. Contractor shall comply with all other laws and regulations applicable to closure and post-closure.

26. PERFORMANCE BOND

26.1 The Contractor shall provide and maintain a Performance Bond, Letter of Credit or other financial guarantee in the minimum amount of five (5) million dollars, guaranteeing the performance of the Contractor's obligations and securing the County's interests under this Agreement. The Surety providing the Performance Bond, Letter of Credit or other financial guarantee, and the form and substance of that Performance Bond, Letter of Credit or other financial guarantee, must be approved by the County in writing.

26.2 The Performance Bond, Letter of Credit or other financial guarantee shall be for the sole benefit of the County.

26.3 Upon documentation and maintenance, by filing with the secretary to the Board of County Commissioners of the conditions or information required in this Section 26.3, Contractor may post a Letter of Credit in an amount not less than \$1 million and in form and substance acceptable to the County in satisfaction of its obligations under Section 26.1:

26.3.1 Posting of a \$10 million bond as required by the Contract Regarding Solid Waste Transport and Disposal for Snohomish County, dated June 28, 1990;

26.3.2 Posting of a \$5 million bond as required by the City of Spokane Solid Waste Contract dated July 26, 1991;

26.3.3 Certificate of environmental impairment insurance, with County as Additional Named Insured under Section 17.3.2, with coverage in the amounts of \$3 million/\$6 million (occurrence/aggregate);

26.3.4 The written consent of Seattle-First National Bank, [as issuer of the letter of credit supporting payment of the industrial development revenue bonds issued to provide a portion of the financing for the solid waste facility contemplated by the Agreement,] to the substitution;

26.3.5 Payment to County of \$30,000 on or before March 1 of each year that Contractor operates under this section 26.3; and

26.3.6 There are no issues of continual and substantial noncompliance with the terms of the Agreement (including any of the performance standards, technical specification, conditions or other requirements of the Agreement) or of any permit required for proper operation of the Disposal Facility.

27. RIGHTS AND REMEDIES FOR DEFAULTS IN PERFORMANCE OF THE AGREEMENT

27.1 Contractor Default. There shall be five (5) categories of default by the Contractor in its performance under this Agreement:

27.1.1 A Category A default is the Contractor's failure to commence Waste handling, transportation and disposal service with Facilities properly permitted by law and constructed and operated in substantial and material compliance with the Specifications, on the date set forth in the Specifications.

If the Project is not on schedule in all material respects, and the County, following notice and consultation with Contractor, either determines the Contractor's proposed action is not reasonably adequate to meet in all material respects the Project schedule or determines the Contractor has failed to pursue in all material respects prompt, reasonable, and corrective action to remedy the delay following notice from and consultation with the County, the County may deem the Contractor in a Category A Default.

27.1.2 A Category B default is the Contractor's failure in any material respect, following the commencement of Facility operations, to accept and dispose of, in compliance with the Specifications, all in-County Waste delivered to the Contractor in accordance with this Agreement.

27.1.3 A Category C default is the Contractor's:

- (a) failure to procure and maintain a Performance Bond under Article 26; or
- (b) failure to procure and maintain insurance under Article 17.

27.1.4 A Category D default is the Contractor's acceptance and disposal of Waste at the Disposal Site in excess of the "Approved Waste Volume" as defined in Article 22.

27.1.5 A Category E default is any failure, other than a Category A, B, C or D default, by the Contractor to perform its obligations under this Agreement.

27.2 Consequences of Contractor Defaults.

27.2.1 Category A default. In the event of a Category A default, the Contractor or Surety shall be permitted to remedy the default within one hundred twenty (120) days from notice by the County and shall pay to the County liquidated damages in the amount of three hundred dollars (\$300) per day commencing as of date of notice. If the Category A default is

not remedied within one hundred twenty (120) days of County notice, the County may, at its sole option:

- (a) be released from its obligations under this Agreement and use any other method or Person to transport and/or dispose of Waste and may sue for actual damages;
- (b) seize and operate any Facilities;
- (c) seek the judicial remedy of specific performance;
- (d) proceed against the Performance Bond; or
- (e) pursue any combination of the foregoing or any other remedy provided by law.

27.2.2 Category B default. In the event of a Category B default, the Contractor or Surety shall be permitted to remedy the default within fifteen (15) days from notice to the County and shall pay to the County the County's actual damages for providing or procuring services under this Agreement. If the Category B default is not remedied within fifteen (15) days, the County may, at its sole option:

- (a) be released from its obligations under this Agreement and use any other method or Person to transport and/or dispose of Waste and may sue for actual damages;
- (b) seize and operate any Facilities necessary to remedy the default;
- (c) seek the appointment of a receiver for those Facilities in Klickitat County Superior Court, which receiver shall continue operation of those Facilities under the direction of that Court;
- (d) seek the judicial remedy of specific performance;
- (e) proceed against the Performance Bond; or
- (f) pursue any combination of the foregoing or any other remedy provided by law.

27.2.3 Category C default. In the event of a Category C default, the Contractor or Surety shall be permitted to remedy the default within the time periods set forth below unless otherwise stated.

- (a) Failure to procure and maintain insurance in the types and amounts required by Article 17 within five (5) days from notice by the County of the default; and
- (b) Failure to procure and maintain the Performance Bond within ten (10) days from notice of the default by the County; with liquidated damages in the amount of \$500 per day. Provided, failure to post the one (1) million dollar Performance Bond required by Section 26.2 shall constitute an immediate default and this Agreement - shall terminate immediately without any notice by the County notwithstanding any provision of this Agreement to the contrary.

If the Category C default is not remedied within the time above allowed, the County may at its sole option, proceed against the Performance Bond, terminate this Agreement, or pursue any combination of the foregoing or any other remedy provided by law.

27.2.4 Category D default.

(a) It is the intention of County and Contractor that the Disposal Site will not receive in excess of Approved Waste Volume. County and Contractor recognize, however, that contracts for and actual deliveries of Waste volumes are subject to variation beyond Contractor's control. Therefore, it is the intent of the parties to make receipt of Waste in excess of Approved Waste Volume per year sufficiently onerous that Contractor will not actively pursue operation at that volume, but not to penalize Contractor for minor and temporary variations from anticipated Waste volumes.

(b) Liquidated Damages.

(i) For disposal of Waste at the Disposal Site pursuant to a contract with term in excess of three (3) years that at the time of such contract the estimated amount of waste, when added to other estimated contract waste volumes in place at the time of the subsequent contract did not exceed Approved Waste Volume, Contractor shall pay liquidated damages for each ton of Waste in excess of Approved Waste Volume at a rate equal to an additional fifty percent (50%) of the administrative and solid waste fees in effect during that calendar year.

(ii) For disposal of Waste at the Disposal Site in excess of Approved Waste Volumes pursuant to contracts with terms in excess of five (5) years where the increase in waste volume has been approved by the Board of County Commissioners through the Comprehensive Solid Waste Management Plan, Contractor shall pay liquidated damages for each ton of waste at a rate equal to an additional fifty percent (50%) of the administrative and solid waste fees in effect during that calendar year.

(iii) For disposal of any other Waste at the Disposal Site in excess of Approved Waste Volume, Contractor shall pay County liquidated damages for each ton of Waste in excess of Approved Waste Volume at a rate equal to an additional one hundred percent (100%) of the administrative and solid waste fees in effect during that calendar year. That is, for each ton in excess of Approved Waste Volume Contractor shall pay a total of two hundred percent (200%) of administrative and solid waste fees in Article 12.

(c) In order to deal with fluctuations in Waste delivered to the Disposal Site, liquidated damages under this Section 27.2.4 shall be determined on the basis of annual average tons delivered for the relevant three (3) year period. The first three (3) year period commences as of the first day of the first full Calendar Quarter of 1991, and each subsequent three (3) year period shall commence after the end of the prior period.

(d) Estimated liquidated damages under this Section 27.2.4 shall be paid within ten (10) days after the Calendar Quarter following the end of each year in which volumes exceed Approved Waste Volumes. Thus, at the end of the second year of a three (3) year period, liquidated damage payments shall be based on average yearly tonnage in years one and two. At the end of each three (3) year period, liquidated damage payments shall be recalculated and adjusted to reflect the actual average yearly tonnage delivered to the Disposal Site during the three (3) year period. Additional payments to the County, or credits to the Contractor, shall be made within ten (10) days after the Calendar Quarter following the end of each year. If credit is due to the Contractor at the end of the Term of Agreement, payment shall be made to the Contractor within ten (10) days after the Calendar Quarter following the end of the Term.

(e) Example 1: If Approved Waste Volume is 2 million tons per year and the Waste delivered is 1,950,000 tons in the first year, 2,200,000 tons in the second year and

2,150,000 tons in the third year, liquidated damages shall be paid as follows:

Year 1: N/A

Year 2: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume (plus 50,000 ton carry over from Year 1) was met in Year 2 plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume (plus 50,000 ton carry over from Year 1) was met in Year 2.

Year 3: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume (no carry over adjustment available) was met in Year 3 plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume (no carry over adjustment available) was met in Year 3.

Example 2: If Approved Waste Volume is 2 million tons per year and the Waste delivered is 2,250,000 tons in the first year, 1,800,000 tons in the second year and 1,950,000 tons in the third year, liquidated damages shall be paid as follows:

Year 1: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume was met plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume was met.

Year 2: Credit in the amount of two-thirds of the penalty paid in Year 1 (tonnage in Years 1 and 2 is 4,050,000, only 50,000 tons more than approved volume).

Year 3: Credit in the amount of the remaining amount of the penalty paid in Year 1 (tonnage in Years 1 through 3 was \$0).

(f) This Section 27.2.4 is the sole and exclusive remedy for Category D default.

27.2.5 Category E default.

(a) In the event of a Category E default, the Contractor shall be permitted to remedy the default within thirty (30) days from notice by the County. In the event Contractor shows cause why it should be entitled to reasonable additional time to cure the default, the County shall allow such additional time. If the Category E default is not remedied within thirty (30) days, or within the additional time allowed to Contractor, the County may, at its sole option,

- (1) be released from its obligations under this Agreement and use any

other method or Person to transport and/or dispose of Waste and may sue for actual damages;

- (2) seize and operate any Facilities;
- (3) seek the judicial remedy of specific performance;
- (4) proceed against the Performance Bond; or
- (5) pursue any combination of the foregoing or any other remedy provided by law.

(b) The remedies provided in Section 27.2.5(a) (1), (2), (4) and the corresponding provisions of (5) shall not be available unless the Category E default is material. In the event of any action by County to enforce its rights in respect to a Category E default, County shall be entitled to its reasonable attorneys' fees and costs when it is the prevailing party.

(c) If a Category E default continues on a chronic and material basis, and County has given notice to Contractor that such default is chronic and material, and Contractor continues such incidents of default notwithstanding such notice, the County may at its sole option terminate the Agreement.

(d) In addition to the foregoing, if the Contractor fails to timely pay fees or other amounts pursuant to Articles 12 and 31, Contractor shall pay the fee or amount owing plus interest, compounded daily, at the Prime Rate plus three percent (3%) from date due until paid.

27.3 Default Procedure.

27.3.1 Notice. To initiate default and trigger remedy periods under this Article for Category A, B, C and E defaults, the Project Manager shall give notice to the Contractor and the Surety of the County's intention to declare the Contractor in default. Unless the Contractor promptly shows cause to the County's satisfaction why it should not be declared in default under the Agreement, the County may declare the Contractor in default.

27.3.2 Performance by Surety. In the event that the County orders the Contractor to discontinue further performance under this Agreement and transfers the Contractor's obligation to perform to the Surety, the Surety shall within ten (10) days take possession of all Facilities necessary to perform under this Agreement, employ those Persons needed to perform the work and

purchase, lease or otherwise provide any necessary Facilities. The Security's action under this Section shall not relieve it of its obligations under the Agreement and the Performance Bond.

27.3.3 Failure by the Surety; County Substitution.

If the Surety fails to assume or continue performance within ten (10) days of its receipt of notice from the County, the Contractor shall at the County's request lease, sublease or otherwise license the County to use all, or a part of, the Facilities necessary under this Agreement. If the Contractor fails to provide the County with the Facilities necessary for performance of the Agreement, the County shall be entitled to seize and use any or all of the Facilities.

If the County secures performance of the services described in this Agreement at a cost less than the Tipping Fees established in accordance with Article 13, then the County shall retain that difference. However, if the cost to the County is greater, the Contractor and/or Surety shall be liable for and pay the excess amount to the County.

27.3.4 General. Any amount due the Contractor under this Agreement at the time of default shall be reduced by the damages suffered and expenses incurred by the County due to the default.

27.4 County Default. For each and every event of default by the County under this Agreement, within thirty (30) days of notice by the Contractor, and after the County has failed to cure the default or give Contractor reasonable assurances that the default or threatened default will be promptly cured, the Contractor shall have the right to all of the following remedies to the extent provided by law:

27.4.1 Judicial Remedy of Specific Performance. For each and every default, the Contractor shall be entitled to a judicial remedy of specific performance or mandamus requiring the County to specifically perform the County's basic responsibilities described in this Agreement; it being agreed that in the case of a default by the County, Contractor's remedies at law will be inadequate.

27.4.2 Injunctive Relief. For each and every default, the Contractor shall be entitled to the remedy of a permanent or temporary injunction, either in mandatory or prohibitory form, it being agreed that in the case of a default, the Contractor's remedy at law is inadequate.

27.4.3 Termination or Suspension of Contractor's Performance of the Contract. For each and every material default, Contractor shall be entitled to terminate or suspend Contractor's performance of the Agreement if the County has not remedied the default within one hundred twenty (120) days of notice.

27.4.4 General. In addition to the foregoing, Contractor shall be entitled to any other remedy provided by law.

27.5 Uncontrollable Circumstances/Impossibility.

27.5.1 A delay or interruption in or failure of performance of all or any part of this Agreement resulting from Uncontrollable Circumstances shall be deemed not a default under this Agreement.

27.5.2 A delay or interruption in or failure of performance of all or any part of this Agreement resulting from any change in or new law, order, rule or regulation of any nature which renders operation of a Facility in accordance with the terms of this Agreement legally impossible (for these purposes, a change in or new law, order, rule or regulation shall not include any new regulations under Chapter 70.105C.080 RCW and Subtitle D, 40 CFR Pt. 257, any court orders arising out of any litigation to which Contractor is a party as of the date of execution of this Agreement, any court order in respect of which Contractor failed to pursue reasonable appeals, and any order or rule adopted, issued or promulgated because of a past failure of the Contractor to meet its obligations under a new law, rule, regulation or permit or license or to operate the Facilities in accordance with this Agreement), and any other circumstances beyond the control of the Contractor which render legally impossible performance by the Contractor of its obligations under this Agreement shall be deemed not a default under this Agreement.

27.5.3 It is understood by the Parties that Contractor will make its reasonable best efforts to site a Disposal Site within the County. It is also understood, consistent with Article 4, that there is an obligation for environmental review and other approvals. Therefore, notwithstanding Section 23.1, any failure by Contractor to perform all or any part of this Agreement because of a failure to obtain any permits, licenses, or other government authorizations necessary for construction or operation of a Facility or for Contractor's performance under this Agreement, despite Contractor's reasonable best efforts to obtain such permits, licenses or authorizations, shall be deemed not a default under this Agreement.

27.6 Contractor's Bankruptcy/Receivership. If the Contractor is insolvent, dissolved pursuant to court order, files for bankruptcy, is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, that event could impair or frustrate the Contractor's performance of this Agreement. Therefore, it is agreed that upon the occurrence of those events, the County shall be entitled to request of the Contractor or its successor-in-interest, adequate assurance of future performance in accordance with the terms and conditions of this Agreement.

Failure of Contractor and Surety to comply with that request within ten (10) calendar days of service on both Contractor and Surety of a written request from the County for that assurance shall entitle the County to terminate or suspend Contractor's performance of the Agreement. The County shall not be bound to the Agreement by an insolvent Contractor's trustee or receiver.

27.7 Non Waiver. Nothing in this Article and no actions taken pursuant to this Article shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or Surety under any other provision of this Agreement or any provision of law.

27.8 Termination of Contract. If an Uncontrollable Circumstance occurs and prevents for a period of one (1) year the satisfactory performance of all the material provisions of this Agreement to be performed by Contractor, the County shall have the right, in its sole discretion, to terminate this Agreement.

27.9 Police and Eminent Domain -- Agreement Authority.

27.9.1 County's seizure and operation of a Facility, or County's lease, sublease or license of a Facility, pursuant to this Article, shall be without prejudice to Contractor's right to just compensation, and County's right to damages, in respect of such seizure, operation, lease, sublease or license.

27.9.2 Nothing in this Agreement shall prevent or limit the County's exercise of its police power, power of eminent domain, or other governmental authority.

27.9.3 In the event that during the Term of Agreement (a) an event of default by Contractor occurs and entitles County to terminate this Agreement and (b) the County's authority of eminent domain concerning the Facilities has been eliminated by law, the County shall, as an additional contractual remedy in respect of such default, have the authority to purchase, condemn, or acquire, upon payment of just compensation, any of the Facilities, as if County retained the authority of eminent domain it possessed when it executed this Agreement. County's right to exercise such contractual right shall be subject to all provisions of law (procedural and substantive) applicable to eminent domain proceedings for counties, Chapters 8.08 and 8.25 RCW, in effect as of the date of execution of this Agreement, including, without limitation, the requirement that any such taking be for a public purpose, that County obtain from Klickitat County Superior Court an order of public use and necessity, in respect of such taking, and that any such order shall be subject to judicial review by appellate courts as authorized by law; provided, however, that the just compensation to which Contractor shall be entitled shall be finally determined by arbitration pursuant to Article 28. Notwithstanding the provisions of Section 28.2, such arbitration shall be decided by a panel of three (3) arbitrators, each of whom shall be an

individual with experience in the valuation of solid waste disposal and related facilities. Contractor's costs and fees incurred in connection with all proceedings, including costs and fees of the arbitration proceedings, shall be borne by the County in the circumstances where Chapter 8.25 RCW would require reimbursement from County for Contractor's costs and fees.

28. ARBITRATION, JUDICIAL VENUE AND GOVERNING LAW

28.1 Subject to the conditions and limitations of this Section, controversies or claims arising out of or relating to Tipping Fee or other financial calculations under Articles 12 and 13, and Section 17.11 of this Agreement, and other Sections specifically providing for arbitration of disputes, shall be exclusively settled by arbitration under the laws of the State of Washington, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All other controversies and claims shall be decided exclusively by a court of competent jurisdiction in Klickitat County, Washington, under the laws of the State of Washington or in the U.S. District Court for the Eastern District of Washington, at Yakima.

28.2 All arbitrated disputes shall be heard and decided by one arbitrator.

28.3 There shall be no consolidation of any arbitration between the County and the Contractor with any other arbitration involving, arising from, or relating to this same Project.

28.4 Each Party hereto and the Surety accepts jurisdiction of the courts of the State of Washington for the purposes of commencing, conducting and enforcing arbitration proceedings and agrees to accept notice in writing sent by certified mail addressed to the Party of intention to proceed with arbitration and of any other step in connection therewith or enforcement thereof, with the same effect as though personally served therewith in the State of Washington. The decision of the arbitrator shall be final and binding upon the Parties and the Surety who hereby agree to comply therewith. The Parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Section shall be exclusively in the County.

28.5 In the event suit or action or arbitration is instituted to enforce any right granted herein, each Party shall be responsible for payment of its own attorney's fees.

29. ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS

29.1 Qualified Party. This Agreement is executed with the Contractor as a qualified party to accomplish the Project. Except as provided in Section 29.3 below, the delegation of any Agreement duties will require the prior written consent of the County and of the Surety. Any such delegation of duties will not relieve the Contractor or its Surety of any liability and/or obligation to perform. In the event of any delegation of a duty, the delegate shall assume full responsibility for performance of that duty without affecting Contractor's liability.

29.2 Assignment. Except as provided in Section 29.3, the Contractor shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of the County. The County's consent under this Section 29.2 shall be subject to a standard of reasonableness from and after the tenth anniversary of the execution of this Agreement. The Contractor shall not assign any amounts due or to become due under this Agreement without prior written notice to the County.

29.3 Corporate Control. Notwithstanding Sections 29.1 and 29.2, Contractor shall have the right to

29.3.1 transfer interests in the beneficial ownership of the Contractor, and/or

29.3.2 assign this Agreement,

without County consent so long as Contractor (and/or its transferee or assignee) remains controlled 50% or more, directly or indirectly, by The Rabanco Companies or Rabanco Ltd., Inc.

For purposes of this Section 29.3, control by The Rabanco Companies or by Rabanco Ltd., Inc. means control directly or indirectly by any or all of

(a) those natural persons who currently control those entities;

(b) spouses or surviving spouses of those persons described in (a);

(c) lineal descendants of those persons described in (a) (adopted children shall be deemed lineal descendants for purposes of this Section);

(d) a trust, estate, corporation, limited partnership, voting trust or other entity controlled by, or the beneficiaries, shareholders or members of which are persons described in (a), (b) or (c) above; or

(e) a corporate trustee designated to act in a fiduciary capacity for the estate or trust of any of the persons described in (a), (b) or (c) above.

29.4 Successors. This Agreement shall be binding on any and all successors or assignees in accordance with this Article.

29.5 County Assignment. County may assign its rights under this Agreement in interlocal contracts with other municipal corporations for disposal of Waste or designation of solid waste handling Facilities upon Contractor's assent as set forth in Section 11.9 of this Agreement. Assignment includes, but is not limited to, indemnification under Article 16, and naming additional insureds under Article 17.

30. SYSTEMS

30.1 Scales. Contractor shall install, maintain and have available at the Disposal Site scales to weigh Waste that is received at the Facilities. Contractor shall cause normal maintenance and calibration of the scales to be performed in accordance with manufacturer's recommendation. County has the right once a month during normal working hours to enter the Facilities to inspect and to test the accuracy of scales. In the event the scales are not operable at any time, a vehicle or container will be charged based upon the volume in cubic yards of such vehicle or container divided by four (4) to obtain approximate tonnage, unless another standard of approximation is available from Disposal Site records. All transfer vehicles and private hauler collection vehicles will be weighed in and out of the Disposal Site. Weigh out will be optional if Contractor has a tare weight on file for the vehicle.

30.2 Drop Box/Recycling Centers. See Specifications.

30.3 Surface Transportation.

30.3.1 All transportation to and from the Disposal Site shall be subject to review and approval by the County. The County shall have absolute discretion in the approval of transportation routes in order to minimize the impact of vehicle trips on the County and Washington State system of roads and highways in the County.

30.3.2 All truck equipment shall comply with applicable local codes, state laws, and applicable federal requirements including, but not limited to, the following:

- (a) United States Department of Transportation
 - Federal Motor Vehicle Safety Standards (FMVSS)
 - Federal Motor Carrier Safety Regulations (FMCSR)
 - Interstate Motor Carrier Noise Emission Standards
- (b) United States Environmental Protection Agency (EPA)
 - Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines
 - Interstate Motor Carrier Noise Emission Standards

Trucks and containers operated in the County by or under contract to Contractor shall be uniform in appearance. Each truck operating in the County shall be equipped with a two-way radio capable of communicating with the Contractor's office and Facilities.

30.4 Intermodal Transfer Facility. Use of rail or barge to transport waste shall comply with all applicable federal, state and local laws and regulations, including, but not limited to, employee safety. Rail or barge transfer facilities shall be designed, constructed and operated consistent with the Specifications, and all applicable licenses, permits and approvals.

30.5 Disposal Site. See Specifications.

30.6 Horsethief Landfill.

30.6.1 Until such time as the Disposal Site becomes operational, the County shall continue to operate the Horsethief Landfill and shall use its reasonable best efforts to obtain necessary variances for that landfill so that it can continue in operation after November, 1989. In the event that the Horsethief Landfill is no longer operational and the Disposal Site is not yet operational, Contractor guarantees that for all in-County Wastes, fees shall be as set forth in Article 13.

30.6.2 In the event of an interim period, if any, between the closure of the Horsethief Landfill and the opening of the Disposal Site, the Contractor shall provide for an interim, public convenience, transfer/drop box facility for self-haul residential waste only.

30.7 Backup System. The Contractor shall, within ninety (90) days of execution of the Agreement, submit to the County for approval a complete and detailed plan detailing the mode of operation that the Contractor will activate if Uncontrollable Circumstance precludes the use of any Facility. The plan shall include, but not be limited to, the method of transport, the method of unloading, the method of disposal, and the length of time necessary to activate the plan. The back-up plan shall, among other things, provide for rights to dispose of Wastes at alternative disposal sites reasonably acceptable to the County, including without limitation The Dalles and Finley Buttes, Oregon, disposal sites.

30.8 Recycling. See Specifications.

30.9 Hazardous Waste. See Specifications.

30.10 Moderate Risk Waste and Agricultural Chemical Management. See Specifications.

31. COMMUNITY RELATIONS

31.1 Employment Relations. Subject to applicable law, Contractor shall use its reasonable best efforts to recruit, train, and hire County residents for new employees.

31.1.1 Efforts to recruit and hire County residents will include the following:

- (a) Posting employment notices in State and County offices, libraries, and other public offices in the County.
- (b) Publishing employment advertisements in County newspapers.
- (c) Opening an employment office in Goldendale for interviewing and placement of job applicants.
- (d) Posting employment notices in school placement offices.
- (e) Hiring of two (2) current County employees operating the County's Horsethief Landfill.

For the projected thirty (30) to sixty (60) permanent jobs, Contractor shall not actively seek employment applicants from outside the County unless applications from within the County prove insufficient. If sufficient skilled personnel are not available with regard to hiring residents of County, Contractor will cooperate with County to establish local training programs that will meet the employment goal of the Contract. In any event, Contractor notes that because of the location of the Disposal Site, permanent employees will most likely reside in County.

31.1.2 It is the intent of the County to stimulate local business and industry through the implementation of the Facilities. Therefore, to the extent permitted by law, Contractor shall use local labor and purchase materials, supplies, and equipment from businesses located within the County wherever and whenever possible or practicable. Contractor agrees to use reasonable best efforts to hire local firms and labor and use local suppliers and materialmen. Contractor shall report to the County on a quarterly basis regarding the way in which local firms, businesses, labor and material suppliers have been utilized and in each segment of the work effort. In order to facilitate employment of unemployed truck drivers living in the County, Contractor may seek approval for truck transport of Waste to the Disposal Site consistent with the Technical Specifications.

31.1.3 Training for new employees shall include:

- (a) instruction in safety and standard operating procedures from knowledgeable, experienced personnel, including: equipment suppliers, engineers, technicians, and experienced employees (drawn from other companies, initially);
- (b) instruction in fire protection and emergency response procedures;
- (c) instruction in federal, state and local environmental regulations; and
- (d) testing of necessary skills and understanding of operating and emergency response procedures.

31.1.4 Unless otherwise provided by law, wages paid by Contractor to Contractor's operational personnel in the County shall be subject to a minimum pay scale of \$8 to \$18 per hour. The pay scale shall be applied based on knowledge, skills, abilities, and responsibilities, and shall be adjusted from time-to-time as appropriate.

31.2 Scholarships. Contractor shall fund a college scholarship ("Scholarship") for high school students in Klickitat County. This fund will be named by Contractor and shall be administered by a foundation or other entity to be formed with the Parties' cooperation (the "Foundation"). The Scholarship will be awarded to a student or students in the County who intend to pursue studies at accredited two or four year colleges. Selection of the student or students shall be in accordance with the rules of the Foundation, to be agreed upon by the parties. It is the Contractor's intent, but not a contractual obligation, that the Foundation be qualified as a private foundation within the meaning of § 509(a) of the Internal Revenue Code of 1986 (the "Code") and that it be exempt from federal income tax under § 501(c)(3) of the Code. Contractor and the County shall work cooperatively to acquire the appropriate Internal Revenue Service determination letters and to conduct the Foundation as required to comply with federal tax laws.

The initial Scholarship fund balance will be \$5,000, and will grow at the following rate:

| | |
|--------------------------|---------------|
| 0 to 250,000 TPY | \$5,000/year |
| 250,000 to 500,000 TPY | \$10,000/year |
| 500,000 to 750,000 TPY | \$15,000/year |
| 750,000 to 1,000,000 TPY | \$20,000/year |

31.3 Cities' Planning. Contractor shall contribute \$15,000 to the County to assist the Cities of Bingen, Goldendale and

White Salmon in their review and preparation of the Cities' interlocal agreements with the County, and the review and adoption of comprehensive solid waste management plans. The contribution required by this Section shall be paid to the County within thirty (30) days of the execution of this Agreement.

31.4 County Tourism and Community Development. The Parties are committed to environmentally safe Facilities, and to the present and future economic security of the County. In order to facilitate the County's efforts to market and advertise the County's resources and facilities, and to further provide additional community facilities and resources, the Contractor shall pay \$200,000 to the County ("Community Development Account"). The Community Development Account shall be funded by four (4) equal payments. The first payment is to be made within six (6) months of Agreement execution, the second payment is to be made within eighteen (18) months of Agreement execution, the third payment is to be made within thirty (30) months of Agreement execution, and the fourth payment is to be made within forty-two (42) months of Agreement execution.

31.5 General. Contractor shall maintain an office with regular office hours in the County. The Contractor shall provide for records of and the prompt and efficient handling of all inquiries, claims or complaints, by County residents or other Persons, arising out of the activities of Contractor under this Agreement.

31.6 Economic Development. Within ninety (90) days of execution of the first Amendment to the Agreement, Contractor shall pay \$25,000, and \$6,250 by January 15, 1993 and quarterly thereafter, to County to advance economic development, marketing and waste handling and management practices, and other activities of County for the improvement of County business and economic interests.

31.7 Litter Control. Contractor shall provide, at cost not to exceed \$500 per year, hard hats, safety vests, gloves, and disposal bags to County sponsored or approved litter patrols and programs. The amounts set forth in this Section 31.7 and in Section 31.6 shall be adjusted annually by 100% of the CPI change for the previous year.

32. GUARANTEES AND WARRANTIES

32.1 The Contractor shall provide to the County any and all warranties and guarantees required by any of the Agreement Documents.

32.2 To the extent permitted by such warranties or guarantees, all guarantees or warranties of equipment, services or materials furnished to Contractor or subcontractors by any supplier shall be deemed to run to the benefit of the County. If any supplier of any equipment, services or material furnishes a guarantee or warranty for a period in excess of one year from the date of acceptance, Contractor's guarantee, as provided in Section 32.1 of this Article shall be deemed to extend for a like period as to such equipment, service or material.

32.3 The Contractor shall fulfill the conditions of any warranties of manufacturers for material or equipment.

32.4 Within a reasonable time after receipt of a written notice thereof, the Contractor shall correct any defects in workmanship which exist prior to or during the period of any guarantee provided herein and any damage caused by such defects or the repairing of such defects, at its own expense and without cost to the County, and without interruption to the Project.

32.5 The guarantees and warranties shall not be construed to modify, limit, or lessen in any way, any rights or remedies which the County may otherwise have against the Contractor or its Surety.

33. DISSOLUTION OF THE COUNTY AND SUCCESSOR TO THE COUNTY

In the event that the County is dissolved or its solid waste functions and powers relative to this Contract are taken from the County by legislative act or by referendum of the people or by agreement, all of the duties, rights, and remedies of the County under the Contract, including, but not limited to, all bonds executed for this Contract, shall remain in full force and effect and shall be transferred to either: (1) the successor to the County as specified by the legislative act or referendum by which the County is dissolved; or, (2) if no successor to the County is specified by the relevant legislation or referendum, the successor to the County shall hereby be deemed to be the State of Washington.

34. THE RABANCO COMPANIES' GUARANTY

34.1 The Rabanco Companies ("Rabanco") hereby irrevocably and unconditionally guarantees to the County, subject to the limitation set forth below, full and complete performance of all of the Contractor's obligations to the County under this Agreement (the "Guaranty"). The purpose of this Guaranty is to bind the Contractor and/or Rabanco to a minimum Capital Investment of Five Million Dollars (\$5,000,000) in the Project. Rabanco's liability under the Guaranty shall be limited to the difference between Five Million Dollars (\$5,000,000) and any and all Capital Investment made by the Contractor pursuant to or in connection with this Agreement or the Project.

34.2 For purposes of this Article 34, "Capital Investment" means all expenditures for the Project, except operating expenses paid after Waste is first received at the Disposal Site.

35. TERM

35.1 Agreement Term. The Term of Agreement shall commence on its execution and end twenty-five (25) years from that date.

35.2 Renewal Terms.

35.2.1 Extended-Term Contract Requirements. If by May 26, 1994, Contractor has secured or is selected to negotiate one or more Extended-term contracts for disposal of Waste, Contractor shall give County written notice of the same by June 26, 1994 and County shall grant Contractor one (1) or more five (5) year renewal options as are required by Contractor's Extended-term contract(s), to a maximum of three (3) five (5) year renewal terms.

35.2.2 For purposes of this Section 35.2, "Extended-Term contract" means contracts for disposal of waste that require contractor capacity to accept waste beyond the Term of Agreement under Section 35.1.

35.2.3 Optional Renewal Terms. In the event Contractor cannot or does not exercise the right provided by Section 35.2.1, or in the event that pursuant to Section 35.2.1, the Agreement is not renewed for all three (3), five (5) year renewal terms, this Agreement shall automatically be renewed for each of three (3), five (5) year terms unless either Party gives notice to the other of its intention not to renew this Agreement prior to each such renewal term. Notice under this Section 35.2.3 shall be given in writing not less than twelve (12) nor more than eighteen (18) months before expiration of the initial or renewal term then in effect.

36. SIGNATURE - EXECUTION

This Agreement first executed and dated the 26th day of May, 1989, is amended this 7th day of August, 1995.

KLICKITAT COUNTY, WASHINGTON

By 
Board of County Commissioners

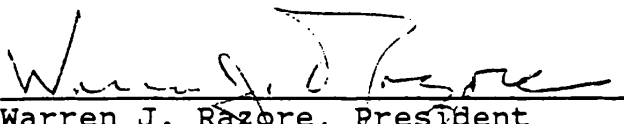
REGIONAL DISPOSAL COMPANY

By WJR ENVIRONMENTAL, INC.
MANAGING PARTNER

By 
Warren J. Razore,
President

The Rabanco Companies, a Washington general partnership, executes in the space below solely for purposes of making the Guaranty set forth at Article 34 of this Agreement. Accordingly, The Rabanco Companies neither undertakes nor assumes any liability or responsibility under or in respect of this Agreement except as otherwise expressly provided for at Article 34.

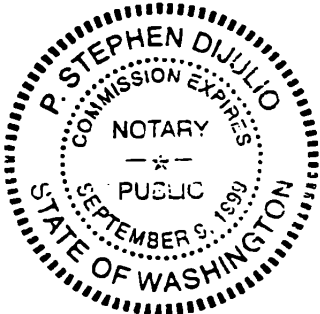
THE RABANCO COMPANIES

By 
Warren J. Razore, President
Rabanco Ltd., Inc.,
General Partner

STATE OF WASHINGTON)
) KING) ss.
COUNTY OF ~~Klickitat~~)

I certify that I know or have satisfactory evidence that SUARRE BAKKE signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chairman of the Board of County Commissioners of Klickitat County, Washington, a municipal a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 4TH day of October, 1995.



Stephen DiJulio

Notary Public in and for the state of Washington, residing at KENT

My appointment expires 9/9/99

STATE OF WASHINGTON)
) KING) ss.
COUNTY OF ~~Klickitat~~)

I certify that I know or have satisfactory evidence that Warren J. Razore signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President and Chief Executive Officer of WJR Environmental, Managing Partner of Regional Disposal Company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 21st day of August, 1995.

Warren J. Razore

Notary Public in and for the state of Washington, residing at Meru

My appointment expires 6/9/94

STATE OF WASHINGTON)
)
COUNTY OF KLIKITAT) ss.

I certify that I know or have satisfactory evidence that Warren J. Razore signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Rabanco Ltd., Inc., as general partner of The Rabanco Companies, a general partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 21st day of August, 1995.

[Signature]
Notary Public in and for the
state of Washington, residing
at Marine Island

My appointment expires 4/27/98

CLERK OF COURT
JUL 14 1995
CLERK OF COURT

**ADDENDUM NO. 1
TO AGREEMENT REGARDING SOLID WASTE HANDLING
BETWEEN KLICKITAT COUNTY AND REGIONAL DISPOSAL COMPANY**

1. **Introduction - Agreement.** Klickitat County ("County") and Regional Disposal Company ("RDC") parties to the Agreement regarding Solid Waste Handling entered May 26, 1989, first amended June 8, 1992 ("Agreement"), agree to this First Addendum to the Agreement ("Addendum No. 1").

2. **Purpose.** The purpose of this Addendum is to provide for the study of economic development opportunities for use of landfill gas ("LFG") from the Roosevelt Regional Landfill.

3. **Consultant - Project.** The County and RDC agree to engage Power Management Corporation ("PMC") to study and report consistent with PMC's proposal to County and RDC entitled "A Proposal to Maximize the Value of the LFG Resource at the Roosevelt Landfill ("Project").

4. **Pricing - Payment.** The project cost is \$69,600, plus applicable taxes. Additionally, PMC shall conduct an LFG Generation and Enhancement Study under the Project for a lump sum price of \$5,205 ("Optional Study"). RDC shall manage all accounting and invoices relating to the Project, and County shall reimburse RDC not more than \$34,795 for the Project and \$5,205 for Optional Study, plus pro rata share of applicable taxes. County's share of project cost will accrue incrementally upon County acceptance from RDC of PMC progress reports and progress billing. County payment of County's share of project cost to RDC shall be made after receipt of the Project and Optional Study, within thirty days of receipt of written invoice from RDC.

5. **PUD Participation.** County will enter into an interlocal agreement with Public Utility District No. 1 of Klickitat County ("PUD") for participation in County's funding of the Project. RDC authorizes Project information to be provided to PUD. Provided, however, Project data shall to the fullest extent provided by law be considered an exempt record under RCW 42.17.310 as "valuable formulae, designs, drawings, and research data," or such other exemption as may apply to the Project during the period that RDC, PUD, and/or County are considering developing the Landfill LFG for power generation.

6. **Project Management.** RDC, PUD and County shall serve as Project Managers, and oversee the work of PMC. PMC shall not withhold information from RDC, PUD or County and shall recognize equally County, PUD and RDC as its client for purposes of the Project.

7. Distribution. Three copies of the Final Report shall be delivered to both the PUD and County.

8. Period of Performance. The period of performance for this Addendum will end on December 31, 1995.

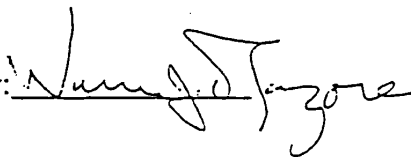
9. Agreement. Except as provided in this Addendum, the Agreement shall remain in full force and effect.

DATED this 21st ^{August} day of ~~July~~, 1995.

KLICKITAT COUNTY

REGIONAL DISPOSAL COMPANY

BY: 
Chairman

By:  President

**ADDENDUM NO. 2
TO AGREEMENT REGARDING SOLID WASTE HANDLING
BETWEEN KLICKITAT COUNTY AND REGIONAL DISPOSAL COMPANY**

1. **Introduction - Agreement.** Klickitat County ("County") and Regional Disposal Company ("RDC"), parties to the Agreement regarding Solid Waste Handling entered May 26, 1989, last amended August 7, 1995 ("Agreement"), agree to this Second Addendum to the Agreement ("Addendum No. 2").

2. **Purpose.** The purpose of this Addendum is to provide for the development and implementation of a request for proposals (RFP) that will aid in determining the market value of the landfill gas ("LFG") produced at Roosevelt Regional Landfill and in determining how best to maximize that value.

3. **Consultants - Project.** County and RDC agree to engage Power Management Corporation ("PMC") to develop and implement the RFP consistent with PMC's proposal to County and RDC entitled "*Proposal to Assist Klickitat County and the Regional Disposal Company to Sell Landfill Gas from the Roosevelt Landfill to the Qualified LFG Purchaser with the Best Offer*" ("Project"), which provides for a County Project Manager and an RDC Project Manager for the Project.

County and RDC agree to engage Economic and Engineering Services, Inc. (EES) to review the request for proposals generated by PMC and provide consulting services pertaining to the Project on a task order basis.

4. **Pricing - Payment.** The Project cost for Phases I through IV is \$50,950, plus applicable taxes. Project costs for Phase V shall be determined on a time and materials basis, not to exceed \$10,000, plus applicable taxes, without written authorization by both County and RDC.

The costs of services from EES shall be determined on a time and materials basis, not to exceed \$10,000, plus applicable taxes, without written authorization by both County and RDC. All task orders shall be approved in writing by County and RDC, prior to EES incurring costs.

RDC shall manage all accounting and invoices relating to the Project and EES's services. County shall reimburse RDC not more than \$25,465 for Phases I through IV of the Project, plus pro rata share of applicable taxes. County shall reimburse RDC for one half of the cost of Phase V of the Project, not to exceed \$5,000, plus pro rata share of applicable taxes, unless authorized in writing by County.

County shall reimburse RDC for one half of the cost of EEC's services, not to exceed \$5,000, plus pro rata share of applicable taxes.

County's share of Project costs and County's share of EEC's services will accrue incrementally upon County acceptance from RDC of PMC and/or EEC's progress reports and progress billing. County payment of County's share of costs of the Project and/or EEC's services shall be made following receipt and acceptance of PMC and/or EEC's progress reports and progress billing and receipt of written invoice from RDC.

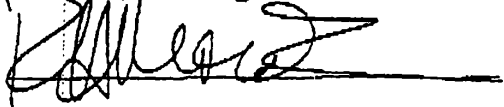
5. **Project Management.** RDC and County shall serve as Project Managers and oversee the work of PMC and EEC. PMC and EEC shall not withhold information from RDC or County and shall recognize equally RDC and County as its client for purposes of the Project and the performance of EEC's services. Failure of PMC or EEC to recognize RDC and County equally with respect to project management and all other aspects of the Project shall be a breach of this Addendum No. 2.

6. **Period of Performance.** The period of performance for this Addendum will end on December 31, 1997.

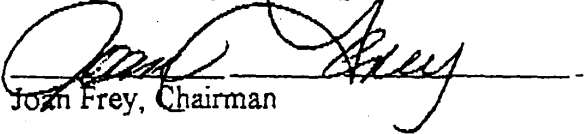
7. **Agreement.** Except as provided in this Addendum, the Agreement shall remain in full force and effect.

Dated this ____ day of July, 1997.

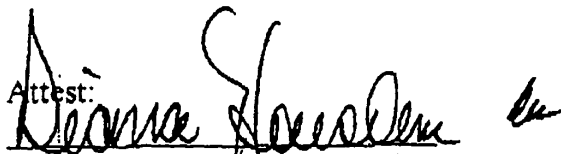
REGIONAL DISPOSAL COMPANY
Bellevue, Washington



BOARD OF COUNTY COMMISSIONER
Klickitat County, Washington



John Frey, Chairman

Attest:

Ex-Officio Clerk of the Board

Approved as to Form:


Knute Rife, Prosecuting Attorney

ADDENDUM NO. 3

**To The Second Amended Agreement
Regarding Solid Waste Handling Between**

**Klickitat County
and
Regional Disposal Company**

1. **INTRODUCTION - AGREEMENT.** Klickitat County ("County") and Regional Disposal Company ("Contractor") are parties to the Second Amended Agreement Regarding Solid Waste Handling (August 7, 1995) ("Agreement"). This Addendum No. 3 to the Agreement ("Addendum") adds to and is made a part of the Agreement, and as such is fully subject to the Agreement's terms. If conflicts are found to exist between the two, the Addendum prevails over the Agreement as the more recent expression of the Parties' intent. Capitalized terms used herein have the meanings provided in the Agreement. Except as specifically provided in this Addendum, the Agreement shall remain in full force and effect.

2. **PURPOSE.** The purpose of this Addendum is to clarify the Parties' respective interests in development of the landfill gas resource at the Disposal Site. The Agreement originally addressed those interests in a manner that, in effect, discouraged either Party from developing the resource. This Addendum therefore establishes, in consideration of the Contractor's commitment to make certain payments, the Contractor's ownership and exclusive rights to the gas. This Addendum provides that the Contractor shall pay the County an amount equal to one-half of the Net Proceeds (as defined herein) generated by the gas resource, and that the County shall receive such amounts in the form of production payments based on the Contractor's gas sales or beneficial use. This Addendum establishes the means by which Net Proceeds shall be determined over time.

The Addendum recognizes that use of the gas resource at the landfill will require a change in approach to managing landfill gas. Currently, the Contractor collects and destroys landfill gas, which is required by regulation because landfill gas is considered a pollutant. The Contractor plans, however, to institute a program to use or sell the gas as a fuel resource.

This Addendum recognizes that there will be extra costs involved in managing gas as a resource. Therefore, in defining the Net Proceeds that are to be divided between the Contractor and the County, this Addendum allows the Contractor to deduct from gross revenue certain marginal costs. These marginal costs are the extra costs the Contractor incurs to use or sell the landfill gas instead of collecting it and destroying it. The additional efforts and facilities used by the Contractor to enhance, develop and sell landfill gas are referred to as the "Gas Project."

This Addendum further recognizes that implementation of a Gas Project will likely make unnecessary the gas-fired leachate evaporator required by Sections 2.6 and 2.7 of Appendix A, and consequently voids the Contractor's obligation to construct the evaporator as set forth in Section 9. The amount the Contractor will save as a result of not having to construct the evaporator is taken into account in determining Net Proceeds. However, this Addendum recognizes that these savings can be offset by certain costs incurred for capital facilities to manage leachate that would have been destroyed by the evaporator.

3. DETERMINATION OF NET PROCEEDS AND PRODUCTION PAYMENTS.

The Contractor may use or sell landfill gas (including any component thereof) collected at the Disposal Site ("Landfill Gas") for energy recovery or for other beneficial use. The Contractor shall pay Production Payments to the County for Landfill Gas as provided in this Addendum.

3.1 Production Payments. In this Addendum, "Production Payments" means a payment calculated to equal fifty percent (50%) of any Net Proceeds from the production of and sale or other beneficial use of Landfill Gas.

3.2 Net Proceeds. In this Addendum, "Net Proceeds" means any gross revenue received and any tax credits realized under Section 29 of the Internal Revenue Code ("Gross

Revenue") less Marginal Costs (see Subsection 3.3). "Gross Revenue" includes, but is not limited to, the fair market value of goods or services received by Contractor or goods sold or services provided at a discount to Contractor as a result of a Gas Project (including utility services or discount utility services).

3.3. Marginal Costs. Marginal Costs are those costs incurred by the Contractor (either before or following execution of this Addendum) to develop, produce, collect, deliver and sell Landfill Gas, to the extent such costs exceed the Base Costs, as defined in Subsection 3.4 below. Marginal Costs include, for example, the Contractor's costs to enhance production of Landfill Gas, such as costs incurred to add moisture to the landfill (other than leachate, which must be disposed of with or without the Gas Project) and to install a larger gas conveyance system capable of transporting the expanded volumes of gas. Costs shall be fairly apportioned among such other Facilities or activities at the Disposal Site to the extent they are not exclusively related to the Gas Project. For example, if one half of a vehicle's operating time is devoted to Gas Project work, and the other half to activities not related to the Gas Project, only one half of the truck's cost would be Marginal Costs. By way of further example, Marginal Costs may include the following kinds of costs:

3.3.1 *capital costs*, including those incurred to facilitate or enhance production, collection, treatment or delivery of Landfill Gas; costs incurred to develop energy recovery facilities; costs incurred to select, contract with and compensate any contractors; and costs of permitting for facilities or processes used in connection with Landfill Gas;

3.3.2 *finance costs*, including interest paid or attributed on funds borrowed or invested at commercially reasonable rates for the capital costs of Landfill Gas systems;

3.3.3 all *taxes* (other than federal income tax) paid on gross revenue from the sale or other disposition of Landfill Gas, or on increases in property value attributable to improvements associated with the Gas Project and any amounts paid due to the invalidation by the I.R.S. or other government authority of tax credits previously claimed under Section 29 of the Internal Revenue Code;

3.3.4 *operating costs* associated with Landfill Gas systems, for example, costs of maintenance, labor, costs of overseeing any contractors, and costs of environmental compliance;

3.3.5 *closure costs*, including the projected cost of dismantling equipment or otherwise closing Gas Project systems, for example, the costs of salvaging equipment, restoring the area, and complying with regulatory requirements for closure and restoration; and

3.3.6 *delivery costs*, which are those costs paid under contract to a Landfill Gas purchaser for Contractor's failure to deliver Landfill Gas as required by Contractor's contract(s) with Landfill Gas purchaser(s), or the cost of insurance against such risks.

3.4 Base Costs.

3.4.1 Base Costs Generally. "Base Costs" are the costs that the Contractor would incur in managing Landfill Gas in compliance with applicable regulations without considering the additional costs of the Gas Project (that is, the costs Contractor would incur to comply with landfill gas regulations if it did not implement the Gas Project). Base Costs are to be established by determining the costs that would be necessary for the Contractor to manage Landfill Gas in compliance with the following regulations, as they may be amended from time to time: (a) Ch. 173-351 WAC (Criteria for Municipal Solid Waste Landfills); (b) Ch. 173-400 WAC (General Regulations for Air Pollutant Sources); and (c) 40 CFR §§ 60.750 et. seq. (Standards of Performance for Municipal Solid Waste Landfills). Base Costs shall also include, to the extent that the Landfill Gas management requirements of the following are more strict than (a), (b) and (c), the costs that would be necessary for the Contractor to manage Landfill Gas in compliance with: (d) the Agreement (as amended by this Addendum); and (e) Klickitat County Conditional Use Permit No. CU-92-14 (Oct. 29, 1992).

3.4.2 Base Costs Component to Account for Leachate Evaporator. Base Costs include the following to account for the cancellation of the Agreement's requirement that the Contractor build a gas-fired leachate evaporator: The "Avoided Costs of the Leachate Evaporator" less the "Capital Costs of Replacing the Leachate Evaporator," provided that the

latter may not in any case exceed the former. The "Avoided Costs of the Leachate Evaporator" are the capital costs, but not operation and maintenance costs, avoided by the Contractor in consequence of Contractor's release (set forth in Section 9 below) from the obligation to construct the leachate evaporator, such costs to be determined based on bona fide third-party proposals to construct the leachate evaporator. The "Capital Costs of Replacing the Leachate Evaporator" include the capital costs, but not the operation and maintenance costs, incurred by the Contractor to construct leachate management facilities needed in lieu of the leachate evaporator described in Sections 2.6 and 2.7 of Appendix A. They include, for example, the capital costs of leachate storage, delivery, treatment or destruction facilities that would not have been needed if the leachate evaporator had been built. The capital costs for leachate management facilities addressed in this Subsection 3.4.2 are intended to be accounted for by a one-time computation. After such costs are accounted for, costs of leachate management (including but not limited to costs related to facilities for managing leachate) shall not be taken into account in the determination of Marginal Costs or Base Costs.

4. PRODUCTION PAYMENT SCHEDULE.

~~4.1~~ Contractor shall determine the Net Proceeds quarterly, and shall provide the County a written statement. The written statement shall include the underlying figures, calculations and other information necessary to reasonably substantiate Net Proceeds.

4.2 The Contractor shall pay the County Production Payments due under this Addendum at the end of the first calendar quarter following the sale of Landfill Gas. To the extent that Net Proceeds are negative in any quarter, such negative figure shall carry forward and apply against Gross Revenue. In no event shall the County be required to make payments to the Contractor under this Addendum.

4.3 Notwithstanding anything else herein, the Contractor shall have no duty to pay Production Payments to the County with respect to Net Proceeds from the last five percent (5%)

of the Landfill Gas collected at the Disposal Site. It is the Parties' expectation, however, that the five percent threshold will not be reached during the effectiveness of this Addendum.

5. **FINANCIAL RECORDS.** The County may audit those Contractor financial records pertaining to the determination of Net Proceeds, in accordance with Section 4.7 of the Agreement.

6. **ARBITRATION.** Disputes arising under this Addendum are subject to arbitration pursuant to Section 28 of the Agreement.

7. **SECTION SURVIVES.** This Addendum shall take effect and be in force from and after the date the Contractor first receives Gross Revenue from the sale or other beneficial use of landfill gas from the Gas Project , provided, however, that Section 9 of the Addendum shall take effect upon execution of the Addendum by the Parties. The Addendum, including the obligation to make Production Payments, shall survive the termination of the Agreement by five (5) years.

8. **NEW SECTION 15.7.** A new section 15. 7 is added to the Agreement as follows:

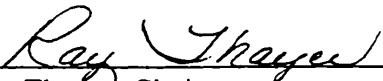
15.7 **Landfill Gas.** Pursuant to Addendum No. 3 to the Agreement, Landfill Gas produced at the Disposal Site shall belong to the Contractor. The Contractor shall pay Production Payments on Landfill Gas in accordance with Addendum No. 3 to the Agreement.

9. LEACHATE EVAPORATOR. The Contractor has no obligation to build or use a leachate evaporator under Sections 2.6 and 2.7 of Appendix A.

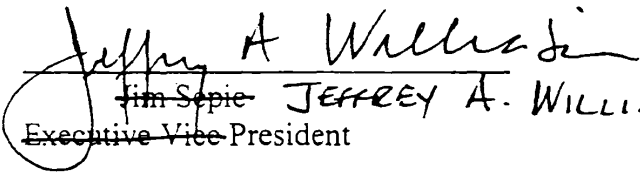
DATED this 18th day of February, 1998.

Klickitat County

Regional Disposal Company
By WJR Environmental, Inc.,
Managing Partner
By



Ray Thayer, Chairman
Board of County Commissioners



~~Jim Sepie~~ JEFFREY A. WILLIAMSON
~~Executive Vice President~~

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ADDENDUM NO. 4

TO THE SECOND AMENDED AGREEMENT
REGARDING SOLID WASTE HANDLING BETWEEN

KLICKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

1. INTRODUCTION – AGREEMENT. Klickitat County (“County”) and Regional Disposal Company (“Contractor”) are parties to the Second Amended Agreement Regarding Solid Waste Handling (August 7, 1995) (“Agreement”). This Addendum No. 4 to the Agreement (“Addendum”) adds to and is made a part of the Agreement, and as such is fully subject to the Agreement's terms. If conflicts are found to exist between the two, the Addendum prevails over the Agreement as the more recent expression of the Parties' intent. Capitalized terms used herein have the meanings provided in the Agreement. Except as specifically provided in this Addendum, the Agreement shall remain in full force and effect.

2. PURPOSE. The purpose of this Addendum is to approve the acquisition of Regional Disposal Company, a Washington general partnership (“RDC”) by Allied Waste Industries, Inc., a Delaware corporation (“Allied”), and to approve Allied and RDC as the Contractor under the Agreement.

3. CONTRACTOR. Wherever the terms “Contractor” or “Regional Disposal Company” are used in the Agreement, those terms shall be deemed to mean Allied operating through its subsidiary RDC.

4. ROOSEVELT REGIONAL LANDFILL.

4.1 The "Disposal Site," as defined at Agreement Section 3.12 shall be the Roosevelt Landfill, 500 Roosevelt Grade Road, Roosevelt, Washington.

4.2 For purposes of this Section 4, "waste controlled by Contractor" shall mean Acceptable Waste (a) under the contractual or other control of Contractor; (b) owned by Contractor; or (c) for which Contractor may select a disposal facility. The term "waste controlled by Contractor" does not include Acceptable Waste that by contract condition unilaterally imposed by an entity that is not a Party or valid law, is required to be transported to and disposed at a disposal facility other than the Disposal Site.

4.3 Subject only to the Approved Waste Volume in Agreement Section 22, all waste controlled by Contractor, and originating within the states of Washington, Oregon, Idaho (north of the 46th Parallel) and Alaska, and the province of British Columbia, shall be disposed at the Disposal Site. Waste from the South Napa Waste Management Authority shall be disposed at the Disposal Site, unless and until a written variance to this requirement is granted by County.

4.4 Contractor shall continue to use its reasonable efforts for continued, preferential use of the Disposal Site for disposal of all waste controlled by Contractor, and originating within the Province of Alberta, the states of Idaho (south of the 46th Parallel), Montana and Wyoming and that part of Northern California shown in Figure 1 of the Comprehensive Solid Waste Management Plan (November 1992 SWMP Addendum).

4.5 To the extent inconsistent herewith, Agreement Section 9.6 is hereby superceded.

5. CLOSURE AND POST CLOSURE. Contractor shall maintain separate Disposal Site (including any mono-cell) closure and post closure funds required by Agreement Section 25,

federal or state law or regulation, regardless of any change in federal or state law allowing the aggregation of closure and post closure fund(s) for multiple landfill sites.

6. CONTRACTOR'S REPRESENTATIVE – NOTICE.

6.1 In addition to designation of Contractor's Representative under Agreement Section 6, Contractor shall designate a person ("Contract Person") at each of its offices in Klickitat County, Contractor's Regional Office, and Contractor's Corporate Office. The Contractor's Representative may also be designated as a Contract Person. In the absence or unavailability of Contractor's Representative, a Contract Person designated by Contractor shall serve as Contractor's Representative and shall have the same authority and responsibility under the Agreement.

6.2 Notices to Parties shall continue to be directed as set forth in Agreement Section 18.2.

7. SECTION 34 GUARANTY. Agreement Section 34, The Rabanco Companies' Guaranty, is hereby superceded and shall have no further force or effect.

8. MODEL RURAL RECYCLING PROGRAM.

8.1 Contractor reaffirms its commitment to the implementation of the model rural recycling program in the County, as summarized at Appendix A, Technical Specification Section 1.8. This Addendum Section 8, clarifies, and does not limit, Contractor's obligations for the planning and implementation of the model rural recycling program.

8.2 Contractor shall annually commit and pay to the model rural recycling program, or such other program as mutually agreed between County and Contractor, such amounts as are consistent with Contractor's identified financial support set forth at Table 4-11 of the Comprehensive Solid Waste Management Plan (1990).

9. ROOSEVELT COMMUNITY DEVELOPMENT. Contractor is obligated as follows with respect to Roosevelt Associates Plat, Klickitat County Planning Department, Docket No. P-97-02 ("Roosevelt Development").

9.1 Contractor, on behalf of Roosevelt Associates, is responsible for performance of items as described in Miscellaneous Indemnity Bond Number B279-17-70, between Roosevelt Associates and Public Utility District No. 1 of Klickitat County ("PUD") and executed June 4, 1998, a copy of which is attached hereto and incorporated herein by this reference.

9.2 Contractor shall convey to the County, at no cost to the County, real property for twenty-one (21) units of low-to-moderate income housing. The total real property provided will not exceed 200,000 square feet. The obligation to pay 20 PUD hook-up fees, as set forth in Section 9.1 above, is in addition to any hook-up fees received by the PUD in connection with the 21 units of low-to-moderate income housing. The obligation for payment of water/wastewater monthly fees for 20 units at the Roosevelt Development, as set forth in Section 9.1, above, is separate from and without credit for any monthly fees received by the PUD in connection with the 21 units of low-to-moderate income housing.

9.3 The conveyance of real property, as described in Paragraph 9.2, shall be in addition to such other Roosevelt Development property, rights-of-way, and associated plat dedications and shall conform to all applicable County plat standards and conditions at the time of conveyance.

10. COST REIMBURSEMENT. Contractor shall reimburse County for all fees and expenses, including reasonable attorney and consultant fees, incurred by County in the review of the acquisition of Regional Disposal Company by Allied, and in the development and implementation of this Addendum No. 4.

11. ADDENDUM NO. 3. Addendum No. 3 to the Agreement (February 18, 1998) is hereby repealed and shall have no force or effect.

12. PERFORMANCE/STANDARDS.

12.1 Contractor acknowledges and accepts all terms and conditions of the Agreement, including Appendix A, Technical Specification, and Appendix B, Other Waste Protocol.

12.2 A wheel wash, as required by Appendix A, Technical Specification Section 2.2.2 shall be constructed and operational by December 31, 1998. For every day after December 31, 1998 that the wheel wash is not constructed and available for operation, Contractor shall pay to County the fee of Five Hundred Dollars (\$500.00).

12.3 Contractor shall within six (6) months of the Effective Date of this Addendum No. 4 submit to the County, for its review and approval, a plan (including implementation schedule) for the replacement or retrofitting of containers to mitigate leakage during storage and transport.

12.4 County shall meet with Contractor, at Contractor's reasonable request, to consider changes or modifications to Technical Specification or other performance standards. The County's obligation under this Section 12.4 does not require and shall not be construed to require County agreement with any Contractor request.

13. LANDFILL GAS. County may transfer or assign, by sale, lease or otherwise, its rights to landfill ("methane") gas under Appendix A, Technical Specification Section 2.7.1 to PUD, or such other person as County determines in its sole discretion, without further Contractor assent under Agreement; provided that, subject to County's regulatory control, such transfer or assignment shall not interfere with the operation of the Disposal Site or Contractor's compliance with all laws and regulations.

14. ARBITRATION. Disputes arising under this Addendum No. 4 are subject to arbitration pursuant to Agreement Section 28.

15. EFFECTIVE DATE. This Addendum No. 4 shall take effect on the closing of the Agreement and Plan of Reorganization between Allied and Rabanco Acquisition Company, et al., dated April 23, 1998, as may be amended (the "Effective Date"). The Effective Date shall occur no later than ten (10) business days after approval and execution of this Addendum by the Parties.

16. ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS.

16.1 Agreement Sections 29.2, Assignment, and 29.3, Corporate Control, are hereby superceded and shall have no further force and effect.

16.2 A new section 29.2 is added to the Agreement, as follows:

29.2 Assignment. For purposes of this Agreement, "assignment" shall mean the assignment or transfer of Contractor's Agreement rights or obligations, Contractor's corporate reorganization, change of organization, merger, or any acquisition or disposition as such terms are further defined hereafter.

(a) For purposes of Section 29, "acquisition" means the agreement by Contractor or any of its Subsidiaries to acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association, or other business organization or division thereof or otherwise acquire or agree to acquire any assets in the states or areas referenced in Section 4 of this Addendum that are material, individually or in the aggregate, to the Business Condition of a Party.

(b) For purposes of Section 29, "disposition" means the agreement by Contractor or any of its Subsidiaries to sell, lease, license, transfer, mortgage, encumber or

otherwise dispose of any of its assets or cancel, release, or assign any indebtedness or claim in the states or areas referenced in Section 4 of this Addendum, except (i) in the ordinary course of business or (ii) in amounts that are not material, individually or in the aggregate, to the Business Condition of a Party.

(c) As used in Section 29, "Business Condition" with respect to any entity shall mean the business, financial condition, results of operations or assets (giving effect to the consequences of the transactions contemplated by this Agreement) of any Party.

16.3 A new section 29.3 is added to the Agreement, as follows:

29.3 County Consent The Contractor shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of the County. The County's consent under Agreement Section 29 shall be subject to the standard of reasonableness from and after the tenth anniversary of the Effective Date of Addendum No. 4 to the Agreement. All costs and expenses, including reasonable attorney and consultant fees, incurred by County related to a review of a Contractor proposed Assignment shall be reimbursed to County by Contractor.

17. AUTHORITY. Allied represents and warrants to the County as follows:

17.1 Organization and Qualifications. It is duly organized and validly existing under the laws of the State of Delaware, with full legal right, power and authority to enter into and perform its obligations.

17.2 Authority.

(a) This Addendum has been duly authorized, executed and delivered by it and constitutes a legal, valid, and binding obligation of it, enforceable against it in accordance with its terms.

(b) Neither the execution or delivery by it of this Addendum, nor the bound, or constitutes a default thereunder performance by it of its obligation in connection with the transactions contemplated hereby or thereby, nor the fulfillment by it of the terms or conditions hereof or thereof: (i) conflicts with, violates, or results in a breach of any constitution, law, or governmental regulation applicable to it, or (ii) conflicts with, violates, or results in a breach of any material term or condition of any order, judgment or decree, or any agreement or instrument to which it is a party or by which it or any of its properties or assets are.

17.3 Compliance With Laws. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority pending or, to the best of its knowledge, threatened against it, which might materially adversely affect the performance by it of its obligation hereunder, or which, in any way, questions validity, legality or enforceability of this Addendum or any other agreement or instrument entered into by it in connection with the transaction contemplated hereby.

17.4 Defense. Contractor shall pay all costs, expenses and reasonable attorney fees incurred by County in the defense of any action, claim or suit by a person not a party to the Agreement, such action, claim or suit challenging the validity or enforceability of the Addendum.

18. EXECUTION. This Addendum No. 4 is executed this 29th day of June, 1998.

KLICKITAT COUNTY



RAY THAYER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

REGIONAL DISPOSAL COMPANY

By WJR ENVIRONMENTAL, INC., _____
MANAGING PARTNER

Jim Sepic
JIM SEPIC
EXECUTIVE VICE PRESIDENT

ALLIED WASTE INDUSTRIES, INC.

Thomas Van Weelden *JB*
THOMAS VAN WEELDEN *LARRY D. LENK*
PRESIDENT AND CHIEF EXECUTIVE OFFICER *JR*
VICE PRESIDENT AND CHIEF OPERATING OFFICER

STATE OF WASHINGTON _____)
) ss.
COUNTY OF KLIKITAT)

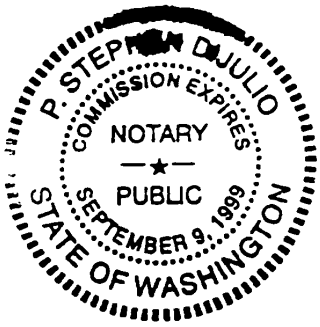
I certify that I know or have satisfactory evidence that Ray Thayer signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chairman of the Board of County Commissioners of Klickitat County, Washington, a municipal corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 29TH day of June, 1998.

Stephen D. Julio

Notary Public in and for the state of
Washington, residing at KENT

My appointment expires 9/9/99

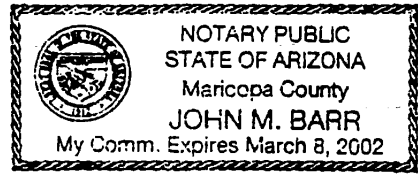


STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

LARRY D. HENK *Just M.*

I certify that I know or have satisfactory evidence that ~~Thomas van Weelden~~ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President and Chief Executive Officer of Allied Waste Industries, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 17th day of JUNE, 1998.



John M. Barr
Notary Public in and for the state of
ARIZONA, residing at
8776 E SHEA BLVD # B3A, SCOTTSDALE, AZ.
My appointment expires MARCH 8, 2002

APPENDIX A

TECHNICAL SPECIFICATION
TO
SECOND AMENDED AGREEMENT
REGARDING SOLID WASTE HANDLING

BETWEEN

KLICKITAT COUNTY

AND

REGIONAL DISPOSAL COMPANY

AUGUST 7, 1995

APPENDIX A
 TECHNICAL SPECIFICATION

TABLE OF CONTENTS

| | | |
|------|---|----|
| 1.0 | GENERAL | 1 |
| 1.1 | Agreement Documents | 1 |
| 1.2 | Applicable Standards and Codes | 1 |
| 1.3 | Definitions | 1 |
| 1.4 | Performance Bond | 3 |
| 1.5 | Permits | 3 |
| 1.6 | Other Waste Handling | 3 |
| 1.7 | Hazardous Waste | 4 |
| | 1.7.1 Unacceptable Waste | 4 |
| | 1.7.2 Moderate Risk Waste Plan | 4 |
| | 1.7.3 Moderate Risk Waste Plan Implementation | 6 |
| 1.8 | Recycling | 6 |
| 1.9 | Agricultural Chemical Waste Disposal | 9 |
| 1.10 | Emergency Landfill Site | 10 |
| 2.0 | DISPOSAL SITE DEVELOPMENT | 10 |
| 2.1 | General | 10 |
| | 2.1.1 Geohydrological Investigations | 11 |
| | 2.1.2 Buffer Zones | 11 |
| | 2.1.3 Site Development Plan | 11 |
| | 2.1.4 Access Roads | 11 |
| | 2.1.5 Fencing | 11 |
| | 2.1.6 Utilities | 12 |
| | 2.1.7 Operating Hours | 12 |
| | 2.1.8 Monitoring | 12 |
| 2.2 | Systems | 13 |
| | 2.2.1 Scales | 13 |
| | 2.2.2 Wheel Wash | 13 |
| | 2.2.3 Public Convenience Drop Box | 13 |
| 2.3 | Earthwork | 13 |
| | 2.3.1 General | 13 |
| | 2.3.2 Liner | 14 |
| | 2.3.3 Cap | 14 |
| | 2.3.4 Daily and Intermediate Cover | 14 |
| | 2.3.5 Material Certification | 15 |
| 2.4 | Geomembrane | 15 |
| | 2.4.1 General | 15 |
| | 2.4.2 Quality Assurance | 15 |
| | 2.4.3 Quality Control | 20 |
| 2.5 | Surface Water | 26 |
| 2.6 | Leachate Collection and Treatment Systems | 26 |
| | 2.6.1 Leachate Collection System | 26 |
| | 2.6.2 Leachate Treatment System | 27 |
| | 2.6.3 Testing | 27 |
| | 2.6.4 Maintenance | 28 |

| | | |
|-------|--|----|
| 2.7 | Landfill Gas Collection and Treatment Systems . . . | 28 |
| 2.7.1 | General | 28 |
| 2.7.2 | Testing and Maintenance | 28 |
| 2.8 | Landscaping | 29 |
| 2.9 | Operations | 29 |
| 2.9.1 | Operations Plan | 29 |
| 2.9.2 | Litter Control | 29 |
| 2.9.3 | Closure and PostClosure | 29 |
| 3.0 | SURFACE TRANSPORTATION | 30 |
| 3.1 | General | 30 |
| 3.2 | Structural Improvements and Maintenance | 30 |
| 3.3 | Signage | 31 |
| 3.4 | Improvements at Intermodal Transfer Facility | 31 |
| 3.5 | Other Improvements | 31 |
| 3.6 | Emergency Conditions | 31 |
| 4.0 | DROP BOX/RECYCLING STATIONS | 32 |
| 4.1 | General | 32 |
| 4.2 | Capacity | 32 |
| 4.3 | Operating Hours | 32 |
| 4.4 | Litter Control | 32 |
| 5.0 | INTERMODAL TRANSFER FACILITY | 33 |
| 5.1 | General | 33 |
| 5.2 | Capacity | 33 |
| 5.3 | Operating Hours | 33 |
| 5.4 | Containers | 33 |
| 6.0 | PROJECT DEVELOPMENT SCHEDULES | 34 |
| 6.1 | Design Schedules | 34 |
| 6.2 | Construction Schedules | 34 |

APPENDIX A
TECHNICAL SPECIFICATION

1.0 GENERAL

1.1 Agreement Documents

It is the intent of this Technical Specification to assign all responsibility for the preparation of technical documents, permits, designs and for all testing, construction and operating activities to Contractor.

All designs, plans, specifications and other technical documents shall be reviewed by the County.

1.2 Applicable Standards and Codes

All work performed under this Agreement shall meet or exceed the requirements of WAC Chapter 173-304, Minimum Functional Standards for Solid Waste Handling, 40 CFR Pts. 257 and 258, Solid Waste Disposal Facility Criteria, and all applicable local, state and federal standards as are currently in effect or hereafter amended. Contractor shall be responsible for determining applicable codes, acquiring copies at its sole expense, and complying with the requirements of codes and standards. Contractor shall be responsible for exercising sound engineering practices in all work.

1.3 Definitions

Unless otherwise indicated below, capitalized terms shall have the meaning established in Article 3 of the Agreement.

- 1.3.1 Active Area means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Buffer zones shall not be considered part of the active area of a facility.
- 1.3.2 Buffer Zone means that part of a facility that lies between the active area and the property boundary.
- 1.3.3 ASTM means the American Society for Testing and Materials.
- 1.3.4 Daily Cover means soil or other suitable material that has been approved by the jurisdictional health department as cover for wastes.
- 1.3.5 Dangerous Waste means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste.

- 1.3.6 Environmental Control Systems refers to the systems constructed at the Disposal Site which are necessary to bring the landfill into compliance with WAC 173304 standards. These systems include but are not limited to the soil liner and geomembrane, leachate collection and treatment, landfill gas collection and treatment, and surface water drainage.
- 1.3.7 Geomembrane is applied to flexible membrane liners. More specifically, "geomembrane" refers to polyethylene geomembranes made from resins with a specific gravity greater than 0.935 which includes those polymers known as high density polyethylene (HDPE).
- 1.3.8 Geomembrane Panel is defined as the unit area of geomembrane that is to be seamed in the field. If geomembrane is not fabricated into panels at the factory, a panel is defined as a roll or portion of a roll cut in the field.
- 1.3.9 Geotextile refers to the synthetic construction fabric to be used for protection of the geomembrane, stabilization of surfaces, and/or as a filtration fabric.
- 1.3.10 Geosynthetic shall include all materials relating to the geomembrane and geotextile.
- 1.3.11 Hazardous Household Substance means any liquid, solid, contained gas, or sludge, including any material, substance, product, commodity, or waste, used or generated in the household, regardless of quantity, that exhibits any of the characteristics or criteria of dangerous waste set forth in Chapter 173-303 WAC. Such substances become moderate risk waste when discarded.
- 1.3.12 Intermediate Cover means soil or other suitable material that has been approved by the jurisdictional health department as a temporary cover for a completed cell of waste.
- 1.3.13 Master Seamer means the most experienced seamer working on the fabrication or installation of the geomembrane.
- 1.3.14 Moderate Risk Waste means (a) any waste that exhibits any of the properties of hazardous waste as defined in Chapter 173-303 WAC but is exempt from regulation because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes which are generated from the disposal of substances identified by the Department of Ecology as hazardous household substances.
- 1.3.15 On-Site Structures means any buildings constructed at the Disposal Site including but not limited to office buildings, equipment maintenance buildings, shop and parts storage

buildings, equipment and miscellaneous storage buildings and utility housing buildings.

- 1.3.16 Property Boundary means the perimeter property line as recorded with the County Assessor's office.
- 1.3.17 Public Convenience Drop Box Facility means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas.
- 1.3.18 Public Wells means wells providing water for a municipality.
- 1.3.19 Recyclables means glass, aluminum, metal cans, newspaper and any other materials agreed upon by the Contractor and the County.
- 1.3.20 RCRA means Resource Conservation and Recovery Act.
- 1.3.21 Seaming Technician means the person performing the seaming operations of the geomembrane panels in the field. Seaming Technicians shall be supervised by the Master Seamer.
- 1.3.22 Technical Proposal means Section IV, including drawings, of the Proposal and Qualifications for the Klickitat County Regional Solid Waste Landfill submitted by Contractor on January 22, 1989 in response to the RFQ/P.

1.4 Performance Bond

See Article 26 of the Agreement.

1.5 Permits

Contractor shall be responsible for all local, state, and federal permits and permit requirements associated with all phases of the Project, including but not limited to, the siting, construction, operation and closing of the Disposal Site and associated improvements; the drop box/recycling stations; and the intermodal transfer facility. The County shall provide reasonable assistance to Contractor in obtaining said permits. Copies of all permits and reports shall be provided to the County.

1.6 Other Waste Handling

Contractor shall not receive Other Waste as defined in Section 3.22 of the Agreement until a permit, when required, allowing disposal of such Other Waste is issued by the Southwest Washington Health District (the applicable jurisdictional health authority as referred to in the Agreement). Other Waste shall not be accepted at the drop box/recycling stations. Permits will be issued by the Southwest Washington Health District. Permits shall

designate the source and type of Other Waste and shall further designate specific handling requirements and disposal location at the Disposal Site. All handling and disposal of Other Waste shall be in accordance with the local, state and federal standards. Contractor shall submit annual reports to the County disclosing the Other Wastes disposed of at the Disposal Site.

1.7 Hazardous Waste

1.7.1 Unacceptable Waste

The Contractor shall not accept hazardous waste as defined in Section 3.19 of the Agreement. Handling of hazardous waste shall be as specified in Article 15 of the Agreement.

1.7.2 Moderate Risk Waste Plan

The Contractor shall provide a plan to receive and dispose of Countywide Moderate Risk Waste to the County within 180 days of execution of the Amended Agreement for its approval. As a minimum the following shall be included:

a) Reception of Moderate Risk Waste

(1) Service at Disposal Site.

Contractor shall receive Moderate Risk Waste at the Disposal Site throughout the year, provided that residents of the County shall provide the Contractor a minimum of two-hours' notice by telephone, to permit Contractor to arrange for personnel to be available to assist with proper handling of the Moderate Risk Waste at the Disposal Site.

(2) Drop-Off/Mobile Trailer Service.

Subject to the conditions set forth below, Contractor shall, in addition to providing Moderate Risk Waste collection service at the Disposal Site, operate a Moderate Risk Waste drop-off or mobile trailer service at the Contractor's Transfer Stations. Contractor's responsibility to operate a Moderate Risk Waste drop-off or mobile trailer service is contingent upon:

(a) Contractor's ability to obtain and maintain approval from agencies on economically reasonable terms (not to exceed Contractor's capital costs for implementation of these Section 1.7.2(a)(2) services);

(b) The Department of Ecology's conclusion that no permit other than those required for the handling and/or disposal of Waste is required for the moderate.

risk waste drop-off/mobile trailer service or for the facilities involved; and

(c) The County's inclusion of a Moderate Risk Waste drop-off/mobile trailer and collection program consistent with this Section 1.7.2 in its moderate risk waste management plan prepared pursuant to RCW 70.105.220.

Moderate Risk Waste drop-off/mobile trailer services provided under this Section 1.7.2(a)(2) shall be made available during normal Contractor business hours.

b) Location

The Contractor shall receive Moderate Risk Waste at the drop box/recycling stations or publicly-owned areas such as parking lots or fire stations approved by the County. The sites shall provide easy access with adequate space to safely conduct arrival, drop off and exiting maneuvers. Maps, clear directions, and roadside signs shall be provided and distributed by the County. Collection of Moderate Risk Waste shall not occur at any location other than those authorized under the County's moderate risk waste management plan, as it may be revised from time to time. Receipt of Moderate Risk Waste at the authorized locations and only at these locations, shall not be subject to the provisions of Article 15 of the Agreement.

c) Personnel

The Moderate Risk Waste collection site shall be staffed with at least one individual trained in the handling of Moderate Risk Waste. Volunteer organizations may be utilized as needed, provided adequate supervision is provided. The plan submitted to the County shall specify duties of each person to be working at the receiving operation.

d) Containers

Containers used to store Moderate Risk Wastes shall be designed to prevent intermingling of the various forms of wastes and to contain spills. The containers shall be leakproof and secured during any non-operating hours that they occupy the collection site.

The containers shall be located so as to reasonably separate the public from the collection activities including workers unloading the Moderate Risk Waste from participants' vehicles. Citizen participants shall be kept away from waste inventory, identification and storage/containerization areas.

e) Transport and Disposal

All Moderate Risk Waste collected shall be transported and disposed of by the Contractor at a site permitted to accept hazardous waste. Contractor shall bear transportation costs. County shall pay only regulatory and disposal costs. The fees set forth in Article 12 of the Agreement shall not apply to Moderate Risk Waste Received by Contractor pursuant to the Moderate Risk Waste Service Plan approved by the County.

If any of the Moderate Risk Wastes collected are reasonably able to be recycled, the Contractor shall recycle such material and be entitled to the proceeds.

f) Public Education

Public education is an important aspect of the Moderate Risk Waste collection program. An on-going public education program shall be developed and administered by the County which will focus on the proper handling and disposal of Moderate Risk Waste and promote participation in Moderate Risk Waste collection and recycling programs.

1.7.3 Moderate Risk Waste Plan Implementation

When instructed by the County, Contractor shall implement the Moderate Risk Waste Management Plan developed in Section 1.7.2 above as scheduled by the County but not before commencement of construction of the Disposal Site.

1.8 Recycling

The Contractor, in cooperation with the County, shall provide a plan for and implementation of a Countywide model recycling program for the County within 120 days of execution of the Agreement. The plan shall be approved by the County prior to its implementation. As a minimum, the following shall be included:

a) Existing System

The recycling plan shall recognize the existing system of recycling in the County including the program administered by the County Senior Services Department. The Contractor shall work with the County in an attempt to enhance the existing system and develop a plan consistent with the County Solid Waste Management Plan. In addition to the residential program described below, at the request of the County Contractor shall develop and implement a plan for waste reduction and recycling by commercial and public facilities. Contractor may

charge a reasonable fee for such services to commercial facilities.

b) Curbside Recycling

After waste reduction, recycling is the County's next highest solid waste management priority. As a result, residential collection of source separated recyclables shall begin no later than March 1, 1990. The residential recycling program to be administered by the County shall be available to all single family households and multi-family residences up to four-plexes. Materials to be collected will include newspaper, cardboard, glass, and aluminum. Other materials including mixed paper, tin cans and plastic containers may also be collected at the County's option. The materials will be collected on a regular schedule at least monthly. All recyclable materials shall be processed and hauled to market by the Contractor.

The Contractor shall provide at its cost all participating households, as described above, with collection containers. A determination of the size and type of containers will be made in the plan.

Recycling Plans provided by the Contractor in cooperation with the County pursuant to this Section 1.8 shall not be amended by the Contractor, except following review and comment by the County. Disputes under this section shall be resolved by arbitration pursuant to Section 28 of the Agreement.

The Contractor's Recycling Plan may temporarily exclude glass from the residential household collection program, if market conditions for recycled glass are significantly less favorable than market conditions for such items as aluminum cans, cardboard and bond paper. Contractor shall use its best efforts to employ a party or parties such as clients of the New Hope Farm to operate or serve on a sorting line (that is, to provide the labor associated with manual sorting of recyclables from the residential household recycling stream). Modification in such a program may be necessary during periods in which glass is collected as a recyclable.

The Parties shall meet periodically to review the recycling program and consider amendment of any or all components of the residential household collection and recycling program.

In the event the County, with assistance from Contractor, is unable to secure the services of a qualified collection contractor, at the County's option

the Contractor shall provide the collection service for residential household recycling. The Contractor shall be entitled to recover actual costs for providing such collection service from participating households through collection fees. If the Contractor is unable to collect such fees from participating households, the County will pay to the Contractor \$1.00 (subject to adjustment for CPI, changes in law, and changes in insurance premiums) per participating household per month not to exceed \$18,000 per year, for providing collection services. Payment shall be made within 60 days of invoice by Contractor, but no sooner than the beginning of the third calendar quarter of each year.

c) Drop Box/Recycling Stations

The drop box/recycling stations shall include provisions for public recycling and a container for recyclables as defined in Section 4.0 of the Specifications. Customers may drop off recyclables at the drop box stations free of charge.

Drop box/recycling stations shall have information available to self-haul customers about waste reduction and recycling opportunities.

d) Public Education

The plan shall provide for an on-going public education program advocating waste reduction and recycling techniques and participation. Public information programs for waste reduction and recycling shall be developed and implemented by the Contractor which are directed to the general public, commercial, and industrial enterprises. Programs for the public shall include sponsoring print media campaigns; distributing literature at shopping/business areas and drop box/recycling stations; and offering community workshops and slide presentations through civic and service organizations. As the County solid waste management system continues to develop, educational efforts should address issues of resource depletion, impacts of waste disposal and changes in the waste stream.

New programs and services, especially ones which require changes of behavior, need to be supported by distribution of educational materials, workshops and other educational services. The Contractor shall incorporate educational information on waste reduction and recycling with information on waste services in its printed materials.

The public information program shall include information on recycling, composting, and household hazardous waste collection. As programs are designed, sufficient emphasis on getting the information to the public shall be included.

The Contractor may supply information to clearly identify which products and packaging are not reusable or recyclable, or conversely, which products and packaging are reusable and recyclable and made of recycled materials.

It is the County's intention to encourage the schools' participation in educating students in waste reduction and recycling. The County shall be responsible for promoting school curricula for waste reduction and recycling. The Contractor shall make reasonably available to the schools individuals to make presentations when requested.

e) Program Evaluation

The Contractor shall collect data on the amount and type of materials which are recycled to enable the County to track and evaluate its progress in meeting its recycling goals. The performance of the recycling programs shall be assessed annually to determine whether recyclables are being recovered equally successfully in all neighborhoods and from all types of generators and whether the public information and education efforts are effective in promoting the waste reduction and recycling programs.

f) Title to Materials

The Contractor shall have title to and responsibility for processing and marketing all recyclable materials and disposal of all residue collected by or delivered to the Contractor.

1.9 Agricultural Chemical Waste Disposal

The Contractor shall support the County's agriculture industry in properly handling and disposing of agricultural chemicals and empty containers of agricultural chemicals.

a) Educational Program for Agriculture Wastes

The Contractor shall cooperate with the County in developing an outreach educational program on the proper handling and disposal of empty agricultural chemical containers. The program shall make available information on and shall encourage handling of such containers in compliance with state and federal law.

b) Free Disposal of Properly-Emptied Containers

The Contractor shall accept without charge for disposal at the Disposal Site all containers of agricultural chemicals that have been used in the County and have been emptied and triple-rinsed in accordance with applicable law.

c) Disposal of Other Agricultural Chemical Wastes.

Unless restricted from doing so by applicable regulation or permit condition, Contractor shall accept at the Disposal Site other Agricultural Chemical Waste containers and materials that have been used in the County, and shall transport them to and dispose of them at a properly permitted disposal site. Contractor may charge a reasonable fee for such services.

d) Permits

Contractor shall secure such permits or permit amendments necessary for the program outlined herein; provided, however, Contractor shall have no obligation for receipt and transport of Agricultural Chemical Waste in the event that such activity would require a treatment, storage or disposal (TSD) facility permit under Chapter 173-303 WAC or RCRA Subtitle C.

1.10 Emergency Landfill Site

Following commencement of operations of the Disposal Site in cases where the Disposal Site is not able to accept in-County waste, Contractor will transport all in-County waste to an alternate landfill site reasonably acceptable to the County. The County or its citizens shall not incur any additional costs for this service.

2.0 DISPOSAL SITE DEVELOPMENT

2.1 General

The Disposal Site shall meet or exceed the requirements for a non-arid area facility as specified in WAC Chapter 173-304. The Contractor shall prepare and submit to the County for its review the procedures to be used by the Contractor for quality assurance and quality control for all construction at the Disposal Site including but not limited to fencing, utilities, scales, wheel wash, drop box, earthwork and environmental control systems.

2.1.1 Geohydrological Investigations

Detailed geotechnical and ground water investigations will be conducted to characterize the quantity and quality of construction materials and to provide a geohydrological assessment of the property as required by WAC 173-304.

2.1.2 Buffer Zones

The Disposal Site shall be designed in such a manner as to leave a buffer zone, as defined in WAC 173-304, of at least 250 feet between the active area and the property boundary.

2.1.3 Site Development Plan

A site development plan shall be submitted to the County for its review. The plan shall include but not be limited to facilities locations, grading plans showing minimum and maximum elevations of the proposed refuse area, and cell sequencing plans.

The Disposal Site shall be constructed and operated in phases that are sized according to the anticipated waste stream. Typical cell size at 1 million tons per year will be approximately 25 acres. When the grades reach their final design elevation, final cover shall be placed and that portion of the Disposal Site shall be closed.

2.1.4 Access Roads

All public use access roads at the Disposal Site shall be paved with all-weather surfacing in accordance with Section 3.0 of these Specifications. All other access roads shall be asphalt or gravel-surfaced as determined by Contractor. A method of controlling dust shall be maintained in a manner acceptable to the County.

Design of access roads into and on the facility shall be such that public and commercial traffic is separated to the greatest extent possible.

In the event of the successful siting of the Clark site, approval of Contractor's use of the East Road shall not be unreasonably withheld.

2.1.5 Fencing

A perimeter fence shall be constructed around the Disposal Site in accordance with WAC Chapter 173-304. Fencing shall be six-foot chain link fence in public entrance areas. All other fence shall be as a minimum, four-strand (4) barbed wire. Fencing shall be constructed prior to the first date of operation.

2.1.6 Utilities

Water shall be provided from an on-site well. The well shall be of sufficient capacity to meet all needs, including but not limited to domestic, landscape irrigation, and construction needs.

In addition to water demand for domestic and operational use, demands for fire flow shall be provided. On-site storage shall be constructed to provide a fire flow as dictated by the County Public Works Department and the Washington Surveying and Rating Bureau. A minimum fire flow of 3,000 gallons per minute for a duration of one hour may be provided in lieu of more restrictive requirements if allowed by jurisdictional authorities. The storage system for fire flow shall consist of a lined holding pond with a minimum of 2 feet of freeboard or a storage tank and a fixed fire pump which discharges to fire hydrants.

The site shall be served by electrical power and phone communications. On-site communication and communication with haul vehicles between the intermodal facility and the Disposal Site shall be provided by radio.

Sewer service shall be provided by on-site septic tank and drainfield disposal systems in accordance with generally applicable local standards.

2.1.7 Operating Hours

Disposal Site operating hours shall be adequate to accommodate in-County Waste and the contracted waste stream, or in accordance with operating permits. The public convenience drop box facility shall be open to the public on the same schedule.

2.1.8 Monitoring

A ground water and surface water monitoring system shall be provided that meets the requirements of WAC 173-304 and RCRA Subtitle D.

A gas monitoring system shall be provided to detect subsurface gases at the Disposal Site property boundaries and within on-site structures in accordance with the above regulations.

Air quality monitoring shall be provided in accordance with Federal RCRA Subtitle D and other applicable local, state and federal standards.

2.2 Systems

2.2.1 Scales

A truck scale shall be provided at the entrance of the facility. The scale shall be a Fairbanks Model 14-4307 or equal or as needed to meet the requirements of the truck and trailer combinations used. This is an in-ground, 60-ton capacity, 80-foot by 10-foot platform scale. If actual haul vehicles used exceed the capacity of the Fairbanks scale, as specified in the Washington State Department of Transportation (WSDOT) Standard Specifications for Road, Bridge and Municipal Construction, a scale meeting the WSDOT specifications shall be used.

The scale facility shall include a microprocessor-based computer system for weight recording and accounting. All refuse entering the facility shall be weighed and entered into the accounting system. Contractor shall provide a means by which the County residents using the public convenience drop box are entered into the weight and accounting system and are differentiated from out-of-County residents.

2.2.2 Wheel Wash

A drive-through wheel wash system shall be provided. Its dimensions shall be at least 80 feet by 10 feet.

2.2.3 Public Convenience Drop Box

A drop box available to the public shall be provided near the entrance to the Disposal Site. The public shall not be allowed direct access to the active area of the Disposal Site.

The drop box facility shall have a minimum of two 40-cubic-yard box containers. One box will be for waste, the second will be for mixed recyclables. The boxes shall be located in a subgrade stall so that the elevation of the top of the retaining wall is approximately one foot above the public tipping area providing for direct disposal into the drop box by the public.

2.3 Earthwork

2.3.1 General

Contractor shall provide construction plans and specifications for all earthwork for the County's review.

If blasting is required, a plan and schedule for blasting shall be submitted to the County for its review.

If material is to be imported from off-site borrow sources, a plan for excavating, transporting and stockpiling of materials shall be submitted to the County for its review. The plan shall include as a minimum, an excavation grading plan, methods for prevention of contamination of the imported material and haul routes from the borrow source to the Disposal Site. All borrow excavation and stockpiling shall be in accordance with all Washington State Department of Natural Resources regulations and the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction, Division 3, Production from Quarry and Pit Sites and Stockpiling. Improvements to haul routes shall be as stated in Article 3 of these Specifications.

2.3.2 Liner

a. Soil Layer

The bottom liner shall include a soil layer of 2 feet minimum thickness with a maximum permeability of 10^{-6} centimeters per second (cm/sec).

b. Bentonite Clay Liner

A bentonite clay liner (Claymax™ or equal) shall be placed over the soil liner within the leachate collection trenches. This liner shall extend at least 6 feet either side of the leachate collection pipe centerline.

c. Geomembrane Liner

A high density polyethylene (HDPE), geomembrane liner shall be placed over the soil liner. This liner shall be at least 80 mils thick and meet the specifications of National Sanitation Foundation Standard No. 54 (flexible membrane liners).

2.3.3 Cap

A cap design shall be submitted to the County for its review and as a minimum shall consist of two feet of soil having a maximum permeability of 10^{-5} centimeters per second with an additional 2 feet of topsoil placed over this. The cap will be seeded with native grasses immediately upon completion or as soon as weather conditions reasonably permit.

2.3.4 Daily and Intermediate Cover

Daily cover will consist of at least 6 inches of compacted soil placed as soon as possible and no less than the end of each working day. Intermediate cover shall be sloped to drain and have a minimum thickness of 12 inches.

Intermediate cover shall be placed at the frequency specified by the Health District.

2.3.5 Material Certification

Based on geologic investigations conducted by Contractor, a materials specification shall be prepared for all soil components of the liner and cover systems. The material specification shall determine the gradation requirements of the various soil components in accordance with ASTM C117, C136, and D1140, wet sieving and shall be reviewed by the County.

Certifications that the materials conform to the specification requirements, along with copies of the test results certified in writing from a certified commercial testing laboratory, shall be submitted to the County for review at least 10 days before the material is required for use. All material samples and testing shall be furnished by Contractor. Samples of the finished product for gradation testing shall be taken from each 1,500 tons of prepared materials and tested. Samples shall be representative and be clearly marked to show the source of the material and the intended use on the project.

Optimum moisture content and maximum density for compacted materials shall be determined by ASTM D698. In-place density and moisture content shall be determined by one of the following methods: ASTM 2922, D 1556, or D 3017. Contractor shall test in-place density and moisture content of all soil components of the liner and cover systems at a rate that will assure that the specified permeability is achieved.

2.4 Geomembrane

2.4.1 General

High density polyethylene geomembrane (HDPE) will be used in construction of environmental control systems as described in Sections 2.3.2 Liner, and 2.6 Leachate Collection and Treatment Systems. Sections 2.4.2 Quality Assurance and 2.4.3 Quality Control, shall apply to all phases of geomembrane installation throughout the life of the Disposal Site.

2.4.2 Quality Assurance

The geomembrane manufacturer, fabricator and installer shall meet the requirements specified herein. Contractor shall assure the qualifications of the manufacturer, fabricator and installer. In addition, Contractor shall be responsible for submitting quality assurance certifications and warranties to the County for their review prior to

contracting for geomembrane work. Qualifications for the manufacturer, fabricator and installer shall be as follows:

1. Geomembrane Manufacturer

The geomembrane manufacturer shall meet prequalification requirements for the production of the geomembrane rolls from the resin and for the quality of the resin. Contractor shall submit the following information with respect to the geomembrane manufacturer.

- a. Corporate background and information.
- b. Manufacturing capabilities:
 - (1) Information on the designated plant size, equipment, personnel, number of shifts per day and capacity per shift.
 - (2) Daily production quantity available for this contract.
 - (3) Quality control procedures for manufacturing.
 - (4) List of material properties including certified test results, to which are attached geomembrane samples.
- c. A list of at least ten (10) completed facilities totaling a minimum of two million (2,000,000) square feet, for which the manufacturer has manufactured the specified type of geomembrane. For each facility, the following information shall be provided:
 - (1) Name and purpose of facility, its location and address, and date of installation.
 - (2) Name of owner, project manager, designer, fabricator, installer, and name and phone number of contact at the facility who can discuss the project.
 - (3) Thickness of geomembrane, surface area of geomembrane manufactured.
 - (4) Available information on the performance of the geomembrane system and facility.
- d. Statement that no reclaimed polymer is added to the resin (however, the use of polymer recycled during the manufacturing process may be permitted

if done with appropriate cleanliness and if recycled polymer does not exceed two (2) percent by weight).

The geomembrane manufacturer shall have sufficient production capacity and qualified personnel to meet the demands of the project. The geomembrane manufacturer shall be approved by the County. Approval by the County shall not be unreasonably withheld.

2. Fabricator

The fabricator shall meet pre-qualification requirements for the fabrication of geomembrane panels constructed from rolls received from the manufacturer, and shall have sufficient production capacity and qualified personnel to meet the demands of the project. The geomembrane fabricator shall be approved and/or licensed by the geomembrane manufacturer. Contractor shall submit the following information with respect to the geomembrane fabricator:

- a. Corporate background and information.
- b. Fabricator capabilities:
 - (1) Copy of geomembrane manufacturer's letter of approval or license.
 - (2) Information on plant size, equipment, personnel, number of shifts per day, and capacity per shift.
 - (3) Daily production quantity available for this contract.
 - (4) Quality control procedures for fabrication.
 - (5) Samples of fabricated seams and list of certified seam properties, minimum values, and employed test methods.
 - (6) Resume of the Master Seamer to be assigned to this project, including dates and duration of employment.
 - (7) Resume of the engineer or fabrication supervisor to be assigned to this project, including dates and duration of employment.
 - (8) A list of personnel performing factory seaming operations, along with pertinent experience information.

c. A list of at least ten (10) completed facilities, totaling a minimum of two million (2,000,000) square feet, for which the fabricator has fabricated the specified type of geomembrane. For each facility, the following information shall be provided:

- (1) Name and purpose of facility, its location and address, and date of installation.
- (2) Name of owner, project manager, designer, manufacturer, installer, and name and phone number of contact at the facility who can discuss the project.
- (3) Name and qualifications of the supervisor(s) of the fabricator's crew.
- (4) Thickness of geomembrane, surface area of the fabricated geomembrane.
- (5) Type of seaming and type of seaming apparatus used.
- (6) Duration of fabrication.
- (7) Available information on the performance of the geomembrane system and the facility.

All personnel performing seaming operations shall be qualified by experience. At least one (1) seamer shall have experience seaming a minimum of one million (1,000,000) square feet of geomembrane using the same type of seaming apparatus to be used for this project. The most experienced seamer, herein referred to as the Master Seamer, shall provide direct supervision, as required, over less experienced seamers. No factory seaming shall take place without the master seamer being present.

3. Installer

The installer shall meet pre-qualification requirements for field handling, storing, deploying, seaming, temporary restraining against wind and water, and other site aspects of the geosynthetics installations, including the transportation of these materials to the site, and for the anchoring systems.

Contractor shall submit the following information with respect to the geomembrane installer.

- a. Corporate background information.

b. Description of installation capabilities, including:

- (1) Information on equipment and personnel.
- (2) Average daily production anticipated.
- (3) Quality control procedure.
- (4) Samples of field seams and list of certified seam properties, minimum values, and test methods.
- (5) Installation schedule.
- (6) Resume of the Master Seamer to be assigned to this project, including dates and duration of employment.
- (7) Resume of the field engineer or installation supervisor to be assigned to this project, including dates and duration of employment.
- (8) A list of personnel performing field seaming operations along with pertinent experience information.

c. A list of at least ten (10) completed facilities, totaling a minimum of two million (2,000,000) square feet, for which the installer has installed the specified type of geomembrane. For each facility, the following information shall be provided:

- (1) Name and purpose of facility, its location and address, and date of installation.
- (2) Name of owner, project manager, designer, manufacturer, fabricator (if any), and name and phone number of contact at the facility who can discuss the project.
- (3) Name and qualifications of the supervisor(s) of the Installer's crew(s).
- (4) Thickness of geomembrane, surface area of the installed geomembrane.
- (5) Type of seaming and type of seaming apparatus used.
- (6) Duration of installation.

(7) Available information on the performance of the geomembrane system and the facility.

d. A copy of the approval letter(s) and/or license(s) by the geomembrane manufacturer.

The installer shall be trained and qualified to install geosynthetics. The geomembrane installer shall be approved and/or licensed by the geomembrane manufacturer and/or geomembrane fabricator.

All personnel performing seaming operations shall be qualified by experience. At least one (1) seamer shall have experience seaming a minimum of one million (1,000,000) square feet of geomembrane using the same type of seaming apparatus to be used at the site. The most experienced seamer, hereinafter referred to as the Master Seamer, shall provide direct supervision, as required, over less experienced seamers. No field seaming shall take place without the Master Seamer being present.

2.4.3 Quality Control

a. Inspection

During seaming process, Contractor shall log the following every two (2) hours:

- (1) Ambient temperature measured six (6) inches above geomembrane surface.
- (2) Extrudate temperatures in barrel and at nozzle.
- (3) Operating temperature of hot wedge.

During installation and seaming, all seams and non-seam areas of the geomembrane shall be visually examined for defects, holes, blister, undispersed raw materials, and any sign of contamination by foreign matter. The surface of the geomembrane shall be clean at the time of the examination. Areas suspected of deficiencies shall be marked and non-destructively or destructively tested as specified herein. Work shall not proceed with any materials which will cover locations which have been repaired until passing test results are achieved.

The Contractor shall provide to the County a certification that a Master Seamer conducted and/or supervised all seaming operations.

b. Laboratory Testing

Upon delivery of the rolls fabricated of geomembrane panels, Contractor will take samples as specified herein and forward to a certified geosynthetic quality assurance laboratory for testing to ensure conformance to the construction specifications prepared by Contractor and reviewed by the County. Copies of all test results shall be made available to the County for their review prior to the installation of the material. The following shall be performed by the laboratory:

- (1) Tests to determine the following characteristics shall be performed on geomembranes:
 - (a) Density.
 - (b) Carbon black content (and visual inspection to evaluate carbon black dispersion).
 - (c) Thickness (measured with calipers, at several random locations on the sample).
 - (d) Tensile characteristics (yield strength, elongation at yield, break strength, elongation at break).
- (2) Test procedures shall comply with the following:
 - (a) Density (ASTM D 792 Method A or ASTM D 1505).
 - (b) Thickness (ASTM D 1593 or ASTM D 374 Method C).
 - (c) Tensile strength (ASTM D 638).
- (3) Sampling Procedures: Samples shall be taken across the entire width of the roll and shall not include the first three (3) feet. Unless otherwise specified, samples shall be 3-feet long by the roll width. Unless otherwise specified, sample shall be taken at a rate of one per lot/batch or one per one hundred thousand (100,000) square feet, whichever is least.
- (4) Materials not conforming to the construction specifications shall be repaired or removed from the site.

c. Non-Destructive Testing

Field seams shall be non-destructively tested over their full length using a vacuum test unit, air pressure (for double fusion seams only), or other approved methods. Non-destructive testing shall be carried out as the seaming progresses, not at the completion of all the field seaming.

Vacuum testing shall meet the following requirements:

- (1) The equipment shall consist of the following:
 - (a) A vacuum box assembly consisting of a rigid housing, a transparent viewing window, a soft neoprene gasket attached to the bottom, port hole, or valve assembly, and a vacuum gauge.
 - (b) A steel vacuum tank and pump assembly equipped with a pressure control and pipe connections.
 - (c) A rubber pressure/vacuum hose with fittings and connections.
 - (d) A soapy solution and applicator.
- (2) The following procedures shall be followed:
 - (a) Energize the vacuum pump and reduce the tank pressure to approximately ten (10) inches of mercury, i.e., five (5) psi gauge.
 - (b) Place the box over the wetted seam area (soapy solution).
 - (c) Ensure that a leak-tight seal is created.
 - (d) For a period of not less than fifteen (15) seconds, examine the geomembrane through the viewing window for the presence of soap bubbles.
 - (e) All areas where soap bubbles appear shall be marked and repaired.

The following procedures are applicable to those processes which produce a double seam with an enclosed space:

- (1) The equipment shall consist of the following:
 - (a) An air pump (manual or motor driven) equipped with a pressure gauge capable of generating and sustaining a pressure between twenty-five (25) and thirty (30) psi and mounted on a cushion to protect the geomembrane.
 - (b) A rubber hose with fittings and connections.
 - (c) A sharp hollow needle, or other approved pressure feed device.
- (2) The following procedures shall be followed:
 - (a) Seal both ends of the seam to be tested.
 - (b) Insert needle or other approved pressure feed device into the tunnel created by the fusion weld.
 - (c) Energize the air pump to a pressure between twenty-five (25) and thirty (30) psi, close valve, and sustain pressure for approximately five (5) minutes.
 - (d) If loss of pressure exceeds two (2) psi or ten (10) mm mercury or does not stabilize, locate faulty area and repair.
 - (e) Remove needle or other approved pressure feed device and seal the penetration holes.

The following procedures shall apply to locations where seams cannot be non-destructively tested:

- (1) All such seams shall be cap-stripped with the same geomembrane.
- (2) If the seam is accessible to testing equipment prior to final installation, the seam shall be non-destructively tested prior to final installation.
- (3) If the seam cannot be tested prior to final installation, the seaming and cap-stripping operations shall be observed by the Engineer and Contractor for uniformity and completeness.

d. Destructive Testing

The purpose of these tests is to evaluate seam strength. Seam strength testing shall be performed as

the seaming work progresses, not at the completion of all field seaming.

Contractor shall cut samples for destructive testing at the location and frequency as follows:

- (1) Destructive test samples shall be collected at a minimum frequency of one (1) test location per five hundred (500) feet of seam length.
- (2) Samples, in addition to the minimum frequency, shall be taken as required by Contractor.
- (3) Test locations shall be determined during seaming and may be prompted by suspicion of excess crystallinity, contamination, offset welds, or any other potential cause of imperfect welding.
- (4) Neither the seaming technician nor the Master Seamer shall be informed in advance of the locations where the seam samples will be taken.

Samples shall be cut at locations designated by Contractor as the seaming progresses in order to obtain laboratory test results before the geomembrane is covered by another material. Each sample shall be numbered and the sample number and location identified on a panel layout drawing.

All holes in the geomembrane resulting from destructive sampling shall be immediately repaired.

The samples shall be twelve (12) inches wide by forty-four (44) inches long with the seam centered lengthwise. A one (1) inch-wide strip shall be cut from each end of the sample and these shall be tested (shear and peel) in the field as described below. The remaining sample shall be cut into three (3) parts and distributed as follows:

- (1) One (1) portion for the installer, twelve (12) inches by twelve (12) inches.
- (2) One (1) portion for the quality assurance laboratory for testing, 12 inches by 18 inches.
- (3) One (1) portion to the County for archive storage, twelve (12) inches by twelve (12) inches.

The two (2), one (1) inch wide strips shall be tested by Contractor in the field, by hand or tensiometer, for peel and shear, respectively.

Laboratory testing shall be done by a certified geosynthetic quality assurance laboratory paid for by Contractor. Testing shall include "Seam Strength" and "Peel Adhesion" (ASTM D 638 with Type M-1, specimen one-half (1/2) inches wide, tested at two (2) inches per minute). The minimum acceptable values to be obtained in these tests are those indicated by the manufacturer's specifications for 80 mil HDPE which have been reviewed by the County. At least five (5) specimens shall be tested for each test method. Specimens shall be selected alternately by test from the samples (i.e., peel, shear, peel, shear. . .). If laboratory testing yield results less than the minimum specified values, the sample shall have failed.

The following procedures shall apply whenever a sample fails the destructive test, whether performed by field or laboratory testing:

- (1) The seam shall be reconstructed between any two (2) passed test locations, or
- (2) The welding path can be traced to an intermediate location (at least ten (10) feet minimum from the location of the failed test in each direction) and a small sample taken for an additional field test at each location. If these additional samples pass the field tests, then full laboratory samples shall be taken. If these laboratory samples pass, then the seam shall be reconstructed between these locations. If either sample fails, then the process shall be repeated to establish the zone in which the seam should be reconstructed.

All acceptable seams must be bounded by two (2) locations from which samples passing laboratory destructive tests have been taken. In cases exceeding one hundred and fifty (150) feet of reconstructed seam, a sample taken from within the reconstructed zone must pass destructive testing. Whenever a sample fails, additional testing may be required for seams that are welded by the same welder and/or welding apparatus or welded during the same time shift.

When seaming of a geomembrane liner is completed, or when seaming of a large area of a geomembrane liner is completed, and prior to placing overlying materials, Contractor shall identify the location of excessive geomembrane wrinkles. Wrinkles so identified shall be cut and re-seamed and tested.

2.5 Surface Water

The surface water management system consists of drainage ditches, culverts, detention and retention basins, terraces, and temporary erosion control measures. Its purpose is to safely pass flows from peak storm events, maintain the peak flows from the 25-year, 24-hour storm at existing levels, and prevent degradation of water quality from site runoff.

Terraces shall be provided every 30 vertical feet on finished slopes. Terraces shall be at least 15 feet wide and include a graveled road for access. Rock check dams or other erosion control structures shall be constructed as appropriate to prevent erosion and scouring.

Ditches will be lined as appropriate to prevent erosion and scouring of the ditch at peak flow velocities. Culverts shall be sized for at least the 25-year, 24-hour storm.

Detention basins shall be sized to reduce the peak flow of the 25-year, 24-hour storm to levels existing before development.

Surface water discharge will be monitored as specified in Section 2.1.8.

2.6 Leachate Collection and Treatment Systems

2.6.1 Leachate Collection System

A leachate collection layer shall be placed over the HDPE geomembrane liner. The collection layer shall prevent the leachate from exceeding a depth over the geomembrane of 12 inches. It shall consist of a 16-ounce geotextile fabric and an overlying layer of aggregate having a minimum hydraulic conductivity of 10^{-2} cm/sec and a minimum depth over the geomembrane liner of 12 inches.

The leachate removal system includes a network of pipes that remove leachate by gravity flow to the leachate treatment and disposal system. The spacing of the pipes shall be such that the maximum head of leachate developed over the geomembrane liner is less than 12 inches.

The collection trenches shall include a polyethylene drainage net beneath the collection pipe and extending at least 5 feet either side of the collection pipe centerline. The leachate collection pipe shall be 12-inch, perforated, HDPE. The pipe shall be of sufficient strength to withstand dynamic loads from construction and operating equipment and the weight of at least 200 feet of overlying solid waste.

2.6.2 Leachate Treatment System

The leachate treatment and disposal system shall dispose of collected landfill leachate in an environmentally sound manner. The system shall include a double-lined flow equalization pond and an evaporator. The double-lined pond shall include a 12-inch-thick soil liner with a maximum hydraulic conductivity of 10^{-6} cm/sec, an 80-mil HDPE geomembrane secondary liner, a polyethylene drainage net leak detection system, a bentonite clay liner (Claymax™ or equal), and an 80-mil HDPE geomembrane primary liner.

A pump station shall be provided to remove leachate from the pond and pump it to the evaporator.

The evaporator shall be a two-stage process including evaporation of the leachate and combustion of the evaporate in a high-temperature afterburner. Fuel for combustion shall be methane collected from the landfill. Auxiliary fuel shall be available for use if quantities of methane gas are insufficient. Approximately 10% of the leachate will not be evaporated and it shall be recirculated back into the landfill in a manner to enhance rapid biologic stabilization of the solid waste.

Should the evaporator system fail to meet performance requirements, the Contractor shall provide an alternate leachate disposal system. Evaporation ponds, spray irrigation or other systems approved by the Southwest Washington Health District shall be acceptable.

2.6.3 Testing

Contractor shall perform hydrostatic pressure tests on all non-perforated leachate collection lines and force mains. Pipes shall be tested at the greater of (1) 150% of maximum working pressure, or (2) 70 psi. The test shall be made by closing valves or providing bulkheads or plugs and filling the piping systems with water. Provisions shall be made for release of air in the lines. Lines may be filled with water sometime before testing to allow for absorption of water by pipe or joint material. After joints are apparently tight and there is no evidence of leakage, the test pressure shall be maintained a minimum of one hour. During the test, pipe, fittings and joints shall be completely tight and the system shall have zero leakage.

Upon completion of the lagoon, Contractor shall test the leachate holding pond by filling the lagoon with fresh water to within 1 foot of the top and maintaining this elevation for a period of 2 weeks prior to the beginning of the tests. Contractor will establish the water level

at the start of the test and shall check the level once each day and record the level. The test shall be for a period of 7 days, during which the water surface shall not drop measurably due to seepage. A control pan with minimum surface area of 5 square feet to indicate rainfalls and evaporation shall be used in the test. The test results shall be modified accordingly. If the net water level drops by more than 1 inch in this 7-day period, Contractor shall repair the bottom and embankment and the test will be repeated. Repair and testing shall be repeated until seepage is not greater than specified. An alternative test method may be used if approved by the County, which approval shall not be unreasonably withheld.

2.6.4 Maintenance

Contractor shall provide a maintenance plan for the leachate collection system, storage pond, and treatment system to the County for its review.

As a minimum the plan shall include construction of cleanouts, visual inspection, monitoring and provisions for cleaning the leachate pond.

2.7 Landfill Gas Collection and Treatment Systems

2.7.1 General

The landfill gas management system shall be an active vacuum extraction system consisting, as a minimum, of horizontal, perforated pipes laid in trenches excavated into the solid waste at approximately 60-foot centers in the vertical direction, and 200-foot centers in the horizontal direction; however, an engineering report analyzing actual field conditions shall be prepared by the Contractor to verify the required spacing of the horizontal collection pipes. The engineering report shall be submitted to the County for its review. Collected gas shall be pumped to the leachate evaporator and afterburner for combustion. Combustion temperatures shall be at least 1400°F. Should the evaporator system fail to meet performance requirements, the Contractor shall provide an alternate gas treatment system that is approved by the Southwest Washington Health District.

Methane gas not otherwise used by the afterburner or alternate treatment system shall be made available to the County for economic development opportunities or used by the Contractor to reduce on-site energy needs.

2.7.2 Testing and Maintenance

Contractor shall prepare a plan for testing of the landfill gas collection and treatment system as well as an

operation and maintenance manual. These documents shall be reviewed by the County.

2.8 Landscaping

Contractor shall prepare a landscaping plan and submit it to the County for its review. As a minimum, the plan shall provide for all landfilling activities to be screened from view of neighboring residences and public roads. The support complex at the facility entrance shall be landscaped to provide an attractive appearance. A barrier of trees shall be constructed around the perimeter of the fill area to serve as both a visual buffer and as a wind block to aid in the control of litter. All landscaping shall be maintained by Contractor until such time as vegetation is able to support itself independently. These trees shall be irrigated by a drip system supplied by the on-site water system.

All graded areas, stockpiles and other areas devoid of vegetation shall be hydroseeded. No area shall remain in a barren condition except during construction or landfilling activities directly affecting said area.

2.9 Operations

2.9.1 Operations Plan

An operations plan shall be provided to the County for its review. The plan shall be in accordance with WAC 173-304. The plan shall include procedures for placement of the initial layer of waste in new cell areas.

2.9.2 Litter Control

Fixed and portable litter control fences shall be used in active areas of the landfill at all times. A barrier of trees shall be constructed around the perimeter of the fill area as specified in Section 2.8 of these specifications. Perimeter fences of the facility as well as public roads leading to the landfill shall be patrolled daily to pick up litter.

2.9.3 Closure and Post-Closure

An operation and maintenance plan for closure and post-closure of the Disposal Site shall be provided to the County for its review. The plans shall be in accordance with WAC 173-304.

Closure and post-closure requirements shall be subject to any local, state or federal regulations adopted during the life of the landfill.

3.0 SURFACE TRANSPORTATION

3.1 General

This section shall apply to all County roads accessing the facilities including but not limited to County roads serving the Disposal Site, intermodal facility, transfer station and borrow areas.

All access shall be by all-weather roads. Contractor shall submit a roadway improvement plan to the County for its review and approval. All paving shall be in accordance with the latest edition of WSDOT Standard Specifications for Road, Bridge, and Municipal Construction. The Contractor shall prepare and submit to the County for its review the procedure to be used by the Contractor for quality assurance and quality control for all roadway improvements.

No Waste shall be transported by the Contractor by truck within the boundary of the Columbia River Gorge National Scenic Area except for Waste from Skamania or Clark Counties, Waste transported from drop box/recycling stations or as otherwise approved by the County. In order to facilitate employment of unemployed truck drivers living in the County, Contractor may truck haul Waste on I-84, and on SR-14 from Biggs to Roosevelt, and on such other routes to the Disposal Site as may be approved by the County Public Works Director.

3.2 Structure Improvements and Maintenance

The Contractor shall bear the cost of structural improvements to and maintenance of In-County Haul Routes that access the Facilities. The Contractor shall perform structural improvements to such routes as the County Public Works Director may reasonably determine. The Contractor shall also perform (or reimburse the County for) maintenance of these routes including snow plowing, and maintaining signage or traffic markings installed pursuant to subsection 3.3. On or before October 15, 1995, Contractor shall pay to the County Road Fund \$30,000 ("Road Account"). County shall advise Contractor of payments from the Road Account by invoice to Contractor. Contractor shall pay to County, within 30 days of receipt of such invoice, such amounts to reimburse and maintain the Road Account at \$30,000. In the event of improvements to be performed by County, the cost of which will exceed \$30,000, the County reserves the right to require prepayment by Contractor prior to proceeding with such improvements.

3.3 Signage

Reasonable warning, identification, directional and traffic control signs, signals, lane divider markings, and painted pavement markings for the control of vehicles to and from all facilities shall be furnished and installed by Contractor. The County may, at its discretion, furnish and install said signage. The County shall provide Contractor with written cost estimates for such work; however, Contractor shall compensate the County for its actual costs. All signage will comply with the standards outlined in the Manual on Uniform Traffic Control Devices.

3.4 Improvements at Intermodal Transfer Facility

Contractor shall submit a plan for the improvements at the intermodal transfer facility to the County for its review. The plan shall include as a minimum provisions for widening, when necessary, all roadways to allow for two-way WB-50 traffic and structural improvements to all roadways as defined herein, all at Contractor's expense.

3.5 Other Improvements

As part of the roadway improvement plan defined herein, Contractor shall include other improvements that may be reasonably needed to assure the continued safety of truck and passenger traffic. Evaluation of the need for such improvements and the resulting design shall be in accordance with Washington State Department of Transportation standards. Other improvements shall be included in the roadway improvement plan as defined herein and shall be at Contractor's expense.

3.6 Emergency Conditions

In the event of inclement weather or emergency conditions, County may not have personnel or equipment in the Roosevelt area to remove snow, clear slides, spread sand or perform other work as directed by the County Engineer on East Road ("Limited Road Work"). Upon approval by County, and in accordance with County specifications and direction, Contractor shall perform Limited Road Work. Contractor shall be reimbursed by County for Limited Road Work based on equipment used. County shall pay Contractor at equipment rental rates established from time-to-time by the County for use of County equipment. Equipment rental rates shall be the exclusive amount of reimbursement for Contractor's performance of Limited Road Work. Sand will be provided by County, and stored at Contractor's site at a location mutually agreed between Contractor and County.

4.0 DROP BOX/RECYCLING STATIONS

4.1 General

Drop box/recycling stations shall be provided at Contractor's expense. They shall be located at sites provided by Contractor in the vicinity of Dallesport, BZ Corners, and Goldendale. The facilities shall accept in-County waste from in-County haulers and general public including private individuals, businesses, and commercial solid-waste collectors. The individual locations selected by the Contractor for construction of said facilities shall be reviewed by the County.

The drop box/recycling stations shall be of the direct-dump type. Drop box containers will be located in a subgrade stall so that the elevation of the top is approximately level with the tipping area. Containers for recyclables shall be provided in accordance with Section 1.8 of these Specifications. Each facility shall be aesthetically pleasing and landscaped. The landscaping shall be maintained at all times. The site plan, design, and operational features of each facility shall be reviewed by the County.

The Contractor shall prepare and submit to the County for its review the procedure to be used by the Contractor for quality assurance and quality control for all construction work at the drop-box/recycling stations.

4.2 Capacity

The 1990 capacity of the drop box/recycling stations shall be approximately as follows:

| | | |
|------------|---|------------|
| Dallesport | - | 6,000 tpy |
| BZ Corners | - | 2,000 tpy |
| Goldendale | - | 10,000 tpy |

Actual capacity will be determined in final system design.

4.3 Operating Hours

The drop box/recycling stations will be open on a schedule agreed to by the County.

4.4 Litter Control

Contractor and County will cooperate in patrolling for litter in the vicinity of drop box/recycling stations. Litter on and around the tipping area and perimeter fences shall be patrolled as required to keep these areas and the access to the facilities reasonably free of litter.

5.0 INTERMODAL TRANSFER FACILITY

5.1 General

The intermodal transfer facility will be located near the Columbia River and the Burlington Northern Railroad. The site will be developed or modified as reasonably necessary to accommodate the type of rail or barge haul technology ultimately selected by Contractor. Modification will likely include installation of additional railroad track and paving additional area for loading and unloading transfer trailers. All access roads to the facility shall be improved as defined in Section 3.4 of these Specifications. All such work, and modifications, and improvements shall be at the Contractor's expense.

Depending on the transfer technology chosen, unloading would consist of removing containers by front-end loader or bridge crane or by converting road-rail trailers to highway configuration and hauling them to the Disposal Site.

The Contractor shall prepare and submit to the County for its review the procedures to be used by the Contractor for quality assurance and quality control for all construction work at the intermodal transfer facility.

5.2 Capacity

This facility shall be capable of handling over 2,800 tons per day. This capacity is equivalent to 1 million tons per year. If rail haul is used, Contractor shall construct additional track as necessary to provide increased waste handling rail capacity.

5.3 Operating Hours

The facility would be open to accept loaded trailers or deliver unloaded trailers 24 hours per day. Transfer from the intermodal transfer facility to the Disposal Site would occur from 0600 to 1700 daily or as determined by permits.

5.4 Containers

Containers shall be of a size compatible with a payload of an untied bale of a weight that can be routinely attained, consistent with road limits. They shall be capable of being sealed so as to eliminate leakage during storage and transport, and the doors shall be sealable with a cargo security seal to ensure they are not opened by unauthorized personnel and that they do not open during

transport or storage. They shall also be dedicated solely to the containerization of non-hazardous waste.

The container is to be sealed by the political subdivision generating the waste, and it is not to be opened again until it is dumped at the working face of the Disposal Site.

Chassis shall meet all federal, state and local requirements.

6.0 PROJECT DEVELOPMENT SCHEDULES

Upon giving its notice to proceed, the Contractor expects to complete the requirements of this project in accordance with the following schedule (time periods below are from date notice to proceed is given). The Contractor shall give separate notices to proceed with each permit and construction element.

| | | | |
|-----------------|------------------------|----------|--------|
| <u>Permits:</u> | Conditional Use Permit | 12 to 24 | months |
| | Solid Waste Permit | 12 to 24 | months |
| | Surface Mining Permit | 12 to 24 | months |
| | Building Permits | 12 to 24 | months |
| | Water Rights Permit | 12 to 24 | months |

| | | | |
|----------------------|-----------------------------|---------|--------|
| <u>Construction:</u> | Landfill | 6 to 18 | months |
| | Drop Box/Recycling Stations | 6 to 18 | months |
| | Intermodal Transfer Station | 6 to 18 | months |

Contractor's notice to proceed with construction of Disposal Site may be given following Contractor's determination that construction and operation of the Disposal Site is commercially feasible but in no event later than the eighth anniversary of the execution of the Agreement (subject to provisions of Section 4.15.4 of the Agreement).

6.1 Design Schedules

At such time as the Contractor begins design of the facilities to be constructed under this Agreement, Contractor shall provide to the County a bar chart schedule of the elements of facilities planning and design requiring County review. The bar chart schedule shall be updated from time to time as appropriate.

6.2 Construction Schedules

The Contractor shall use its reasonable best efforts to notify the County thirty days prior to Contractor's intention to begin construction of facilities under this Agreement. At such time as Contractor begins construction

of such facilities, Contractor shall provide to the County a bar chart schedule of the construction. The bar chart schedule shall be updated from time to time as appropriate.

APPENDIX B
TO
FIRST AMENDED
AGREEMENT
REGARDING SOLID WASTE HANDLING

BETWEEN
KLiCKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

June 8, 1992

OTHER WASTE PROTOCOL

1. INTRODUCTION.

Under the Agreement, certain Other Waste (see Section 3.22.10) may be Acceptable Waste if approved by the County. This Appendix B sets out the protocol in order for such Other Waste to be accepted at the Disposal Site.

2. NOTICE.

County shall be notified by Contractor, regulatory agency, waste originator or other Person of any application, request or submission (jointly, "Application") for (a) delisting of waste as a Hazardous Waste under 40 CFR 260; or (b) exempting or declassifying waste as a Dangerous Waste under Washington Law. Notice to County as a consulted agency under Chapter 43.21C RCW shall satisfy the notice obligation under this protocol. Notwithstanding the foregoing, any such notice must be given under Agreement Article 18 no less than ten (10) days prior to any public hearing on an application.

3. REVIEW AND APPROVAL.

3.1 In the event that notice provisions of Section 2 are satisfied, Contractor may seek by written application ("Application") County approval for Other Waste acceptance at the Disposal Site.

3.2 Contractor shall submit the Application with all available information not previously provided to County concerning the Other Waste to the Solid Waste Project Manager. The Solid Waste Project Manager shall issue a written report ("Report") within thirty (30) days of Application, approving or denying the

Application. In the event no Report is issued in the time provided, the Application shall be deemed approved.

3.3 In the event of a conditioned acceptance or rejection in the Report, Contractor may request within ten (10) days of Report, review by the County Commissioners. The County Commissioners shall expeditiously consider the Application and may affirm the Report, modify the Report, approve the Application, or return the Application to the Solid Waste Project Manager for a further Report. The further Report shall be subject to the same procedures as in Section 2.2 and this Section 2.3.

3.4 The decision of the Board of County Commissioners on an Application shall be final, and not subject to Agreement Article 28.

4. OTHER PERMITS.

Nothing in this protocol shall preclude the requirement for or application of any other permit, review or approval that may be required for disposal of Waste at the Disposal Site.

5. COMPREHENSIVE PLAN.

5.1 During the life of the Agreement, the County Solid Waste Management Plan ("Plan") will be amended from time-to-time. Under Washington State Department of Ecology Guidelines for the Development of Local Solid Waste Management Plans and Plan Revisions (WDOE 90-11), specific waste streams ("such as sludge, problem waste, infectious waste, moderate risk waste, demolition waste, and inert waste") are to be addressed.

5.2 This Protocol and Agreement definitions necessary thereto may be revised by the Public Works Director, upon review by the Board of County Commissioners, following Plan amendments or modifications, to address specific Waste handling practices consistent with the Plan.

PERFORMANCE BOND**Bond No.** 929132675**KNOW ALL MEN BY THESE PRESENTS: That we,** Rabanco Regional Disposal Company

166 127th Avenue NE Bellevue WA 58005

as Principal, and the National Fire Insurance Company of Hartford, a
CT corporation, as Surety, subject to the Conditions, Limitations and Exclusions of this Performance
Bond, are firmly bound unto Klickitat County Solid Waste Department
131 West Court, MS-CH-27 Goldendale WA 98620, hereinafter referred to as the Obligee,
for such monetary amount as incurred by the Obligee, not to exceed the penal sum of
Five Million Dollars (\$5,000,000.00),
as may be required to remedy any contractual default by the Principal in the performance of that certain written contract
between Principal and Obligee dated August 7, 1995 for Second Amended Agreement, Solid Waste Contract Not
Including Closure/Post-Closure Obligatons
hereinafter referred to as the Contract; for the payment hereof, we bind ourselves, our heirs, executors, administrators
and successors, jointly and severally.

CONDITIONS

The obligation of this Performance Bond shall be null and void unless: (1) the above Contract is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in default under the above Contract, and is declared by the Obligee thereafter to be in default; (3) the Obligee has performed all of the obligations of the Obligee under the above Contract; and (4) the Obligee has provided written notice of the default to the Surety as promptly as possible, and in any event, within ten (10) days after such default.

LIMITATIONS AND EXCLUSIONS

The Surety, as the sole election and discretion of the Surety, may take any of the following actions:

- (1) With notice to the Obligee, provide financial assistance to the Principal to remedy any contractual default by the Principal; or,
- (2) Undertake the completion of the above Contract by the Surety, through its agents or through independent contractors; or,
- (3) Determine the amount for which the Surety may be liable to the Obligee, and as soon as a practicable thereafter, tender payment thereof to the Obligee; or,
- (4) Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating thereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

The obligation of this Performance Bond Shall not include liability for loss, cost, damage, fines, penalties or expense (including attorney's fees) from personal injury (including death), or from property damage (including environmental impairment or cleanup), or from any criminal or tortious act arising out of the performance, default or completion of the above Contract, nor shall the Surety obligated to provide or maintain any policy or undertaking of liability insurance

This bond is for a one year term beginning February 1, 2000. In the event of default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the direct loss to the Obligee due to actual excess costs of performance of the contract up to the termination of this term of this bond. No suit shall be brought on this bond after one year following its termination. Neither non-renewal by the Surety, nor failure or inability of the Principal to file a replacement bond, shall constitute loss of the Obligee recoverable under this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety.

The Obligation of this Performance bond inures solely to the benefit of the obligee. No right of action shall accrue under this Performance Bond to or for the use of any person, firm, corporation, public or private entity other than the obligee. In the event that the Obligee is comprised of more than one person, firm corporation, public or private entity, the conditions, limitations and exclusions of this Performance Bond shall apply jointly and severally to each and all constituents of the Obligee, and the aggregate liability of the Surety to the Obligee shall in no event exceed the above penal sum.

The consent of the Surety shall be required with regard to any changes or alterations in the above Contract including, but not limited to, where the cost thereof, added to prior changes or alterations, causes the aggregate cost of all changes and alterations to exceed 10 percent of the original contract price, or where the completion thereof is extended by more than 90 days.

No right of action shall accrue under this Performance bond unless demand is brought by suit, action or other legal proceeding commended against the Surety within one year after the day that the Principal last performed labor or supplied material for the above Contract. Any and all claims and causes of action (including warranty requirement or the remedy of latent defects) not so commended shall be deemed extinguished and forever barred from action under this Performance Bond.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control, or the obligation of the surety be deemed null and void to the extent of any enlargement or augmentation to the liabilities of the Surety prescribed by this Performance Bond.

Rabanco Regional Disposal Company

By: Kathleen A Weaver

Kathleen A. Weaver Power of Attorney

Principal

National Fire Insurance Company of Hartford

By: Justine Handzel

Justine Handzel

Attorney-in-fact

1411 Opus Place
Downers Grove, IL 60515

NOTARIAL ACKNOWLEDGEMENT

STATE OF ILLINOIS
COUNTY OF KANE

On this 1st day of February, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came **Kathleen A. Weaver**, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois; that she is an Attorney-in-Fact for Rabanco Regional Disposal Company, a subsidiary of Allied Waste Industries, and that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.

My Commission Expires:

Esther C Jimenez



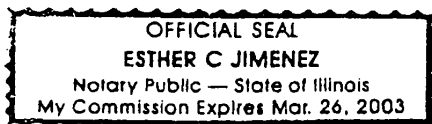
NOTARIAL ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF Kane

On this 1st day of February, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came Justine Handzel, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois: that she is an Attorney-in-Fact of National Fire Insurance Company of Hartford, the corporation described in and which executed the foregoing instrument: that she knows the seal of said corporation: that it was so affixed by order of The Board of Directors of said corporation and that she signed this name thereto by like order: that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.

My Commission Expires:

Esther C Jimenez





ALLIED WASTE INDUSTRIES, INC.

POWER OF ATTORNEY

Allied Waste Industries, Inc., incorporated under the laws of the State of Delaware, and having its chief place of business at 15880 N. Greenway-Hayden Loop, #100, Scottsdale, Arizona, 85260, hereby makes, constitutes and appoints Weible, Cahill & Company, LLC, acting through and by either William P. Weible or Kathleen A. Weaver or Justine Handzel, its true and lawful attorney and affix its corporate seal to and deliver for and on behalf as surety thereon or otherwise, bonds of any of the following classes, to wit:

1. Surety bonds and/or Bid Bonds to the United States of America or agency thereof, including those required or permitted under the laws or regulations relating to Customs or Internal Revenue; License and Permit Bonds or other indemnity bonds under the laws, ordinances or regulations of any State, City, Town, Village, Board, other body organization, public or private; bonds to Transportation Companies; Lost Instrument bonds; Lease bonds, Worker's Compensation bonds; Miscellaneous Surety Bonds; and bonds on behalf of Notaries Public, Sheriffs, Deputy Sheriffs and similar public officials.
2. Surety bonds and/or Bid bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, included, but not limited to, Allied Services, LLC, Allied Waste Systems, Inc., Allied Waste Transportation, Inc., American Disposal Services of Missouri, Inc. and BFI Waste Systems of North America, Inc., in connection with bonds, proposals, or contracts.

To sign and seal all bids bonds and surety bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, relating to the provision of solid waste collection, transportation, recycling, or disposal services by Allied Waste Industries, Inc. and its subsidiaries. Allied Waste Industries, Inc. hereby agrees to ratify and confirm whatsoever Weible, Cahill & Company, LLC shall lawfully do pursuant to this power of attorney and the procedural guidelines set forth to Weible, Cahill & Company, LLC, and until notice or revocation has been given by Allied Waste Industries, Inc. the acts of the said attorney shall be binding on the undersigned.

IN WITNESS WHEREOF this **POWER OF ATTORNEY** has been signed this 27th day of August, 1999, on behalf of Allied Waste Industries, Inc. by its Vice President-Legal, Mr. Steven M. Helm.

Allied Waste Industries, Inc.

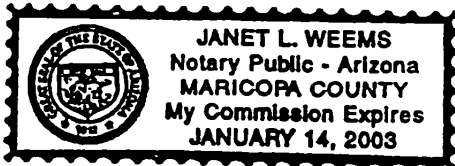
By: _____

Steven M. Helm

State of Arizona)
)
County of Maricopa)

ss.

Subscribed to and sworn before me this 27th day of August, 1999 by Steven M. Helm.



Janet L. Weems

Notary Public

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That CONTINENTAL CASUALTY COMPANY, an Illinois corporation, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, a Connecticut corporation, AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania corporation (herein collectively called "the CCC Surety Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signature and seals herein affixed hereby make, constitute and appoint

William P. Weible, Molly M. Moran, Lori A. Noggle, Sharon M. Hudson, William Cahill, Kimberly Sawicki, Deborah Buss, Kathleen A. Weaver, Justine Handzel, Esther C. Jimenez, Individually

of North Aurora, Illinois

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CCC Surety Companies have caused these presents to be signed by their Group Vice President and their corporate seals to be hereto affixed on this 10th day of December, 1999.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Marvin J. Cashion

Marvin J. Cashion Group Vice President

State of Illinois, County of Cook, ss:

On this 10th day of December, 1999, before me personally came Marvin J. Cashion, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Group Vice President of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



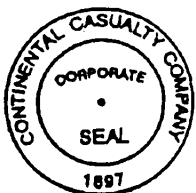
Diane Faulkner

My Commission Expires September 17, 2001

Diane Faulkner Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of each corporation printed on the reverse hereof are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seals of the said corporations this 1st day of February, 2000.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Mary A. Ribikawskis

Mary A. Ribikawskis Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF CONTINENTAL CASUALTY COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article IX—Execution of Documents

Section 3. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President or the Board of Directors, may, at any time, revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 3 of Article IX of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article VI—Execution of Obligations and Appointment of Attorney-in-Fact

Section 2. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The President or any Executive, Senior or Group Vice President may at any time revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 2 of Article VI of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF NATIONAL FIRE INSURANCE COMPANY OF HARTFORD:

This Power of Attorney is made and executed pursuant to and by authority of the following Resolution duly adopted on February 17, 1993 by the Board of Directors of the Company.

"RESOLVED: That the President, an Executive Vice President, or any Senior or Group Vice President of the Corporation may, from time to time, appoint, by written certificates, Attorneys-in-Fact to act in behalf of the Corporation in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such Attorney-in-Fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Corporation by their signature and execution of any such instrument and to attach the seal of the Corporation thereto. The President, an Executive Vice President, any Senior or Group Vice President or the Board of Directors may at any time revoke all power and authority previously given to any Attorney-in-Fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"RESOLVED: That the signature of the President, an Executive Vice President or any Senior or Group Vice President and the seal of the Corporation may be affixed by facsimile on any power of attorney granted pursuant to the Resolution adopted by this Board of Directors on February 17, 1993 and the signature of a Secretary or an Assistant Secretary and the seal of the Corporation may be affixed by facsimile to any certificate of any such power, and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Corporation. Any such power so executed and sealed and certified by certificate so executed and sealed, shall with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Corporation."

**INTERGOVERNMENTAL AGREEMENT
REGARDING SOLID WASTE TRANSPORT AND DISPOSAL**

This Intergovernmental Agreement regarding solid waste transport and disposal is entered into by and between Klickitat County and the Port of Seattle, both municipal corporations of the State of Washington ("County-Port Agreement").

RECITALS

WHEREAS, Klickitat County ("County") has established a solid waste disposal system ("System") consistent with Chapters 36.58 and 70.95 RCW and the Klickitat County Solid Waste Management Plan ("Klickitat Plan"). Pursuant to RCW 36.58.040, the County has designated the Roosevelt Regional Landfill ("Site") as its disposal site. The County has entered into an agreement with Regional Disposal Company (the "Contractor") to, *inter alia*, operate the Site and to accept solid waste generated within the County (Second Amended Agreement Regarding Solid Waste Handling Between Klickitat County and Regional Disposal Company, dated June 8, 1992, as amended (the "County-Contractor Agreement")). A copy of the current County-Contractor Agreement is attached as Attachment #1.

WHEREAS, under Section 10 of the County-Contractor Agreement, the County expressly reserved the right to enter into intergovernmental contracts with other municipal corporations for disposal of solid waste or designation of solid waste handling facilities, so long as the contract does not conflict with the County's obligations to the Contractor.

WHEREAS, the Port of Seattle ("Port") is responsible for the proper management of various types of non-hazardous solid waste which it generates in the course of operating and redeveloping its properties and improvements. Such wastes can include, for example, construction wastes; demolition debris and other inert wastes; and contaminated soils. The Port desires to arrange for a means to dispose of waste materials originating from Port facilities and intended for disposal in a solid waste landfill in an efficient, timely, low-risk and cost-effective manner.

WHEREAS, under RCW 39.34.080 and 53.08.240, the Port may contract with the County to carry out any governmental function and service which each is authorized to perform, provided that the governing bodies of the County and the Port so authorize. Here, each entity is authorized to contract to dispose of the solid waste that it generates.

WHEREAS, the Port and the County find that it is reasonable and feasible to enter into this Agreement in order to provide the Port with the ability to dispose of certain solid wastes at the Site, and to use selected terms of the County-Contractor Agreement. Subsequent to entering into this agreement, the Port will enter into a separate contract with the Contractor (the "Port-Contractor Agreement") to set commercial terms such as types of waste, tipping fees, and shipping dates and to specify responsibilities related to waste management, waste certification and testing requirements.

Resolution No. 3453, as
Amended Exhibit "A"

1. **Purpose.**

The purpose of this agreement is to protect public health and safety, and to provide for the safe and efficient transportation and disposal of solid waste originating from the Port. The County and the Port enter into this County-Port Agreement pursuant to Chapters 39.34 and 53.08 RCW to allow the Port to use the disposal site designated by Klickitat County pursuant to RCW 36.58.040 for disposal of its waste, and to access other terms of the County-Contractor Agreement.

2. **Recital. (Adopted)**

2.1 Recital 2.2 contained in the County-Contractor Agreement, which concerns the competitive bid process, shall apply and is incorporated herein.

3. **Definitions. (Adopted)**

The definitions contained in Section 3 of the County-Contractor Agreement shall apply and are incorporated herein.

4. **General Provisions. (Adopted)**

4.1 The following General Provisions contained in the County-Contractor Agreement shall apply and are incorporated herein: 4.1 (State Law); 4.2 (Contractor Skill); 4.3 (Warranty of Personnel and (Equipment)); 4.10 (No Public Official Liability); 4.11 (Severability); 4.12 (Agreement Provision Applied); 4.13 (Non-Waiver); 4.14 (Venue); 4.16 (No Third Party Beneficiary); 4.17 (Headings); 4.18 (Construction) and 4.19 (Complete Agreement).

5. **Port Responsibilities.**

5.1 The Port shall use and designate the Site for the disposal of all Acceptable Waste that (a) originates from Port properties or otherwise comes under the Port's control, and that (b) is intended for disposal at a solid waste landfill and (c) for which there is a signed Service Agreement with the Contractor, except to the extent that the management of such waste is controlled by a local flow control ordinance.

5.2 For all Acceptable Waste tendered by Port, the Port shall be responsible for assuring compliance with the Klickitat Plan requirements with respect to waste reduction and recycling, and screening procedures to exclude hazardous waste from the waste stream.

5.3 The Port shall tender only Acceptable Waste placed in containers or other equipment suitable for rail and road shipment.

6. **County Responsibilities.**

6.1 For the duration of this Agreement, the County permits the Port's use of the County solid waste system for all Acceptable Waste received from the Port.

6.2 In the event of a Category D default by the Contractor under the County Contractor Agreement, the County shall take no action to prevent the Contractor from accepting Port's Acceptable Waste, but shall look only to the Contractor for liquidated damages pursuant to the County-Contractor Agreement.

6.3 County shall not be responsible for:

6.3.1 disposal of, nor claims that this County-Port Agreement extends to, any solid waste generated through waste reduction or waste recycling activities carried on by or within Port;

6.3.2 collection of any solid waste within Port property or transportation of Solid Waste to the Site;

6.3.3 fees incurred by Port under this Agreement; and

6.3.4 solid waste collection or transportation activities or facilities.

7. Contractor's Responsibilities.

7.1 The Contractor's operational responsibilities and procedures shall be detailed in the separate Port-Contractor Agreement. However, the following provisions of the County-Contractor Agreement shall also apply:

7.1.1 Section 6 of the County-Contractor Agreement, related to provision of a Contractor's Representative, shall apply and is incorporated herein

7.1.2 Section 7 of the County-Contractor Agreement, related to Independent Contractor status, shall apply and is incorporated herein

8. Allocation of Risk/Force Majeure. (Adopted)

8.1 The following provisions of Section 14 of the County-Contractor Agreement, dealing with allocation of risk, shall apply and are incorporated herein: 14.5; 14.6; and 14.7.

9. Title of Waste, Handling of Unacceptable or Hazardous Waste.

9.1 The following provisions of Section 15 of the County-Contractor Agreement, dealing with title of waste and handling of unacceptable or hazardous waste, shall apply and are incorporated herein: 15.1, 15.2, 15.3, 15.4; and 15.5.

10. Indemnification.

10.1 Section 16 of the County-Contractor Agreement, dealing with indemnification, shall apply in its entirety and is incorporated herein.

11. Correspondence.

11.1 Notices to either party shall be made by registered mail:

To the County: Solid Waste Director
 131 West Court Street
 Goldendale, WA 98620

To the Port: Senior Port Counsel
P.O. Box 1209
Seattle, WA 98111

12. Duration, Amendment and Termination.

12.1 This Agreement shall take effect upon its execution and shall continue to be in full force and effect until and including December 31, 2005, unless terminated as described in Section 12.2 below. County acknowledges that this Agreement is a "contract with term in excess of three (3) years" pursuant to Section 27.2.4 of the County-Contractor Agreement.

12.2 This Agreement may be amended, supplemented or terminated upon the agreement of both parties. Any amendment, supplement or termination shall be in writing as authorized by resolutions of the commissioners of the Port and County.

13. Arbitration.

13.1 The parties shall attempt to resolve by good faith negotiations any and all disputes or claims between the parties arising out of or relating to this Agreement. Following good faith negotiations, when a party desires to initiate the dispute resolution process set forth in this article, it shall do so by giving a written dispute notice to the other party. If any dispute is not resolved by negotiations of the parties within twenty days after the date either party delivers a dispute notice, either party shall have the option to submit that dispute for resolution pursuant to arbitration as provided in this Article.

13.2 The party requesting arbitration shall deliver a demand for final and binding arbitration to the other party and shall file a copy of the demand for arbitration at the nearest office of the American Arbitration Association, together with the appropriate filing fee. The arbitration shall be conducted in accordance with the Commercial Rules of the American Arbitration Association. Provided, the parties shall select the arbitrator. If an arbitrator has not been selected within ten days of filing the demand for arbitration, the arbitrator shall be selected pursuant to AAA Commercial Arbitration Rules.

13.3 The arbitrator shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator. The award rendered by the arbitrator shall set forth detailed findings of fact and conclusions of law and shall be final, and judgment on the award may be entered in any court having jurisdiction thereof. A failure by the arbitrator to make findings of fact and conclusions of law shall invalidate the award. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver or the right of any party to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

13.4 In any arbitration proceeding, the arbitrator is authorized to apportion costs and expenses, including investigation, legal and other expense, which will include, if applicable, a reasonable estimate of allocated costs and expense or in-house legal counsel and legal staff. Such costs and expenses are to be awarded only after the conclusion of the arbitration and will not be advanced during the course of such arbitration.

14. Legislative Authorization

14.1 The enabling resolutions of the governing bodies of the parties shall contain a clause ratifying the terms of this agreement.

This Intergovernmental Agreement has been executed on the dates below shown, on one or more originals.

KLICKITAT COUNTY

PORT OF SEATTLE

By: _____
Chair, Board of County
Commissioners
Authorized by Resolution No. _____
Date of Execution: _____

By: _____
Executive Director
Authorized by Resolution No. _____
Date of Execution: _____

SECOND AMENDED
AGREEMENT
REGARDING SOLID WASTE HANDLING
BETWEEN

KLICKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

AUGUST 7, 1995

COPY

TABLE OF CONTENTS

| <u>Article</u> | <u>Subject</u> | <u>Page</u> |
|----------------|--|-------------|
| 1. | INTRODUCTION | 1 |
| 2. | RECITALS | 2 |
| 3. | DEFINITIONS | 3 |
| 4. | GENERAL PROVISIONS | 11 |
| 5. | INTENT OF THE AGREEMENT | 18 |
| 6. | CONTRACTOR'S REPRESENTATIVE | 19 |
| 7. | INDEPENDENT CONTRACTOR | 20 |
| 8. | SUBCONTRACTORS | 21 |
| 9. | CONTRACTOR'S BASIC RESPONSIBILITIES | 22 |
| 10. | SEPARATE CONTRACTS | 24 |
| 11. | COUNTY'S BASIC RESPONSIBILITIES | 25 |
| 12. | AGREEMENT FEES -- COUNTY COMPENSATION | 27 |
| 13. | TIPPING FEES -- CONTRACTOR COMPENSATION | 32 |
| 14. | ALLOCATION OF RISK/FORCE MAJEURE | 34 |
| 15. | TITLE OF WASTE, HANDLING OF UNACCEPTABLE OR HAZARDOUS WASTE | 36 |
| 16. | INDEMNIFICATION | 38 |
| 17. | INSURANCE | 41 |
| 18. | CORRESPONDENCE AND NOTICE | 48 |
| 19. | AGREEMENTS WITH HAULERS AND REGULATIONS | 49 |
| 20. | PERFORMANCE OF SERVICES | 50 |
| 21. | PERMITS AND REGULATIONS | 56 |
| 22. | DEMOLITION AND CONSTRUCTION OR APPROVED WASTE | 57 |
| 23. | SCHEDULE | 60 |
| 24. | TAXES AND FEES | 61 |

| <u>Article</u> | <u>Subject</u> | <u>Page</u> |
|----------------|---|-------------|
| 25. | CLOSURE AND POST CLOSURE | 62 |
| 26. | PERFORMANCE BOND | 63 |
| 27. | RIGHTS AND REMEDIES FOR DEFAULTS IN PERFORMANCE OF THE AGREEMENT | 64 |
| 28. | ARBITRATION, JUDICIAL VENUE AND GOVERNING LAW . . . | 74 |
| 29. | ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS | 75 |
| 30. | SYSTEMS | 77 |
| 31. | COMMUNITY RELATIONS | 79 |
| 32. | GUARANTEES AND WARRANTIES | 82 |
| 33. | DISSOLUTION OF THE COUNTY AND SUCCESSOR TO THE COUNTY | 83 |
| 34. | THE RABANCO COMPANIES' GUARANTY | 84 |
| 35. | TERM | 85 |
| 36. | SIGNATURE - EXECUTION | 86 |

APPENDIX A TECHNICAL SPECIFICATION

APPENDIX B OTHER WASTE PROTOCOL

1. INTRODUCTION

This Agreement Regarding Solid Waste Handling ("Agreement") is entered into this 26th day of May, 1989 as later amended, between Klickitat County, a political subdivision of the State of Washington ("County"), and Regional Disposal Company, a Washington general partnership ("RDC" or "Contractor").

2. RECITALS

2.1 This Agreement is in furtherance of, among other things, the County's authority to provide for public health, safety and welfare, and is consistent with Washington Constitution article 11, section 11. Consistent with Chapter 70.95 RCW, this Agreement provides a program for the orderly development of solid waste handling facilities, including solid waste disposal sites.

2.2 The County undertook a competitive process in accordance with Chapter 36.58 RCW to select a firm to develop and operate transfer or collection and recycling stations, transport facilities and final disposal of solid waste originating within and without the County. The County determined that the competitive process is advantageous for the County in the awarding of this Agreement; that Contractor is best qualified to provide the services sought by the County; and that Contractor has offered to provide those services in a manner and at rates that the County finds to be in the best interests of the ratepayers living and doing business within the County, in a manner that the County finds to be financially sound and advantageous compared to other methods, and in a manner that the County finds to be in the public interest. Therefore, it is the intent of this Agreement to provide a long-term relationship between the County and Contractor for Waste disposal at a sole Disposal Site within the County.

2.3 The cities of Bingen, Goldendale and White Salmon operate or contract for solid waste collection within their boundaries and those cities have determined or may in the future determine that it is in the best interest of their citizens that the County provide for a long-term method of solid waste disposal.

2.4 Cities and counties within and without the State of Washington may provide for solid waste handling or designation of solid waste handling facilities by agreement with County or with Contractor, and in cooperation with the County.

2.5 Nothing in this Agreement authorizes or shall be construed to authorize the operation of a solid waste collection system by the County.

3. DEFINITIONS

For the purposes of this Agreement and the Agreement Documents, the following words and terms shall have the meanings set forth below; however, words and terms describing material or work that have well-known technical or trade meanings, unless otherwise specifically defined in the Agreement, shall be construed in accordance with such well-known meanings generally recognized by solid waste professionals, engineers and trades.

3.1 "Acceptable Waste" means all putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, refuse, waste paper and cardboard; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid wastes, dead animals and other wastes; the term includes other materials and substances that may now or in the future be included in the definition of "Solid Waste" in RCW 70.95.030 or regulations promulgated thereunder, but the term does not include:

- 3.1.1 Dangerous wastes as defined by Chapter 70.105 RCW or Chapter 173-303 WAC, or their successor provisions.
- 3.1.2 Radioactive wastes, as defined by Chapters 402-12 and 402-19 WAC, or their successor provisions.
- 3.1.3 Any other Unacceptable Waste.

Acceptable Waste must be subject to a governmentally approved recycling program prior to disposal at the Disposal Site.

3.2 "Agreement" and "Agreement Documents" are synonymous: either of these terms means

- 3.2.1 This Agreement, as amended, including the Agreement and the Performance Bond,
- 3.2.2 The Specifications,
- 3.2.3 Any and all addenda to the Agreement, and
- 3.2.4 Any and all appendices, amendments, change orders, or extensions to or extensions of the foregoing documents that the Parties have agreed to in the manner prescribed by the Agreement.

In the event of conflict among Agreement Documents, the Agreement shall be given priority, and subsequent Agreement Documents given priority in the order listed in this Section 3.2.

The RFQ/P and Contractor Response to the RFQ/P shall serve as subsidiary documents for clarification of ambiguities in the Agreement Documents but shall not impose conditions or create duties not described in the Agreement Documents.

3.3 "Asbestos" means Waste containing asbestos and required to be managed according to 40 C.F.R. Part 61, Subpart M.

3.4 "City" or "Cities" means one or more of the incorporated cities or towns in Klickitat County participating in the Comprehensive Solid Waste Management Plan and authorizing the County to designate disposal sites for Waste originating in those cities or towns.

3.5 "Calendar Quarter" means one of the four three-month periods of a calendar year. The first calendar quarter means January 1 to March 31; the second calendar quarter means April 1 to June 30; the third calendar quarter means July 1 to September 30; the fourth calendar quarter means October 1 to December 31.

3.6 "Comprehensive Solid Waste Management Plan" or "Plan" means the County's Comprehensive Solid Waste Management Plan adopted in accordance with Chapter 70.95 RCW.

3.7 "Consumer Price Index" or "CPI" means the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) computed by the United States Department of Labor Statistics, for the Seattle-Everett Metropolitan Area, or a successor index produced by the United States. If the U.S. ceases to publish such an index for the Seattle area, then its index for the Puget Sound Region or the State of Washington shall be used, and if such indices are not available, a similar index published by another governmental agency shall be used.

3.8 "Contractor" means Regional Disposal Company, and its successors or assigns. Whenever the terms "bidder," "proposer" or "vendor" are used in the Agreement, those terms shall be deemed to include Contractor. Regional Disposal Company is the successor to Rabanco Regional Landfill Company.

3.9 "Contractor Response to the RFQ/P" means the response of Contractor to the RFQ/P submitted to the County on January 23, 1989 and all attachments and addenda thereto, including supplemental responses submitted on February 22 and March 19, 1989.

3.10 "Contractor's Representative." See Article 6.

3.11 "County" means Klickitat County, a political subdivision of the State of Washington.

3.12 "Disposal Site" means the Contractor-selected and the County-permitted landfill located in the County.

3.13 "Dollar" or "Dollars" means United States currency.

3.14 "Drop Box/Recycling Center" means a Facility where:

- 3.14.1 detachable containers are maintained for receipt of waste;
- 3.14.2 waste may be handled for recycling; and
- 3.14.3 other functions are performed consistent with this Agreement and the Specifications.

3.15 "Community Development Account." See Article 31.

3.16 "Facilities" means any or all of the Drop Box/Recycling Centers, transportation facilities, loading and unloading facilities, recycling facilities, Disposal Site, source for cover and liner material, and any other facilities described in the Specifications and used to carry out the Contractor's obligations under this Agreement.

3.17 "Final Permitting" means Contractor has acquired all permits necessary for operation of the Disposal Site and the earlier of:

- 3.17.1 the date on which the period for any administrative or judicial appeals in respect of such permits has lapsed;
- 3.17.2 the date on which any timely administrative or judicial appeals in respect of such permits (if any) have been successfully dismissed by final orders either not subject to appeals or in respect of which the period for administrative or judicial appeals has lapsed; or
- 3.17.3 the date Waste is first received at the Disposal Site.

3.18 "Haulers" means those Persons holding permits from the WUTC for Waste collection and transportation, and those Persons who commercially collect and transport Waste.

3.19 "Hazardous Waste" means any waste (even though it may be part of a delivered load of waste), or combination of wastes that:

- 3.19.1 is required to be accompanied by a written manifest or shipping document describing the waste as "hazardous waste" under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or

- 3.19.2 contains polychlorinated biphenyls or any other substance at levels or concentrations such that its storage, treatment or disposal is subject to regulation under the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.3 contains one or more "hazardous substances" which equals or exceeds a "reportable quantity" for any such substance as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., and the regulations promulgated thereunder, or contains one or more "hazardous substances" which exceeds "cleanup standards" as defined in the Washington Model Toxics Control Act, Chapter 70.105D RCW, and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.4 is defined and subject to regulation as a source, special nuclear or byproduct material under the Atomic Energy Act of 1954, 42 U.S.C. § 2011 et seq., and the regulations promulgated thereunder, and Chapter 70.98 RCW and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.5 is defined and subject to regulation as "radioactive waste," "low-level radioactive waste" or "high-level radioactive waste" under the Nuclear Waste Policy Act of 1982, 42 U.S.C. § 10101 et seq., and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.6 is defined and subject to regulation as "dangerous waste" or "extremely hazardous waste" under the Washington Hazardous Waste Management Act, Chapter 70.105 RCW, and the regulations promulgated thereunder, as now or hereafter amended; or
- 3.19.7 is defined and subject to regulation as "biomedical waste" or "infectious waste" under Chapter 70.105 RCW and the regulations promulgated thereunder, and the Biomedical Waste Act, Ch. 14, 1992 Wash. Legis. Serv. 32 (West) (to be codified as a new chapter to Title 70 RCW) and any regulations promulgated thereunder, as now or hereafter amended.

3.20 "Letter of Credit" means a letter of credit furnished by Contractor pursuant to the provisions of Article 26.

3.21 "Municipal Solid Waste" means Waste, excluding Asbestos, Problem Waste, and Special Incinerator Ash.

3.22 "Other Waste" means any waste (even though it may be part of a delivered load of waste), or combination of wastes, that is: .

- 3.22.1 containerized waste (e.g., a drum, barrel, portable tank, box, pail or similar container) of a type listed in 3.22.3 through 3.22.9 of this definition, below;
- 3.22.2 waste transported in a bulk tanker;
- 3.22.3 liquid waste;
- 3.22.4 sludge;
- 3.22.5 waste from an industrial process that requires a separate permit from the jurisdictional health authority;
- 3.22.6 waste from a pollution control process that requires a separate permit from the jurisdictional health authority;
- 3.22.7 residue from an incinerator or energy recovery facility;
- 3.22.8 residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 3.22.1-.6 or 3.22.9 of this definition;
- 3.22.9 soil, water, residue, debris or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 3.22.1-.7 of this definition; or
- 3.22.10 Waste that is delisted as a Hazardous Waste under 40 CFR 260; or exempted or declassified as a dangerous waste under Washington Law.

3.23 "Owner" means, as determined by the context, Contractor or any other owner of property used to perform services under the Agreement.

3.24 "Party" or "Parties" means the County and/or the Contractor.

3.25 "Performance Bond" means bond or other financial guarantee furnished pursuant to the provisions of Article 26.

3.26 "Person" means any individual or legal entity, including without limitation any corporation, partnership or business trust.

3.27 "Prime Rate" means that rate of interest announced from time-to-time by Key Bank of Washington or successor as its prime rate.

3.28 "Problem Waste" (contaminated soils) means:

3.28.1 Soils removed during the cleanup of a remedial action site, or a dangerous waste site closure or other cleanup efforts and actions and which contain harmful substances but are not designated dangerous wastes; or

3.28.2 Dredge spoils resulting from the dredging of surface waters of the state where contaminants are present in the dredge spoils at concentrations not suitable for open water disposal and one dredge spoils are not dangerous waste and are not regulated by Section 404 of the Federal Clean Water Act (PL 95-217).

3.29 "Project" means any and all matters and things which the Agreement requires to be done, kept, performed and furnished.

3.30 "Project Manager" means the County's representative for all purposes of this Agreement, from time to time designated as such by the County.

3.31 "The Rabanco Companies" means the Washington general partnership operating under that name and any successor corporation, limited partnership, general partnership or person to that general partnership. "Rabanco Ltd., Inc." is a Washington corporation, a partner in The Rabanco Companies, and any successor corporation, limited partnership, general partnership or person to that corporation.

3.32 "RCW" means Revised Code of Washington.

3.33 "Representative" means, depending on the context, the Project Manager for the County or the Contractor's Representative for the Contractor.

3.34 "RFO/P" means the Request for Qualifications and Proposals, Klickitat County Solid Waste Landfill issued October 3, 1988, and dated October 7, 1988, together with all attachments and addenda thereto.

3.35 "Special Incinerator Ash" means residues resulting from the operation of incinerator or energy recovery facilities managing municipal solid waste, including solid waste from residential, commercial, and industrial establishments, if the ash residues: (a) would otherwise be regulated as hazardous wastes under Chapter 70.105 RCW; and (b) are not regulated as a hazardous waste under the Federal Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.

3.36 "Specifications" means the Technical Specification dated the date of this Agreement, attached and incorporated herein by this reference.

3.37 "Subcontractors" means Contractor's agent or any Person who has a contract with the Contractor for the supply of any goods or services for the Project. Subcontractors do not include individuals normally treated as employees nor does the term include lawyers or accountants. Subcontractors include Haulers.

3.38 "Surety" means such Letter of Credit bank or other Person approved by the County that provides the Performance Bond under Article 26 of this Agreement.

3.39 "Suspicious Waste" is waste that the Contractor reasonably suspects or should suspect may be Unacceptable Waste.

3.40 "Term" or "Term of Agreement" shall mean the term determined in accordance with Article 35, together with any renewal terms or extensions.

3.41 "Tipping Fees" means the rates or charges imposed by the Contractor on Persons who deliver Waste to a Facility, fixed to the extent provided in Article 13.

3.42 "Tons Per Quarter" means the total weight of Waste delivered to and accepted at the Disposal Site in a Calendar Quarter.

3.43 "TPY" means tons per year.

3.44 "Unacceptable Waste" means any and all waste that is:

3.44.1 waste that is prohibited from disposal at a solid waste landfill by state or federal law, regulation, rule, code, permit or permit condition, or by jurisdictional health authority; or

3.44.2 Hazardous Waste; or

3.44.3 Other Waste without a separate waste permit in accordance with the Specifications; or

3.44.4 Other Waste identified in 3.22.10 not approved by the County under Appendix B; or

3.44.5 any other wastes expressly excluded from Acceptable Waste as defined above.

3.45 "Uncontrollable Circumstances" means only the following and no other events: riots, wars, civil disturbances, insurrections, acts of terrorism, volcanic eruptions, lightning or earthquakes at or near any of the Facilities and/or that directly affect the operation of a Facility.

3.46 "WAC" means the Washington Administrative Code.

3.47 "WUTC" means the Washington Utilities and Transportation Commission.

3.48 "Waste" means Acceptable Waste, as the latter term is defined herein unless indicated otherwise.

3.48.1 "In-County Waste" means Waste originating within the unincorporated areas of the County or within Cities.

3.48.2 "In-County Waste" shall not include waste from any business or entity established after the Second amendment to the Agreement and disposing of amounts of 1,000 TPY or more in any calendar year. Contractor shall maintain a County-approved system of records and controls to assure that such business or entity within the County or Cities is subject to disposal fees only after disposal of 1,000 TPY or more in any calendar year.

3.48.3 In no event shall Waste originating outside of the County or Cities, but subject to processing or handling within the County or Cities, be considered In-County Waste.

4. GENERAL PROVISIONS

4.1 State Law. This Agreement shall be deemed to have been made in and shall be construed under the laws of the State of Washington.

4.2 Contractor Skill. The Contractor and its officers, employees, agents and subcontractors shall perform each and every service to be performed under this Agreement in a skillful and competent manner in accordance with solid waste disposal standards in Washington State. The Contractor shall be responsible to the County for any and all errors or omissions in the performance of this Agreement by Contractor and Subcontractors and for any and all failures to perform this Agreement.

4.3 Warranty of Personnel and Equipment. The Contractor warrants that the Facilities, materials, equipment and personnel used in the performance of this Agreement shall conform with the Specifications and shall conform to the design, operating specifications and training requirements of applicable law.

4.4 Compliance With Law.

4.4.1 General. In performing each and every service to be performed under this Agreement, the Contractor, its officers, employees, agents and subcontractors shall comply with all applicable laws, regulations, ordinances, building codes, orders and all other requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Project, and the Contractor shall accordingly give all notices and shall be responsible for obtaining all licenses and permits so required by law. The latter requirements of law include, but are not limited to, all applicable statutes, regulations and orders concerning minimum wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and nonburning requirements, permits, fees and similar subjects. The County shall have the right to inspect copies of all correspondence or any other documents sent to or from the Contractor, its officers, employees, agents or subcontractors to any government agency, federal, state, regional, county or local, relative to any and all of the requirements of law relating to this Agreement. To the extent such correspondence or other documents were submitted by the Contractor or its officers, employees, agents or Subcontractors with a designation that such correspondence or documents, or materials incorporated therein, be treated as confidential, the County agrees that such correspondence and documents shall be subject to the provisions of Section 4.5 below. All agreements between the Contractor and Subcontractors employed for this Agreement shall contain this section's requirements. The

requirements of this section shall survive the expiration of the Agreement.

4.4.2 Environmental Compliance.

(a) The County's plans and studies and federal, state and local siting and development standards indicate that Facilities could potentially be designed, constructed and operated without causing significant adverse environmental impacts that cannot be reasonably and sufficiently mitigated. The County's Comprehensive Solid Waste Management Plan identified the plan alternatives that will be implemented by the County at the project level. Any Environmental Impact Statement ("EIS") or environmental document on the Facilities shall rely on these plan-level analyses and decisions and shall focus on the project-level impacts and alternatives, including mitigation measures, specific to the Facilities. Nothing in this Agreement is intended or shall be construed as causing an adverse environmental impact or limiting the choice of reasonable project-level alternatives until a final EIS or determination of nonsignificance ("DNS"), as appropriate for a particular Facility, is issued by the County's responsible official.

(b) To further ensure that the County's reasonable alternatives for achieving lawful Waste disposal at the project-level are in no way limited by this Agreement prior to the completion of a final project-level EIS, the Comprehensive Solid Waste Management Plan and the Parties have identified reasonable alternative standby systems for disposal. In the event the Project's environmental impacts are determined to be significant and adverse and reasonable mitigation measures are insufficient to mitigate the identified impact, Waste will be handled by backup methods provided in this Agreement. The County agrees that to the extent Facilities can be developed without causing significant adverse impacts that cannot be reasonably and sufficiently mitigated under Article 4 of this Agreement and RCW 43.21C.660, the County is bound by this Agreement to allow the development of the Facilities.

4.4.3 Comprehensive Solid Waste Management Plan Updates. The County's Comprehensive Solid Waste Management Plan will be reviewed from time to time during the term of this Agreement. With respect to such reviews, the Contractor and County acknowledge that any program or plan level environmental analyses for a solid waste management plan revision may occur concurrently with project level environmental analyses related to the Contractor's construction, operation or closure of Facilities.

4.5 Confidentiality.

4.5.1 The Contractor may designate certain documents or records as Confidential Business Records, and those documents or records may be inspected by an independent accountant or other

third party designated by the County and approved by the Contractor (which approval shall reasonably be given); the third party shall summarize the contents of designated confidential materials for the County and shall be instructed to comply with the provisions of Section 4.5.3.

4.5.2 "Confidential Business Records" include all trade secrets, proprietary plans, and financial data, and the ideas and information reflected therein, which Contractor has made or may hereafter make available to the County.

4.5.3 Except as required otherwise by law, the County shall at no time use or knowingly permit any other Person or entity to examine, use or derive benefit from Contractor's Confidential Business Records without the express written consent of Contractor. The County shall not disclose any Confidential Business Records to anyone other than employees or outside consultants, attorneys or accountants who require access to such Confidential Business Records on the County's behalf; all such consultants, attorneys or accountants shall be instructed to comply with the provisions of this Section 4.5.3. Whenever the County believes that it is required by law to disclose Confidential Business Records, the County shall give prior reasonable notice to Contractor before disclosing such Confidential Business Records.

4.5.4 All documents or materials, and copies thereof, shall at all times remain the exclusive property of Contractor. The County shall not assert any proprietary rights in the Confidential Business Records.

4.5.5 Pursuant to Section 4.5.4 above, Contractor shall retain and make available for inspection by the County or its agents originals, as revised or amended, of all records and documents reasonably relating to (a) the selection of Contractor following the RFQ/P; (b) the design and construction of the Disposal Site; (c) the operation and closure of the Disposal Site; and (d) "as built" records and plans for all Facilities.

4.5.6 Contractor shall pay all costs, fines, judgments or other amounts, including but not limited to reasonable attorney fees, ordered, levied or imposed against the County as a result of the nondisclosure of Confidential Business Records.

4.5.7 This Section 4.5 shall survive termination or expiration of this Agreement.

4.6 Time of Essence. Time limits stated in this Agreement are of the essence. No waiver of the Agreement time limits or schedule dates is to be construed by either Party's failure to object to untimely performance under the Agreement. In any event, any waiver of such time limits or schedules shall not be construed as a waiver of any future time limits or schedules.

4.7 Accounting Systems. The Contractor shall at all times maintain an accounting system that uses generally accepted accounting principles for all services rendered and materials supplied in connection with this Agreement. The Contractor's accounts and records covering these charges and all invoices and payments on account of this Agreement shall be open to inspection for any reasonable purpose by the County, any City, their authorized representatives and officers or employees of the State of Washington at all reasonable times during the Term of Agreement and for six (6) years thereafter. The County shall have the right to inspect and copy all records and documents, to interview any persons, and to review any evidence in Contractor's possession or control which may assist the County in determining what amounts are owed to the County. All records and documents subject to this Section 4.7 shall be subject to the provisions of Section 4.5.

4.8 Payment to Subcontractors.

4.8.1 Except where a reasonable dispute exists concerning a payment, the Contractor shall promptly pay all Subcontractors or laborers engaged for purposes of this Agreement in accordance with any and all contracts between any such persons (or entities) and Contractor. The Contractor agrees promptly to remove or have removed any liens or encumbrances which, because of any act or default of Contractor, its officers, employees, or agents or of Contractor's Subcontractors or sub-subcontractors, or Facility owners or operators, are filed against a Facility or against any property, real or personal, which Contractor, its officers, employees, Subcontractors, and other agents would require to fully perform this Agreement; and to defend, indemnify, and save the County harmless pursuant to Article 16 of this Agreement.

4.8.2 Contractor shall not be deemed in violation of this Section 4.8 with respect to mechanics', workers' or material suppliers' liens arising in the ordinary course of business with respect to obligations which are being contested in good faith; Contractor shall not be entitled to rely on this Section 4.8.2 unless Contractor also establishes to the County's reasonable satisfaction that in the event Contractor loses such contest, Contractor has made adequate provisions to pay for the liability claimed under the lien.

4.9 Compliance With RCW 36.58.090(7). The Contractor shall comply with applicable requirements of RCW 36.58.090(7).

4.10 No Public Official Liability. No provision or provisions of this Agreement nor any authority granted by this Agreement is intended to create or result in any personal liability for any public official or employee or agent of the County, nor shall any provision or provisions of this Agreement be construed to create any such liability.

4.11 Severability. If any term or provision of this Agreement, or the application thereof to any Person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law. Further, the Parties shall negotiate in good faith regarding amendments to this Agreement that would, to the maximum extent possible, effectuate the intent of any provision determined to be invalid or unenforceable.

4.12 Agreement Provisions Applied. The Contractor shall comply with each and every provision of the Agreement binding on Contractor, and County shall comply with each and every provision of the Agreement binding on County.

4.13 Non-Waiver. A waiver by either Party of any breach of any provision hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of the breach. Where the condition to be waived is a material part of the Agreement such that its waiver would affect the essential bargains of the Parties, the waiver must be supported by consideration and take the form of an Agreement modification.

4.14 Venue. The Parties agree that proper and exclusive venue for any and all actions under this Agreement shall be either in the Superior Court of the State of Washington in Klickitat County or the U.S. District Court for the Eastern District of Washington, at Yakima.

4.15 Facility Ownership--Covenants--Title Insurance.

4.15.1 The Contractor warrants that it owns or will own the Facilities or has or will have rights to use the Facilities in the manner contemplated herein, and that the use of the Facilities as contemplated herein will conform to Washington state and local land use, environmental and other applicable laws. Within ten days of Agreement execution or within ten (10) days of Facility acquisition, Contractor shall execute and deliver to the County a covenant with respect to the Disposal Site or Drop Box/Recycling Centers and shall record in the County that covenant. The covenant shall have a term at least as long as the Term of Agreement, and shall be in a form approved by the County's Prosecuting Attorney. That covenant shall be attached to a copy of this Agreement (which shall be incorporated by reference in the covenant) and shall provide, among other things, that:

(a) Owner grants to the County a covenant that touches and concerns all real property used for the Disposal Site, Drop Box/Recycling Centers, and sites for cover/liner materials for the Disposal Site;

(b) Except as otherwise provided in this Agreement for Drop Box/Recycling Centers, owner covenants that such property is and shall be kept free of all liens, mortgages, encumbrances, and any other interests which could in any way interfere with the performance of this Agreement or with any of the County's remedies against Contractor or Surety for any default under this Agreement;

(c) Owner covenants that any transfer of any interest in said property and any liens or encumbrances placed against the property shall render the claims and rights of transferee, the lienors, the Contractor and the Surety subordinate to the claims and rights of the County under this Agreement; and

(d) The covenant shall run with the land.

4.15.2 The following shall not be considered defaults under the covenant(s) required under Section 4.15.1: (a) liens for taxes not yet delinquent or being contested in good faith by appropriate proceedings; and (b) mechanics', workers', or material suppliers' liens arising in the ordinary course of business with respect to obligations which are being contested in good faith. Contractor shall not be entitled to rely on this good faith contest provision unless Contractor also establishes to the County's reasonable satisfaction that in the event Contractor loses such contest, Contractor has made adequate provision to pay for the liability claimed under the lien.

4.15.3 Within ten (10) days of Contractor's acquisition of property rights for Disposal Site and Drop Box/Recycling Centers the Contractor shall provide the County with copies of current title insurance policies, each guaranteeing that the Contractor has good title to that real property and that there are no liens or encumbrances against that property that would prevent the Contractor from using it for the purposes contemplated herein. Within ten (10) days of Contractor's acquisition of property rights for Facilities the Contractor shall record in the County a memorandum of agreement with respect to this Agreement.

4.15.4 In the event Contractor believes that construction and operation of the Disposal Site will be primarily for in-County Waste only, and that accordingly, after the eighth anniversary of this Agreement, Disposal Fees may not be in the best interest of the County, Contractor shall notify County, and Contractor and County shall meet to determine the continuing desire of County for the Disposal Site. If the Parties agree to defer Contractor's obligation to construct the Disposal Site,

then the provisions of this Section 4.15 shall not apply to the Disposal Site until such time as a determination is made to construct the Disposal Site. If the Parties agree to delete Contractor's obligation to construct the Disposal Site, the Parties shall negotiate in good faith the termination or modification of this Agreement (including without limitation appropriate modification of the Performance Bond).

4.16 No Third Party Beneficiary. The rights and obligations created by this Agreement are for the sole benefit of the Parties, their successors or assigns and no Person not a Party shall be a beneficiary, intended or otherwise, of any such rights or be entitled to enforce any of the obligations created by this Agreement.

4.17 Headings. Any headings to articles, sections or paragraphs appearing herein are not part of the terms of this Agreement and shall not be interpreted as such.

4.18 Construction. This Agreement has been freely and fairly negotiated by the Parties hereto and has been reviewed and discussed by legal counsel for each of the Parties, each of whom has had the full opportunity to modify the draftsmanship hereof and, therefore, the terms of this Agreement shall be construed and interpreted without any presumption or other rule requiring constructional interpretation against the Party causing the drafting of the Agreement.

4.19 Complete Agreement. This Agreement contains the complete statement of the understanding of the Parties with respect to the subject matter of this Agreement. There are no other representations, agreements, or understandings, oral or written, by the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. Each Party acknowledges and represents to the other Party that it is executing this Agreement solely in reliance upon its own judgment and knowledge and that it is not executing this Agreement based upon the representation or covenant of the other Party, or anyone acting on such Party's behalf, except as expressly stated herein. Any modifications or amendments to this Agreement shall be approved in writing by both Parties.

5. INTENT OF THE AGREEMENT

5.1 All services that are necessary to complete and carry out the Project within the limits and in the manner established by this Agreement shall be considered as a part of the Project and such services shall be executed by Contractor without extra compensation.

5.2 Unless expressly agreed otherwise, Contractor shall provide and pay for, as provided in this Agreement, all recycling, transfer, transport and Disposal Site access, services, labor, overtime labor, standby labor, methods, materials, equipment, transportation, power, fuel, water, taxes and all other Facilities and services, and all other items and Facilities of every kind necessary for performance of the Project.

5.3 The Agreement and each of the Agreement Documents are complementary, and they shall be interpreted so that what is called for by one shall be as binding as if called for by all. Should a Party observe any conflicts between or duplications of any provisions of the Agreement or any material omissions from the Agreement, it shall bring them to the attention of the other Party for decision and mutual revision immediately after originally observed.

5.4 The Contractor and the County shall meet to resolve in good faith omissions or discrepancies in the provisions of this Agreement.

5.5 It is understood and agreed that, by execution of this Agreement, the County does not waive or surrender any of its governmental powers.

5.6 It is the intent of the Parties that the authorization to receive Waste from cities and counties within and without the State of Washington under Section 2.4 not be superceded by federal law enacted subsequent to May 26, 1989; provided, however, that such authorization to receive Waste may be broadened by federal law enacted subsequent to May 26, 1989.

6. CONTRACTOR'S REPRESENTATIVE

6.1 The Contractor shall provide the services of a Representative for the Term of Agreement.

6.2 The Contractor's Representative shall be the Contractor's agent and shall be in charge of the Project at all times. The Contractor's Representative shall have authority to furnish estimates on behalf of the Contractor and the Representative's statements, representations, actions and commitments shall fully bind the Contractor.

6.3 The Contractor's Representative shall represent Contractor for all purposes of this Agreement, and all directions, instructions, or notices given to that Representative by the County shall be as binding upon Contractor as if delivered personally to the Contractor.

6.4 The Contractor's Representative shall inform the County of any changes the Contractor proposes to make with respect to actions required of it under this Agreement.

6.5 The Contractor promptly shall inform the County in writing of any change in the Person designated as Contractor's Representative.

7. INDEPENDENT CONTRACTOR

7.1 The Contractor shall perform all work under this Agreement as an independent contractor. The Contractor is not and shall not be considered an employee, agent or servant of the County for any purposes, under this Agreement or otherwise; neither shall any of Contractor's Subcontractors, employees or agents be, nor shall they be considered, employees, agents, subagents, or servants of the County for any purposes under this Agreement, or otherwise.

7.2 The Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all Persons performing the same. The Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between the County and the Contractor. Nothing in the Agreement shall be construed as giving the County any duty to supervise or control any acts or omissions of any Person, entity or party, which acts or omissions are in any way connected with the Disposal Site or with the performance of services under the Agreement.

8. SUBCONTRACTORS

8.1 The Contractor shall submit to the County the names and addresses of all proposed Subcontractors for each of the major items of the Project (over \$100,000 total, or per year). All Subcontractors shall be subject to review by the County. All Subcontractors specified in the Specifications shall be subject to approval by the County.

8.2 All contracts in connection with the Agreement entered into by Contractor with its Subcontractors, officers, employees, and agents, including all contracts relating to operation or ownership of Disposal Sites and any other Facilities shall be subject to each and every term and condition of this Agreement. All written subcontracts with Subcontractors (other than those written subcontracts in the form of standard purchase orders involving less than \$100,000 in goods or services) shall contain a clause which provides that if the Contractor defaults in performance of the Agreement and the County accepts assignment of the subcontract under Article 27, the Subcontractor shall recognize the County or its assignee as Contractor and the County or its assignee shall have all the rights, remedies and responsibilities of the Contractor under the relevant subcontract. The Contractor shall be as fully responsible to the County for the acts and omissions of its Subcontractors and of the subcontractors, suppliers, employees, firms, agents or servants of each Subcontractor, as it is for the acts or omissions of its own employees or agents.

8.3 The Contractor shall exercise all reasonable efforts to employ Subcontractors doing business in the County.

9. CONTRACTOR'S BASIC RESPONSIBILITIES

9.1 The Contractor shall construct or otherwise provide for, test, obtain all approvals for and/or, except as otherwise provided in this Agreement, operate, in accordance with the Specifications and Schedule:

9.1.1 Four (4) Drop Box/Recycling Centers, to be constructed at such time as Contractor constructs the Disposal Site. The Drop Box/Recycling Centers shall be located at or near Goldendale; Dallesport; B-Z Corners, White Salmon or other location in western County approved by County; and the Disposal Site, or at such other locations as may be agreed upon by the Parties. The Drop Box/Recycling Centers may be leased by the Contractor to Haulers for the consolidation of Waste commercially collected within unincorporated Klickitat County and within the Cities, and transfer of Waste by such Haulers to the Disposal Site;

9.1.2 Loading and unloading Facilities at the Drop Box/Recycling Centers (loading and unloading operations at the centers may be undertaken by the lessee Haulers);

9.1.3 Facilities for recycling Waste handled at the Drop Box/Recycling Centers and transporting to appropriate facilities such recyclable waste;

9.1.4 Final disposal of the Waste referred to in Section 9.1.1;

9.1.5 Household Hazardous Waste drop-off Facilities in accordance with the Specifications; and

9.1.6 One Disposal Site.

During the Term of Agreement, the Contractor shall accept and dispose of all the Waste referred to in Section 9.1.1, using the Facilities described above.

9.2 The Contractor shall be responsible for obtaining all required permits and approvals for, and mitigating impacts of, its operations and activities under this Agreement in accordance with law.

9.3 The Contractor shall be solely responsible for the Facilities closure and post-closure activities.

9.4 The Contractor shall pay all Agreement fees, federal, state and local taxes and other fees and taxes imposed on the Contractor in connection with the Facilities and Contractor's operations.

9.5 The Contractor shall make available and use backup Facilities in accordance with this Agreement and the Specifications.

9.6 The Contractor shall enter into contracts with Waste Haulers, and with Persons who deliver substantial volumes of Waste to the Facilities, in accordance with Article 19 of this Agreement. Nothing in this Agreement shall preclude Contractor's development of other facilities outside of Klickitat County, provided, however, that Contractor shall continue to use its reasonable efforts for continued, preferential use of the Disposal Site for the term of this Agreement.

9.7 The Contractor shall promptly notify the County of any other major customers whom it anticipates serving with any of the Facilities. The notice shall include proposed volumes, type of service, length of contract and tipping fees, and a copy of any contract executed with that customer. The Contractor shall also notify the County of any losses of major customers served by the Facilities.

9.8 Contractor will comply with all federal, state, or local employment and equal opportunity laws. Contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, handicap, marital status or sex. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, handicap, marital status or sex.

9.9 Contractor shall not construct, own or operate in the County a facility for:

9.9.1 Storage or treatment of Hazardous Waste, except as necessary to comply with Contractor's obligations under this Agreement.

9.9.2 Disposal of Hazardous Waste.

10. SEPARATE CONTRACTS

The County reserves the right to let other contracts in connection with the collection and/or recycling of in-County Waste, and interlocal contracts with other municipal corporations for disposal of Waste or designation of solid waste handling Facilities, so long as those other contracts do not conflict with the County's obligations to the Contractor under this Agreement. The Contractor shall use its reasonable best efforts to cooperate with other Persons, contractors, or subcontractors engaged by the County, and with City-regulated or WUTC-certified Haulers, so that the Project and the County's Comprehensive Solid Waste Management Plan may be implemented in the most efficient and timely manner, without any interference with work on related projects.

11. COUNTY'S BASIC RESPONSIBILITIES

11.1 So long as Contractor's Facilities are operationally available, the County shall designate those Facilities so as to cause all Waste commercially collected in unincorporated areas of Klickitat County and not diverted from the wastestream by legal self-haul, self-disposal or curbside (pre-collection) recycling activities to be delivered to the Contractor for transfer and disposal in accordance with this Agreement. The County shall enact, maintain and enforce appropriate laws to carry out the requirements of this Section. However, the County does not guarantee the amount of Waste that will originate within the County within any time period.

11.2 The County shall use its reasonable best efforts to enter into and maintain and enforce intergovernmental agreements with the Cities. The County shall use its reasonable best efforts to obtain in those agreements:

11.2.1 Authority to designate Facilities for Waste commercially collected in those Cities; and

11.2.2 Each City's agreement to enact, maintain and enforce appropriate laws to carry out the provisions of this Section 11.2.

11.3 When the County reviews or revises the Plan, the County shall use its reasonable best efforts to maintain the Plan in a form consistent with the provisions of this Agreement.

11.4 The County and Contractor shall cooperate to establish and maintain an educational program for its residents regarding Hazardous Waste reduction and disposal.

11.5 In response to Contractor's reasonable requests for information and assistance, consistent with the terms of this Agreement, the County shall cooperate with the Contractor and exercise reasonable best efforts to help secure Waste from outside the County for the Disposal Site, and to provide information and assistance to the Contractor.

11.6 The County shall cooperate with Contractor and exercise reasonable best efforts to assist Contractor in the processing of permits, licenses, and certificates for the Project.

11.7 It is not the County's responsibility to notify the Contractor when to begin, cease or resume the Project, nor to give early notice of rejection of faulty work, nor in any way to supervise so as to relieve the Contractor of any liability, any responsibility or any consequences for neglect, negligence or carelessness or for substandard or defective work or for use of substandard or defective materials or equipment by the Contractor, its officers, employees, Subcontractors or agents.

11.8 Exclusivity and Rights of First Offer.

11.8.1 During the Term of Agreement, the County shall not enter into any contracts or take other action to allow any out-of-County waste to enter the County for purposes of disposal at a landfill located in the County unless the Contractor has, during each of the prior two (2) calendar years, disposed of Waste at the Disposal Site in quantities greater than 50,000 tons less than Approved Waste Volumes. In the event that, pursuant to the foregoing exception, the County decides to entertain any proposals or offers from third parties for the siting, construction, or operation of a landfill in the County that accommodates out-of-County solid wastes, the following right of first offer procedures shall apply: prior to requesting (or otherwise entertaining) proposals or offers from third parties, the County shall request a proposal or offer from the Contractor. Contractor shall have a reasonable period in which to respond. If Contractor responds and the County elects not to accept Contractor's offer or proposal, the County shall thereafter be free to request offers or proposals on the same basis as requested of the Contractor, from third parties but the County shall not accept offers unless Contractor is given a reasonable opportunity to match third parties' terms. In the event the Contractor fails to match third parties' terms, or in the event the Contractor does not respond within a reasonable period of time to the County's original request, the County shall be free of any further restrictions under this Section with respect to the request for proposal or offer initially presented to the Contractor.

11.8.2 Nothing in this Section 11.8 shall impair, restrict or otherwise limit the County's exercise of its police power.

11.9 Interlocal Agreements.

The County shall provide Contractor with written notice 30 days prior to the anticipated effective date of any interlocal agreement for disposal at the Disposal Site of out-of-County Waste. Such notice shall state the material terms of the proposed interlocal agreement, including but not limited to any provision for assignment of rights relating to indemnification and insurance, and an estimate of waste volumes to be delivered pursuant to the proposed interlocal agreement. Contractor shall notify County of its assent, conditional assent or refusal to accept such out-of-County Waste not less than 21 days prior to the anticipated effective date of the proposed interlocal agreement.

12. AGREEMENT FEES -- COUNTY COMPENSATION

12.1 Initial Fee. Within thirty (30) days of the execution of this Agreement, Contractor shall first pay to the County \$400,000. Within thirty (30) days of the execution of the first Amendment of this Agreement, Contractor shall pay to the County \$25,000, and within sixty (60) days of the execution of the first Amendment of this Agreement, Contractor shall pay to the County an additional \$25,000.

12.2 Administrative Fee. The Contractor shall pay quarterly to the County an Administrative Fee, as follows:

| <u>Tons per Quarter (TPQ)</u> | <u>Quarterly Administrative Fee</u> |
|-------------------------------|---|
| 0 to 20,000 TPQ | \$10,000; |
| 20,000 to 62,500 TPQ | \$.50/Ton (Delivered Tons) (\$.50); |
| 62,500 to 125,000 TPQ | \$.40/Ton (62,500) (\$.50) + (Delivered Tons - 62,500) (\$.40); |
| 125,000 to 187,500 TPQ | \$.30/Ton (62,500) (\$.50) + (62,500) (\$.40) + (Delivered Tons - 125,000) (\$.30); |
| 187,500 to 250,000 TPQ | \$.25/Ton (62,500) (\$.50) + (62,500) (\$.40) + (62,500) (\$.30) + (Delivered Tons - 187,500) (\$.25). |

The Administrative Fee shall begin to accrue with the Final Permitting of the Disposal Site and shall be paid to the County within fifteen (15) days of the last day of each Calendar Quarter.

12.3 Quarterly Solid Waste Fee.

12.3.1 The Contractor shall pay quarterly to the County a Solid Waste Fee, as follows:

| <u>Tons per Quarter (TPQ)</u> | <u>Quarterly Solid Waste Fee</u> |
|-------------------------------|--|
| 0 to 62,500 TPQ | \$.50/Ton, but not less than \$15,000 per quarter; |
| 62,500 to 125,000 TPQ | \$1.75/Ton (62,500) (\$1.25) + (Delivered Tons - 62,500) (\$1.75); |
| 125,000 to 187,500 TPQ | \$2.25/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (Delivered Tons - 125,000) (\$2.25); |
| 187,500 to 250,000 TPQ | \$2.75/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (62,500) (\$2.25) + (Delivered Tons - 187,500) (\$2.75); |
| Over 250,000 TPQ | \$3.00/Ton (62,500) (\$1.25) + (62,500) (\$1.75) + (62,500) (\$2.25) + (Delivered Tons - 250,000) (\$3.00). |

The Solid Waste Fee shall be paid to the County within fifteen (15) days of the last day of each Calendar Quarter.

12.3.2 In addition to the Solid Waste Fee, above, Contractor shall pay to County twenty-five percent (25%) of the difference between the Threshold Fees in 12.3.2(a) and the actual Tipping Fee for each ton of Waste.

(a) Threshold Tipping Fees.

| | |
|--------------------------|-------------|
| Asbestos: | \$75/ton |
| Problem Waste: | \$30/ton |
| Special Incinerator Ash: | \$50/ton |
| Municipal-Solid Waste: | \$22.50/ton |

(b) Adjustments. The Threshold Tipping Fee ("Threshold Fee") set forth at Section 12.3.2(a) shall be subject to upward or downward adjustment annually, and the Guaranteed

Disposal Fee under Article 13 shall be adjusted annually in accordance with this Section 12.3.2(b):

(i) For Changes in Law. The Threshold Fee and Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of a Change in Law. For purposes of this Section 12.3.2 and Article 13, "Changes in Law" means any change in or new law, order, rule, or regulation of any nature which requires the Contractor to make additional expenditures in Facilities, labor or equipment or to incur additional costs in connection with its performance of services hereunder or which has the result of decreasing the costs incurred by Contractor in connection with its performance of services hereunder. "Changes in Law" shall not be deemed to include new regulations under Chapter 70.105 RCW and under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act (Subtitle D, 40 CFR Pt. 257), any court order in respect of which Contractor failed to pursue reasonable appeals, and any order or rule adopted, issued, or promulgated because of a failure of Contractor to meet its obligations under any law, rule, regulation, or permit or license. In determining increases or decreases in costs of performance to Contractor, capital costs or savings shall be amortized over the reasonably expected useful life of the item in question. Increases or decreases in costs of performance shall be based only on the actual cost increase or decrease (including a reasonable overhead factor) and shall not include any profit factor.

(ii) For Changes in Taxes. The Threshold Fee and the Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of Changes in Taxes. For purposes of this Section 12.3.2 and Article 13, Changes in Taxes means any ad valorem or similar tax which is imposed on or removed from the Facilities (including, without limitation, the Contractor's personal property used in connection with the same) or any increase or decrease in such types of taxes, or any tax, assessment or other charge which is imposed by any government entity on the Contractor in respect of the activities of the Contractor carried on in connection with its performance hereunder or any increase or decrease in such types of taxes. With respect to Article 13 Fees, under no circumstances shall Changes in Taxes provide for adjustment in connection with the imposition, removal or increase or decrease of taxes measured by Contractor's net income unless such newly imposed or removed taxes or such increases or decreases are imposed specifically on operators of solid waste landfills. The imposition, removal, increase or decrease of taxes measured by Contractor's net income may however constitute Changes in Taxes with respect to the Threshold Fee. This Section 12.3.2(b)(ii) shall not be construed to include Changes

in Taxes as a result of changes in assessed valuation of property for ad valorem taxation.

(iii) For Changes in Insurance Premiums. The Threshold Fee and Guaranteed Disposal Fee shall be increased or decreased by the same percentage as Contractor's costs of performance under this Agreement are increased or decreased as a result of a change in Insurance Premiums. For purposes of this Section 12.3.2 and Article 13, "Changes in Insurance Premiums" means increases or decreases in premiums Contractor must pay to maintain the insurance coverage required pursuant to Article 17, except to the extent (1) such increases are attributable to failures by the Contractor to operate the Facilities in accordance with all applicable laws and permit conditions, requirements of the particular insurance policy or other requirements of this Agreement, or (2) such decreases are attributable to improvements made by the Contractor to the Facilities or their operations which were not required by law, rule, regulation, permit condition, or the terms of this Agreement.

(iv) For Changes in Facility Costs. The Threshold Fee shall be increased as necessary to reflect any actual increases or changes to Contractor's costs for separate Disposal Site facilities (including materials, operations or services) required for compliance with special terms of contracts for disposal purposes to the extent such costs are not reflected in paragraphs (i), (ii) or (iii) above.

(v) If either Party believes that a Change in Law, Change in Taxes, Change in Insurance Premiums or Change in Facility Costs has occurred that would entitle it to an adjustment in the Threshold Fee or Guaranteed Disposal Fee, it shall promptly notify the other Party. In the event Contractor gives such notice to County, Contractor shall provide adequate information and documentation (including, without limitation, back-up records on costs incurred or to be incurred by Contractor in connection with Changes in Law) to justify Contractor's proposed adjustment. In the event the County notifies Contractor that it believes it is entitled to an adjustment, Contractor shall provide its responding notice within sixty (60) days of the County's notice. Contractor's proposal shall become final and binding unless the County, within sixty (60) days of notice of the Contractor's proposal, notifies Contractor that it disagrees with Contractor's adjustment, in which event the Parties shall seek to resolve their differences in good faith within sixty (60) days of the County's notice of disagreement. If the Parties are unable to resolve the matter, the issue shall be settled by arbitration pursuant to the provisions of Article 28.

12.4 Annual Adjustments in Fees. The fees listed in Sections 12.2 and 12.3.1 were effective in 1989, and do not reflect subsequent adjustment under this Section. After the first year of the Agreement, the Administrative Fee and Solid

Waste Fee in Sections 12.2 and 12.3.1, and the Guaranteed Disposal Fee under Article 13 shall be adjusted annually, in the third Calendar Quarter of the year, by multiplying:

12.4.1 The relevant fee for the prior four (4) Calendar Quarters ("Base Year") (the fees for the Base Year shall include all adjustments made in such Base Year pursuant to Section 12.3.2), times

12.4.2 One (1) plus the product of (a) and (b) below:

(a) The weighted average of the Consumer Price Index ("CPI") adjustments allowed by the Contractor's Long Term Contracts (contracts for terms of five (5) or more years) for disposal of Waste at the Disposal Site. The weighted average under this Section 12.4 shall be calculated by multiplying (i) tonnage delivered under each Long Term Contract during the Base Year by (ii) the percentage CPI adjustments allowed under that contract. The sum of those calculations shall then be divided by the total volume of Waste delivered under Long Term Contracts during the Base Year. For example, if Contractor had two ten-year contracts and two fifteen-year contracts, the first two allowing a 90% CPI adjustment and the latter two allowing an 80% CPI adjustment, and Waste volumes delivered under the Long Term Contracts during the Base Year were 900, 800, 500 and 300, respectively, calculations under this Section 12.4 would yield:

$$\begin{array}{r} .90 \times 900 = 810 \\ .90 \times 800 = 720 \\ .80 \times 500 = 400 \\ .80 \times 300 = \underline{240} \\ \hline 2,170 / (900 + 800 + 500 + 300 = 2,500) = 86.8\% \end{array}$$

(b) The percentage change in the Consumer Price Index.

12.5 The Threshold Fee shall be adjusted annually by the percentage change in the CPI.

12.6 The Administrative Fee and the Solid Waste Fee shall not apply to in-County Waste delivered to the Disposal Site.

12.7 Nothing in this Article 12 shall impair the County's enforcement or collection of fees for licenses or permits granted to Contractor, or costs and legal fees incurred in the environmental and construction review, monitoring, or defense of issuance of such licenses or permits.

13. TIPPING FEES -- CONTRACTOR COMPENSATION

13.1 In-County Waste.

13.1.1 Disposal Fee: Prior to Disposal Site Operation.

(a) Contractor guarantees that disposal fees for in-County Waste delivered by a Hauler to a disposal site (other than Horsethief Landfill or the Disposal Site) shall not exceed twelve dollars (\$12.00) per ton ("Guaranteed Disposal Fee"). The Guaranteed Disposal Fee shall be subject to adjustment as set forth in Sections 12.3.2(b) and 12.4, commencing as of execution of this Agreement. The Parties recognize that any fees for transportation of in-County Waste in the circumstances contemplated by this Section 13.1.1(a) will be subject to regulation of Haulers by Cities or the WUTC, and will not be the Contractor's responsibility.

(b) The guarantee in Section 13.1.1(a) shall remain binding on Contractor for eight (8) years from the date of execution of this Agreement. Thereafter, the Disposal Fee shall be set by Contractor at commercially reasonable rates.

13.1.2 Disposal Fee: After Commencement of Disposal Site Operations.

(a) Upon Final Permitting of the Disposal Site, except as provided in Section 13.1.2(b), there shall be no disposal fee for in-County Waste received at the Disposal Site.

(b) In the event Contractor constructs the Disposal Site by agreement with the County under Section 4.15.4, the disposal fee for in-County Waste received at the Disposal Site shall be set by Contractor at commercially reasonable rates. Notwithstanding the foregoing, however, Contractor shall not charge a disposal fee for in-County Waste received at the Disposal Site greater than that charged for out-of-County Waste received at the Disposal Site.

13.1.3 Disputes. In the event of dispute concerning a Disposal Fee under this Section 13.1, the matter shall be submitted to arbitration pursuant to Article 28. For purposes of Section 13.1, "commercially reasonable rates" shall be determined to provide a commercially reasonable rate of return comparable to those of operations similar to Contractor in Eastern Washington and Eastern Oregon, with similarly designed, constructed and operated facilities.

13.2 Out-of-County Waste. Contractor shall have sole discretion in bidding and/or establishing tip and hauling fees for out-of-County Waste. Out-of-County Waste received at the Disposal Site under interlocal agreements between County and other municipal corporations shall be subject to Contractor's tip

(disposal) fee established from time-to-time, unless otherwise set forth in writing between County and Contractor.

14. ALLOCATION OF RISK/FORCE MAJEURE

14.1 Prior to submitting its response to the RFQ/P, the Contractor acquainted itself with potential disposal sites, other potential facility sites and all other conditions relevant to the Project, and made all investigations essential to a full understanding of the difficulties which may be encountered in performing the Project.

14.2 The Contractor warrants that prior to submitting its response to the RFQ/P and prior to signing this Agreement, it has examined carefully all of the Specifications, acquainted itself with Facilities and all other conditions and regulations relevant to the Project, and made all investigations essential to a full understanding of any and all difficulties which may be encountered in performing the Project.

14.3 By entering into the Agreement, the County does not warrant or admit the correctness of any investigation, interpretation, deduction or conclusion relative to the Disposal Site or any of the other Facilities. The Contractor has made and shall make its own deductions and conclusions as to any and all problems which may arise from Facility site conditions, and shall accept solely for itself full legal responsibility and liability therefor.

14.4 The obligations of the Contractor to perform the Project are subject to Uncontrollable Circumstances which necessarily and unavoidably prevent performance of the Project. Both Parties agree that no events other than Uncontrollable Circumstances, however catastrophic or uncontrollable, shall excuse nonperformance of the Project by Contractor.

14.5 In the event either Party is rendered unable, wholly or in part, by the occurrence of Uncontrollable Circumstances, to carry out any of its obligations under this Agreement, then the obligations of that Party, to the extent affected by such occurrence and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Any time that such a Party intends to assert the occurrence of an event of Uncontrollable Circumstances as a basis to suspend performance, that Party shall notify the other Party immediately or as soon as reasonably possible, setting forth the particulars of the situation. Notice shall again be given immediately after the effect of the occurrence of such event has ceased. If the Contractor notifies the County of its inability to carry out any provisions of the Agreement due to Uncontrollable Circumstances, the Contractor shall as soon as practicable submit to the County a plan for correcting or reconstructing the Facilities made inoperable due to those Uncontrollable Circumstances, together with the schedule, cost, and proposed financing method.

14.6 If any of the Facilities are damaged or destroyed due to explosion, landslides, floods, epidemics, fire, vandalism, or other events for which the Contractor is obligated to carry insurance, the Contractor shall act diligently to promptly collect and apply insurance proceeds to the correcting or reconstructing of those Facilities. Upon the occurrence of such an event, the Contractor shall as soon as practicable submit to the County a plan for correcting or reconstructing the Facilities, including the schedule and cost therefor.

14.7 Notwithstanding the provisions of Sections 14.5 and 14.6, in the event that Contractor fails or is unable to dispose of any in-County Waste which it is obligated to dispose of under the terms of this Agreement because Uncontrollable Circumstances or an event itemized in Section 14.6 materially and adversely affects Contractor's ability to accept or dispose of such Waste, the Contractor shall use its reasonable best efforts to make available to the County alternative disposal arrangements for disposal at another solid waste disposal site, at the prevailing solid waste disposal fee then in effect for the majority of Waste disposed of at that site, for the period during which such event continues. Failure of Contractor to secure alternative disposal arrangements when an event of Uncontrollable Circumstances has occurred shall not be deemed a breach of this Agreement if Contractor has exercised its reasonable best efforts to make such alternative arrangements.

15. TITLE OF WASTE, HANDLING OF UNACCEPTABLE OR HAZARDOUS WASTE

15.1 Title to any and all Waste or purported Waste or other materials contained in each load delivered to the Disposal Site, whether or not that waste is Acceptable Waste, shall pass to the Contractor if Contractor fails to indicate in writing on the manifest accompanying the waste delivery that Contractor has deemed the waste contained in the load of waste to be Suspicious Waste or Unacceptable Waste within three (3) hours, or such other period as may be reasonably agreed upon by County, after the load of waste is delivered to and unsealed at the Disposal Site. After any testing is performed on Suspicious Waste, title to such waste passes to Contractor unless the results of such testing indicate that the waste is Unacceptable Waste.

15.2 If the Contractor receives Unacceptable Waste, including Hazardous Waste, and fails to identify it within three (3) hours of delivery to and unsealing at the Disposal Site or such other period as may be reasonably agreed upon by County, the Contractor may at its option return that waste to the Person who delivered it in accordance with this Agreement or regulations established under Section 15.3, or may dispose of that Unacceptable Waste in a manner consistent with applicable law and charge the responsible Person for the cost of that disposal. If the Contractor is unable to identify the Person responsible for the nonconforming delivery and return the waste to that Person, the Contractor shall dispose of that Unacceptable or Hazardous Waste in accordance with law, at Contractor's sole expense.

15.3 Contractor shall establish procedures, consistent with good practice and procedures in the solid waste disposal industry, and reasonably acceptable to the County: (a) for identification of Unacceptable Wastes as soon as possible following delivery to Facilities, and (b) for Contractor's acceptance of Waste.

15.4 Under the procedures developed by the Contractor pursuant to Section 15.3, Contractor shall have the right to revoke acceptance of any wastes. Upon such revocation, title to such wastes shall be deemed to revert back to the Person who delivered such wastes.

15.5 In the event Contractor notifies any Person pursuant to Section 15.3 or 15.4 that delivered wastes may contain Unacceptable Wastes, such Person shall be required to remove those wastes from the Facilities and dispose of those wastes in a manner consistent with applicable law. In the event such Person fails or refuses to remove those wastes within a reasonable period of time, Contractor shall remove those wastes from the Facilities and shall dispose of them in a manner consistent with applicable law. The Contractor shall be responsible for all costs, damages, events or liability related to Unacceptable Waste and Hazardous Waste not returned to another Person in accordance with this Article 15. Nothing in this Article shall be construed

to impair Contractor's contractual or other rights to seek reimbursement for all such costs from Haulers or Persons who delivered such wastes to the Facilities.

15.6 Upon refusal to accept waste, or upon revocation pursuant to Section 15.4 and subsequent removal of waste from the Disposal Site, Contractor shall be entitled to a credit for fees paid under Article 12 in respect of such waste.

16. INDEMNIFICATION

16.1 The Contractor will at all times indemnify and hold harmless and defend the County and any City, their elected officials, officers, employees, agents and representatives (collectively "County") from and against any and all losses, damages, costs, charges, expenses, judgments and liabilities, including reasonable attorneys' fees (including attorneys' fees in establishing indemnification of whatsoever nature), collectively referred to herein as "losses," directly or indirectly resulting from, arising out of, or related to one or more claims, as hereinafter defined.

16.2 The Contractor shall indemnify and hold harmless the County from and against any and all claims, and all expenses arising from such claims, including but not limited to reasonable attorneys' fees and any and all costs, if such claims or expenses allegedly or actually arise or result, directly or indirectly, from, or are in any way connected with: (1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, Subcontractors, agents or servants; (2) any of the acts or omissions of Contractor, its officers, employees, Subcontractors, agents or servants at any of the Facilities; (3) the failure of Contractor, its officers, employees, Subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes, orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Facilities or relevant activities of the Contractor; or (4) any release or emission, or threatened release or emission by any Person, entity or entities at, onto, into, above, under, through or from any of the Facilities.

In addition, the Contractor shall upon demand of the County and at Contractor's sole cost and expense, defend and provide qualified attorneys acceptable to the County under service contracts acceptable to the County to defend the County, its officers, employees, agents and servants against any and all claims, causes of action, suits, demands, damages, penalties, charges, liabilities, losses, awards of damages, or judgments, of whatsoever character or kind, arising or resulting, directly or indirectly, or in any way connected with (1) the performance or nonperformance of any provision or requirement of this Agreement by Contractor, its officers, employees, subcontractors, agents or servants; (2) any of the acts or omissions of Contractor, its officers, employees, subcontractors, agents or servants at or in connection with the Project; (3) the failure of Contractor, its officers, employees, subcontractors, agents, or servants to comply in any respect with the provisions and requirements of all applicable permits, licenses, laws, statutes, regulations, ordinances, codes, orders and all other legal requirements of federal, state, regional, county and local government authorities and agencies having jurisdiction over the Facilities or relevant

activities of the Contractor; or (4) any release or emission, or threatened release or emission by any Person, entity or entities at, onto, into, above, under, through or from any of the Facilities.

16.3 The term "claims" as used in this Article shall mean all claims, lawsuits, causes of action, damages, penalties, charges, judgments, losses, liabilities of any character or kind and other legal actions and proceedings of whatsoever nature, including but not limited to claims, lawsuits, causes of action, damages, penalties, charges, judgments, losses, liabilities of any character or kind and other legal actions and proceedings involving bodily or personal injury or death of any person or damage to any property (including but not limited to persons employed by the County, the Contractor or any other person and all property owned or claimed by the County, the Contractor, any affiliate of the Contractor or any other person). The term "claims" or "losses" as used in this Article shall not include claims or losses (as defined above) (a) initiated by the County against its own officers, employees, subcontractors, agents or servants, or (b) arising from the County's sole negligence or intentionally wrongful acts or omissions.

16.4 The obligations of the Contractor hereunder shall apply to all losses or claims, or both, that result from, arise out of, or are related to any event, occurrence, condition or relationship, whether such losses or claims, or both, are asserted. The County shall not be liable to the Contractor for, and the Contractor hereby releases the County from, all liability for any injuries, damages or destruction to all or any part or parts of any property owned or claimed by the Contractor that directly or indirectly results from, arises out of or relates to the Project or any part thereof, except where that liability arises from the County's sole negligence or intentionally wrongful acts or omissions.

16.5 In case any action shall be brought against the County in respect of which indemnity may be sought against the Contractor, the County shall promptly notify the Contractor in writing and the Contractor shall have the right to assume the investigation and defense thereof, including the employment of counsel and the payment of all expenses. The County shall have the right to employ separate counsel in any such action and participate in the investigation and defense thereof, but the fees and expenses of such counsel shall be paid by the County unless the employment of such counsel has been authorized by the Contractor and the Contractor shall control the defense of claims against which it is providing indemnity hereunder.

16.6 Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to Persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, the

Contractor shall indemnify the County hereunder to the full extent of the Contractor's negligence.

16.7 It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties.

16.8 The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for any and all infringements of any patents which may occur in the Contractor's performance of this Agreement and shall save the County harmless from loss on account thereof.

16.9 The County shall have the sole and exclusive discretion to appear or not appear in defense of any claims arising out of the Second Amendment of the Agreement.

16.10 The Parties do not under this Article waive or surrender any indemnity available under any federal, regional, state or local law. This Article shall survive termination or expiration of this Agreement.

17. INSURANCE

17.1 General. The Contractor shall provide, from insurance companies reasonably acceptable to the County and licensed in the state of Washington, the insurance coverage designated below and pay all costs therefor.

In case of any breach of any provision of this Article, the County, at its option, may, if such breach is not cured within five (5) days of notice from the County to the Contractor, take out and maintain, at the expense of the Contractor, such insurance as the County may deem proper (but not in excess of what is required by this Article) and may require payment of the cost of such insurance from any money which may be due or become due the Contractor from Tipping Fees or other source under this Agreement.

Subsequent to the award but prior to the execution of this Agreement, the Contractor at its own expense shall obtain and file with the County a Certificate of Insurance for a primary policy of general comprehensive liability insurance (including all of the coverages set forth below). The limits of liability will be those which The Rabanco Companies have in force currently, until at such time as the Contractor commences operation of the Disposal Site. Upon commencement of operation of the Disposal Site the coverage will increase or decrease as is stated herein in this Article.

Such liability insurance must specifically name the County as an additional insured thereunder and must fully protect the County from any and all claims and risks and losses in connection with any activity performed by the Contractor by virtue of this Agreement.

Such liability insurance must be maintained in full force and effect at the Contractor's sole expense throughout the entire Term of Agreement. The County shall be given thirty (30) calendar days prior written notice by certified mail of any cancellation, reduction or modification of such insurance.

Said insurance policy and/or any endorsement thereto, as evidenced by the Certificate of Insurance, must provide the following minimum coverages and limits and contain the following provisions:

17.2 Coverages.

17.2.1 Coverages Provided.

- Extended Bodily Injury
- Employees as Additional Insured
- Premises/Operations Liability (M&C)
- Products and Completed Operations Liability through guarantee period

- Blanket Contractual Liability
- Broad Form Property Damage Liability (including completed operations)
- Personal Injury, including A, B, C, with no employee exclusion
- Stop Gap or Employers Contingent Liability
- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles
- Explosion, Collapse, Underground damage (referred to as "X.C.U.")
- Owners and Contractors Protective Liability

17.2.2 Minimum Limited.

All Coverages:

\$5,000,000 per occurrence, \$25,000 deductible;
 \$5,000,000 annual aggregate, \$25,000 deductible.
 (Any deductible over \$25,000 must have the prior written approval of the County.)

17.2.3 Excess/Umbrella Coverage.

To achieve a total coverage of \$7.5 million.

Providing coverage in these stated amounts shall not be construed to relieve the Contractor from liability in excess of such limits.

17.3 Required Endorsements. The following language shall be in all applicable policies and on the Certificate of Insurance:

17.3.1 Coverage.

The insurance company or companies designated on the front of this Certificate certify that the policy or policies described include the following minimum coverages and limits:

STANDARD COVERAGE

- Extended Bodily Injury
- Employees as Additional Insured
- Premises/Operations Liability (M&C)
- Products and Completed Operations Liability through guarantee period
- Blanket Contractual Liability
- Broad Form Property Damage Liability (including completed operations)
- Personal Injury, including A, B, C, with no employee exclusion
- Stop Gap or Employers Contingent Liability

- Automobile Liability, including coverage for owned, non-owned, leased or hired vehicles
- Explosion, Collapse, Underground damage (referred to as "X.C.U.")
- Owners and Contractors Protective Liability

STANDARD LIMITS

\$5,000,000 per occurrence, \$25,000 deductible; \$5,000,000 annual aggregate, \$25,000 deductible (or such other deductible as approved in writing by the County).

17.3.2 Additional Named Insured.

(a) Klickitat County is an additional named insured for all coverages provided by this policy of insurance and shall be fully and completely protected from all claims and risks by this policy and for any and every injury, death, damage and/or loss of any sort whatsoever, sustained by any person, organization or corporation in connection with any activity performed by the Contractor by virtue of the provisions of that agreement between Klickitat County and Regional Disposal Company, entitled Agreement for Waste Handling, and dated May 26, 1989, and amended June 8, 1992.

(b) The coverages provided by this policy to the County or any other named insured shall not be terminated, reduced or otherwise modified in any respect without providing at least thirty (30) calendar days prior written notice by certified mail to: Solid Waste Project Manager, Department of Public Works, Klickitat County Courthouse, 205 South Columbus Avenue, Goldendale, Washington 98620.

(c) The coverage provided by this policy is primary to any insurance maintained by the County.

17.3.3 ACORD Form Provisions. If an "ACORD" form of Certificate of Insurance is provided to the County pursuant to this Section, it must be modified in the following manner:

(a) Wording at Top of ACORD Form - "This Certificate is issued as a matter of information only and confers no rights upon the certificate holder" -- Shall Be Deleted In its entirety.

(b) Wording at Bottom of ACORD Form - "Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the below-named Certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company." -- Shall Be Changed To Read -- "Should any of the above-described policies be cancelled or reduced as to coverage before the

expiration date thereof, the issuing company shall mail thirty (30) calendar days prior written notice to the below-named Certificate holder and Additional Insured, Klickitat County, by certified mail."

(c) If the insurance provider will not accept the modification of the ACORD Form in accordance with the above, then Contractor will provide County with a certified copy of the policy.

17.3.4 Other.

(a) This/These policy(ies) shall be considered as primary insurance and exclusive of any insurance carried by the County and the insurance endorsed by this certificate shall be exhausted first, notwithstanding the fact that the County may have other valid and collectible insurance covering the same risk.

(b) No act on the part of the insured shall affect the coverage afforded to the County under the insurance covered by this certificate.

(c) This/These policy(ies) consist only of insurance on an occurrence basis or on a claims-made basis.

17.3.5 Unavailability. In the event that provisions of the type contemplated by Sections 17.3.3 and 17.3.4 are not reasonably available in the insurance marketplace despite Contractor's reasonable best efforts to obtain the same, Contractor shall secure policies with substitute provisions providing as much protection to the County as is reasonably available in the insurance marketplace and approved in writing by the County.

17.3.6 Term. Contractor shall maintain the above insurance described herein at all times until the termination of the Agreement.

17.4 Marine Operations. In the event of a barge or other marine operations, the following policy or policies set forth in this Section 17.4 shall be maintained by Contractor:

- 17.4.1 Vessel Hull and Machinery [As scheduled]
covering vessels used in
transportation of containers
moving under this Agreement
- 17.4.2 Protection and Indemnity \$5,000,000
covering Loss of Life/
Personal Injury, Damage to
Property or other vessels
for vessels operating in

connection with this Agreement

17.4.3 Water Pollution Liability:

- | | |
|--|-------------|
| (a) Pollution Liability covering claims under the Federal Water Pollution Control Act as amended for vessels used in this Agreement | Statutory |
| (b) Liability to Third Parties for Pollution Damage resulting from sudden discharge upon waters for vessels operating under this Agreement | \$5,000,000 |

17.4.4 Pollution Liability covering Bodily Injury and Property Damage to Third Parties occurring because of sudden or gradual pollution from all operations contemplated in the Agreement, including Facilities.

Amounts of Insurance under 17.4.4:

| | |
|---|-----------------|
| 0 to 5,000,000 tons* cumulative | **\$ 2,500,000; |
| 5 million to 10 million tons* cumulative | 5,000,000; |
| 10 million to 15 million tons* cumulative | 7,500,000; |
| 15 million tons* cumulative and over | 10,000,000. |

-
- * tons of wastes disposed of at landfill site
 - ** all dollar amounts, per claim/per aggregate

This/These policy(ies) consists only of insurance on a claims-made basis.

17.5 Maintenance of insurance by the Contractor as specified in this Article shall in no way lessen or limit the liability or responsibility of Contractor under this Agreement and Contractor may carry, at its own expense, such additional insurance as it deems necessary.

17.6 The Contractor immediately shall increase the amounts of insurance required to reflect any changes in Washington State or federal law to ensure that the insurance provided shall cover the maximum limits under any applicable law. In no event shall

insurance coverage be decreased below the designated insurance requirements listed above.

17.7 Railroad Protective Coverage.

17.7.1 In addition to the insurance required by Sections 17.1, 17.2, 17.3 and 17.4, in the event that, in connection with its operations pursuant to this Agreement, Contractor engages in any railroad operations, Contractor shall obtain standard Railroad Protective Coverage insurance in the amounts required by the relevant railroads. Contractor shall have the County named as an additional named insured.

17.7.2 In the event that the County cannot be an additional named insured on such policies despite Contractor's reasonable best efforts to obtain the same, Contractor shall provide substitute provisions providing such similar Railroad Protective Coverage to the County as is reasonably available in the insurance marketplace, and approved in writing by the County.

17.8 In the event that insurance required by this Article 17 is on a claims made basis, Contractor shall at termination of this Agreement obtain extended discovery period coverage in respect of such insurance on such terms and with such conditions as are provided for in this Agreement.

17.9 In the event that insurance of the type contemplated by this Agreement is not reasonably available in the insurance marketplace despite Contractor's reasonable best efforts to obtain the same, Contractor shall secure policies with substitute provisions providing as much protection to the County as is reasonably available in the insurance marketplace and approved in writing by the County.

17.10 In the event that, in connection with any long term contract for the disposal of wastes at the Disposal Site, Contractor is required to maintain insurance in respect of Contractor's operations at the Disposal Site in excess of those amounts required by this Agreement, Contractor shall name the County as additional named insured on such policies unless the same is barred by the relevant long-term contract or insurance policy or unless the costs of adding the County as an additional named insured would be commercially unreasonable.

17.11 Commencing on the fifth anniversary of the execution of this Agreement, and every five (5) years thereafter, Contractor and County shall meet to review adjustment of minimum limited coverages provided by this Article. In the event the CPI has increased by more than twenty-five percent (25%) during a five-year period, and the Parties are unable to agree to adjustments of minimum limited coverages, then such adjustments may be submitted to arbitration pursuant to Article 28. The adjustments shall be based on the amounts of insurance coverage commonly required to be maintained of operators of facilities in

Washington comparable to the Facilities. In no event shall such adjustments take place in the event County has been named as an additional named insured on other policies pursuant to Section 17.10.

17.12 Failure of the Contractor to fully comply with any and all of the terms of the foregoing insurance provisions shall be considered a Category C default of this Agreement and cause for its immediate termination at the sole option of the County within five (5) days of notice from the County to the Contractor unless such breach is cured during such five (5) day period.

18. CORRESPONDENCE AND NOTICE

18.1 The Contractor shall address all correspondence for the County to the County's designated Project Manager.

18.2 All notices provided for herein shall be in writing and addressed to each of the Parties at the following addresses:

RDC: Regional Disposal Company
200 - 112th Ave. N.E., Suite 300
Bellevue, Washington 98004

Telephone: (206) 646-2400
Telecopy: (206) 646-2440

County: Resource Development Director
Department of Public Works
Klickitat County Courthouse
205 South Columbia Avenue
Goldendale, Washington 98620

Telephone: (509) 773-4616
Telecopy: (509) 773-5713

18.3 All notices shall be personally delivered, telegraphed, telecopied, or sent by United States mail (return receipt requested) or by reputable private independent courier. Except for personal delivery and confirmed telecopy (which will be effective upon receipt), all notices will be effective on the date delivered to the telegraph company, United States Post Office depository, or reputable private independent courier, as the case may be. Either Party shall have the right to designate a new address for the receipt of notices by giving written notice as herein provided, but notwithstanding the foregoing, such notice of a new address shall not be effective until actually received by the other Parties.

19. AGREEMENTS WITH HAULERS AND REGULATIONS

19.1 The Contractor shall enter into written agreements acceptable to the County with Haulers. Those agreements, which must be reviewed by the County prior to taking effect, shall at a minimum include provisions governing (1) the character of Waste and Other Waste, if any, to be delivered to the Facilities, (2) the prohibition of delivery of Hazardous Waste and the responsibility and liability of Persons who deliver Hazardous Waste, and (3) agreement by those Haulers and Persons to promptly pay Tipping Fees to the Contractor on a regular basis. Copies of all such agreements shall be transmitted to the County.

19.2 The Contractor may impose such reasonable regulations as it deems necessary on any Haulers or Persons who deliver Waste to the Facilities, subject to other provisions of this Agreement.

19.3 Contractor shall provide that Contractor's containers of Waste shall be sealed with cargo security seals to ensure that containers are not open during transit or storage.

19.4 Contractor shall provide that Contractor's containers of Waste shall be fully enclosed and sealed against leakage of any waste or other matter during handling.

20. PERFORMANCE OF SERVICES

20.1 Coordination-Management. The Contractor shall be responsible for coordination, orderly scheduling, and management of all work for this Agreement by officers, employees, Subcontractors and agents.

20.2 Project Meetings. Prior to the commencement of design, construction and operation of each component of the Project, the Contractor, the County, Subcontractors and others reasonably requested by either Party shall meet to discuss scheduling, processes, materials, change orders, personnel and such other matters the Parties deem appropriate.

20.3 Consulting Engineer. The County may designate an engineering firm or firms with experience in solid waste facilities, as a consulting engineer (the "Consulting Engineer"), with whom Contractor shall review the design and construction of the Project. The Consulting Engineer shall have reasonable access to the Facilities, as provided in Section 20.17 hereof. The Consulting Engineer will agree to be bound by the provisions of Section 4.5 hereof with respect to all Confidential Information furnished to it.

Contractor acknowledges that the Consulting Engineer may be retained by the County to provide general technical services with respect to the Project, including but not limited to reviewing and monitoring design and construction progress for the County, reviewing and advising the County with respect to proposed material changes to the Specifications, reviewing for the County the validity of any written notice from Contractor that an Uncontrollable Circumstance has occurred, reviewing and advising the County with respect to all changes to the Facilities during the Term of Agreement, reviewing on behalf of the County the Performance Testing and reported results thereof, and advising the County that the applicable standards have been met, the extent to which they have not been met, and providing certifications as may be required in accordance with this Agreement. Contractor agrees to cooperate with all reasonable requests made by the Consulting Engineer in connection with the performance of its duties for the County.

20.4 Design and Construction in Compliance with Law. Contractor will design, construct and equip the Facilities so that the Facilities will comply with all applicable local, state and federal laws, regulations and similar requirements, including requirements concerning noise, odors, effluent, emissions, and environmental control and monitoring systems applicable to the Facility.

In addition to the foregoing, Contractor shall design and construct the Facilities in accordance with the following standards:

20.4.1 Contractor shall perform, or cause to be performed, all work in strict accordance with the latest applicable codes and standards including the National Sanitation Foundation minimum specifications for geomembrane materials.

20.4.2 The Facilities shall be designed and constructed in accordance with Chapter 173-304 WAC, the Minimum Functional Standards for Solid Waste Handling (MFS).

20.4.3 The Facilities shall be designed and constructed in accordance with good engineering practices. All equipment and materials shall be new and unused; or if not new and unused such equipment and material shall meet or exceed industry standards, subject to County review.

20.5 Facilities Design. Contractor shall have full responsibility for all aspects of the design of the Project, and will design the Facilities in accordance with the Specifications.

20.6 Detailed Plans, etc.; Changes in Specifications; Extension of Scheduled Completion Date.

20.6.1 Role of Consulting Engineer in Development of Detailed Plans and Designs. Subject to compliance with Section 4.5 hereof, Contractor shall promptly provide the County and/or its Consulting Engineer with copies of engineering reports, detailed plans, drawings and models that relate to the design, construction, testing, and operation of each of the Facilities included in the Project, in the form of the final specifications for the Facility (the "Final Specifications") as the same become available. Contractor shall discuss in good faith with the County and/or its Consulting Engineer any aspect of the Final Specifications, provided that, notwithstanding any such review by and discussion with the County and/or its Consulting Engineer, the Final Specifications shall remain the responsibility of Contractor, which shall bear all the risks of any design failure or inadequacy and which shall not be required to comply with any recommendation by the County and/or its Consulting Engineer not required by law or by the express terms of this Agreement. No review by the County and/or its Consulting Engineer of the Final Specifications shall relieve Contractor of any of its responsibilities under this Agreement or be deemed to constitute a representation by the Consulting Engineer or the County that the Final Specifications are in accordance with the Specifications attached hereto or applicable law, or are adequate for the purposes intended.

20.6.2 Construction Monitoring. The County and Consulting Engineer shall have the right to monitor Contractor's performance of its obligations to construct and test the Facilities to verify Contractor's compliance with the applicable terms and provisions of this Agreement and to verify that such design, construction and testing is in accordance with the Specifications.

20.7 Disposal Site.

20.7.1 Commencement of Construction. Contractor shall give the County at least fifteen (15) days prior written notice of the estimated commencement dates of construction of environmental control systems at Disposal Site. Environmental control systems at the Disposal Site shall include but not be limited to the liner, geomembrane, cap, leachate collection and treatment systems and landfill gas collection and treatment systems.

20.7.2 Construction and Testing.

(a) Contractor shall be responsible for the construction and testing of the liner, geomembrane, leachate, collection and treatment systems, landfill gas collection and treatment systems and other Disposal Site facilities as required in the Specifications, and shall furnish all labor, supervision, materials, services, equipment and instrumentation necessary to perform and execute tests in accordance with the Specifications.

(b) The County and the Consulting Engineer shall have the right to inspect and to witness all testing pursuant to the test procedures required in the specifications for the purpose of ensuring compliance with said procedures and the integrity of the test results. Contractor shall cooperate fully with the County in this regard and shall promptly provide the County and the Consulting Engineer with copies of all test results and any laboratory analyses or data related thereto. Contractor shall perform all tests in strict accordance with the test procedures as required in the Specifications.

(c) As promptly as practical after completion of testing of a system and receipt of all laboratory analyses or data relating thereto, Contractor shall furnish the County, by certified or registered mail, postage prepaid, return receipt requested, with copies to the Consulting Engineer a certified written report describing (1) the results of the test together with all laboratory analyses, data, and pertinent records, and (2) Contractor's determination that the system has achieved passing test results as required in the Specifications.

(d) The County shall, within ten (10) business days of receipt of certification, determine whether it concurs or does not concur with such certification. If the County concurs with Contractor certification that the environmental control system has achieved passing test results, the system installation shall be deemed to be accepted. If the County disputes Contractor certification of the results of such testing, the County shall provide Contractor with a written notice describing in reasonable detail the basis of its disagreement. In such event, Contractor shall diligently pursue appropriate remedies and further testing as required in accordance with the Specifications.

20.7.3 Testing Requirements. The testing requirements for the Disposal Site are set forth in the Specifications.

20.7.4 Failure of Facility to Achieve Passing Test Results. Contractor shall make any necessary repairs, modifications, alterations and changes, at its sole cost and expense, required to enable a Facility to meet any testing requirements which the Facility has been demonstrated not to meet at the conclusion of the test.

20.8 Tools and Equipment. Contractor will furnish or cause to be furnished all required construction tools and equipment, all of which shall remain the property of Contractor, its Subcontractors or suppliers, and all of which shall be removed upon completion of construction.

20.9 Utilities. Contractor shall pay or cause to be paid all utility and similar expenses incurred in the construction, operation and testing of the Facilities.

20.10 Construction Laydown and Staging Areas. If a Facility site is insufficient for any laydown and staging areas required by Contractor, Contractor shall be responsible for obtaining such additional areas as it may require at its own cost and expense.

20.11 Security. Contractor, at its expense, shall be solely responsible for the security and protection of a Facility site and all equipment, materials, tools and temporary structures thereon. Contractor shall provide adequate protection for all construction in process against damage and deterioration (including dust, weather and construction activity in the immediate vicinity).

20.12 Adjacent Properties. Contractor shall protect all adjacent properties from damage, deterioration, injury or loss resulting from the construction or operation of a Facility. As between County and Contractor, Contractor shall be fully and solely responsible for the remedying of any such damage, deterioration, injury or loss. Contractor shall also keep the access roads and other properties adjacent to a Facility free from all rubbish or other materials arising from the construction or operation of a Facility.

20.13 Patents and Royalties. In the construction of a Facility, Contractor shall not use or furnish any licensed or patented method of construction, appliance, article or device unless it has authorization for such use. No approval of materials or methods by the Consulting Engineer or the County shall be deemed as a request to furnish any such patented or licensed method of construction, appliance or device.

20.14 Disposition of Drawings, Original Specifications and Manuals. Within one hundred (100) days after the commencement of

operations of a Facility, one (1) set each of such as-built drawings, specifications, operations and maintenance manuals, operation and closure plan, equipment manufacturer's guarantees and warranties, and all third-party agreements relating to the operation of a Facility shall be available to the County and Consulting Engineer by Contractor at Contractor's expense. All such drawings and documents shall be subject to Section 4.5, if applicable.

20.15 Construction Manager. During construction of a Facility, Contractor shall provide a Construction Manager who shall be present at the Facility. The County shall be informed of the identity of the Person serving from time to time as the Construction Manager and of the means by which such person may be located at all times. The Construction Manager may be the Contractor's Representative as defined in Article 6.

20.16 Access to Facility Site.

20.16.1 The County and its agents and representatives, including the Consulting Engineer, at any time during the Term of Agreement and upon prior reasonable notice to Contractor, shall have the right (a) to visit, and, on a reasonable basis, have Contractor take visitors through a Facility in order to observe the various services which Contractor performs, and (b) to cause to be conducted reviews of a Facility to determine whether Contractor is in compliance with its obligations under this Agreement; provided, however, that such visitations and reviews shall not interfere with Contractor rights and obligations under this Agreement. In connection with such visitations and reviews, the County shall cause its agents and representatives to comply with all reasonable rules and regulations adopted by Contractor, including reasonable, safety-related restrictions on access to portions of a Facility.

20.16.2 The provisions of Section 20.17.1 hereof notwithstanding, one or more representatives of the County may be present at the scale house during any time in which the Facility is receiving Waste.

20.17 Contractor Employees. Except as specifically provided in this Agreement, nothing in this Agreement shall be construed to restrict the right of Contractor to hire or release any Person employed in connection with the design, construction, equipping, testing, operation or maintenance of the Facility, or to engage, negotiate the compensation of, or terminate the engagement of, any contractor or subcontractor, or to determine all salaries, incentive compensation, wages, employee benefits, and labor relations policies for its employees, and the amount of any salary, incentive compensation, wage and employee benefits to be made available to such employees, and the hiring, promotion, demotion or termination of such employees shall be determined solely by Contractor in its discretion, subject to any labor

contract provisions, and the prevailing wage requirements of Chapter 39.12 RCW.

20.18 Site Expansion. The provisions of this Article 20 shall apply to any expansion of, or addition to, the Disposal Site.

21. PERMITS AND REGULATIONS

21.1 The Contractor shall have responsibility for obtaining, maintaining, and paying for all permits, licenses, certificates, inspection fees and surcharges and other approvals required by law, both temporary and permanent. The Contractor shall obtain any business licenses required by law.

21.2. The Contractor shall be liable for all fines or civil penalties which may be imposed by any regulatory agency for Contractor-caused violations of permits, laws or regulations; the County shall not be liable for and shall not reimburse Contractor for payment of any such fines or civil penalties. The Contractor reserves the right to contest any such fines in administrative proceedings or in court prior to any payment by the Contractor.

22. DEMOLITION AND CONSTRUCTION OR APPROVED WASTE

Until and unless the County's Comprehensive Solid Waste Management Plan is amended to provide otherwise, the volume approved by the County for disposal in the Disposal Facility pursuant to the Agreement (the "Approved Waste Volume") shall be: one million tons per year of any Acceptable Waste and one million tons per year of Demolition and Construction Waste.

Subject to applicable conditions of the County's Comprehensive Solid Waste Management Plan:

22.1 Amendment of Approved Waste Volume to 2,000,000 Tons per Year of Acceptable Waste. From the date of execution of the First Amendment to the Agreement or the adoption of any amendments to the County's Comprehensive Solid Waste Plan which may be necessary to accommodate this Section 22.1, whichever occurs latter, the Approved Waste Volume shall be: two million tons per year of Acceptable Waste.

22.2 Increase of Approved Waste Volume to 2,500,000 Tons Per Year of Acceptable Waste. At any time after January 1, 1994 the Contractor may submit a report to the County Commissioners requesting County approval of an increase in the Approved Waste Volume by 500,000 tons per year (to 2,500,000 tons per year of Acceptable Waste). Contractor's report, and the County's response, shall be subject to the following provisions:

22.2.1 Contractor's report shall state that:

(a) There are no outstanding notices of noncompliance, administrative orders, or other formal writings from jurisdictional agencies evidencing Contractor noncompliance with the Disposal Facility operating permit.

(b) There have been no defaults under Section 27.1.1, 27.1.2 or 27.1.3 of the Agreement in the six (6) months preceding submission of the Contractor's report.

(c) There has been no breach by Contractor of its payment obligations to the County pursuant to the Agreement in the twelve (12) months preceding submission of the Contractor's report. In addition, Contractor shall, at the County's request, provide a signed statement from an independent accountant (to be agreed upon by the parties). The signed statement shall be in a form acceptable to the County.

(d) There are no capital facilities (Disposal Facility, Drop Box/Recycling Centers or other major construction obligations) required of Contractor by the Agreement (i) that have not been built or (ii) for which plans have not been submitted to the County.

(e) There are no issues of continual and substantial noncompliance with the terms of the Agreement (including any of the performance standards, technical specification, conditions or other requirements of the Agreement) or of any permit required for proper operation of the Disposal Facility.

22.2.2 (a) Subject to the provisions of Section 22.2.2(b) below, the Commissioners shall have ninety (90) days to review the Contractor's submission. Before expiration of ninety (90) days from Contractor's submission of its report, the Commissioners shall issue either (a) written concurrence with the Contractor's report; (b) concurrence upon conditions agreed to by County and Contractor; or (c) written findings of fact stating with specificity any deficiencies in the Contractor's report.

(b) In the event Contractor submits its request for additional Approved Waste Volume in connection with a bona fide third-party request for proposals or other solicitation for solid waste disposal or transportation and disposal services (in excess of one hundred fifty thousand (150,000) tons per year), the following provisions shall apply:

(1) As soon as practicable, Contractor shall provide the County written notice of publication of the solicitation or initiation of discussions with the customer and shall expressly indicate projected waste volume and projected start date.

(2) County shall work diligently to confirm the volume and start date data provided by Contractor. Thereafter the time lines established in Section 22.2.2(a) shall be adjusted to provide for expedited review of the Contractor's submission within the longer of (a) 30 days for the Commissioners' review and findings of fact; or (b) a period that will provide Contractor final and binding notice of acceptance or rejection of its submission not less than thirty-five (35) days before the due date of responses to a potential customer as described in Section 22.2.2(b) above.

22.2.3 The Commissioners' review shall be suspended in the event that during the Commissioners' review of the Contractor's submission the County issues notice to Contractor of default under Section 27.1.1, 27.1.2 or 27.1.3 of the Agreement. Upon resolution of the notice of default, Commissioners' review shall be reinstated.

22.2.4 Disputes arising under this Article 22 (including without limitation dispute as to the accuracy of Contractor's affidavit or the significance of any noncompliance with terms and conditions of the Agreement or permit) shall be resolved by the parties through negotiation or, failing such resolution, shall be decided by arbitration. Either party may demand arbitration, which shall be conducted in accordance with

provisions of Article 28 of the Agreement and shall be concluded within thirty (30) days of its initiation.

~~22.2.5~~ Following County concurrence with the Contractor's report (or arbitral decision that the Contractor's report complies with the requirements of Section 22.2.1 of the Agreement), the Agreement shall immediately be deemed to provide for Approved Waste Volume of 2,500,000 tons per year of Acceptable Waste.

22.3 Increase of Approved Waste Volume to 3,000,000 Tons Per Year of Acceptable Waste.

22.3.1 At any time on or after January 1, 1995 the Contractor may submit a report to the County Commissioners requesting County approval of an increase in the Approved Waste Volume by an additional 500,000 tons per year (from 2,500,000 to 3,000,000 tons per year of Acceptable Waste). Contractor's report, and the County's response, shall be subject to the provisions of Section 22.2.1 through 22.2.4 above.

22.3.2 Following County concurrence with the Contractor's report submitted pursuant to section 22.3.1 above (or arbitral decision that the Contractor's report complies with the requirements of Section 22.2.1 of the Agreement), the Agreement shall thereafter be deemed to provide for Approved Waste Volume of 3,000,000 tons per year of Acceptable Waste.

23. SCHEDULE

23.1 All schedules submitted by Contractor as part of the Specifications shall be fully binding upon the Contractor.

23.2 At monthly intervals, and at all other times as reasonably requested by the County, the Contractor shall advise the County of the status of work on the Project through an itemized report thereof on marked copies of the current schedule, or in any other manner reasonably requested by the County. If any portion of the Project is not on schedule, the Contractor shall immediately advise the County in writing of any and all proposed action to bring the Project into compliance with the schedules in the Specifications.

24. TAXES AND FEES

As between the County and Contractor, the Contractor shall be responsible and liable for payment of all federal, state, regional, county and local taxes and fees, and surcharges of every form, which apply to any and all Persons, entities, property, income, equipment, materials, supplies, structures, or activities which are involved in the performance of this Agreement, including but not limited to any and all income taxes, real property taxes, excise taxes, sales and use taxes, assessments and fees that arise in connection with the Agreement. The County shall be responsible for payment of taxes charged to the County.

25. CLOSURE AND POST CLOSURE

Pursuant to law, Contractor shall establish closure and post-closure trust funds. Those accounts shall be generated by withholding a percentage of all Tipping Fees. Withholding of Tipping Fees shall be structured, and modified as necessary, to assure accumulation of funds sufficient to meet Contractor's closure and post-closure cost estimates, as those estimates are from time to time modified. Use of income accruing in excess of closure or post-closure cost estimates shall be at Contractor's discretion. Excess money in the closure trust funds following closure, and in the post-closure trust fund following all identified post-closure activities, shall be available to Contractor consistent with law. Contractor shall comply with all other laws and regulations applicable to closure and post-closure.

26. PERFORMANCE BOND

26.1 The Contractor shall provide and maintain a Performance Bond, Letter of Credit or other financial guarantee in the minimum amount of five (5) million dollars, guaranteeing the performance of the Contractor's obligations and securing the County's interests under this Agreement. The Surety providing the Performance Bond, Letter of Credit or other financial guarantee, and the form and substance of that Performance Bond, Letter of Credit or other financial guarantee, must be approved by the County in writing.

26.2 The Performance Bond, Letter of Credit or other financial guarantee shall be for the sole benefit of the County.

26.3 Upon documentation and maintenance, by filing with the secretary to the Board of County Commissioners of the conditions or information required in this Section 26.3, Contractor may post a Letter of Credit in an amount not less than \$1 million and in form and substance acceptable to the County in satisfaction of its obligations under Section 26.1:

26.3.1 Posting of a \$10 million bond as required by the Contract Regarding Solid Waste Transport and Disposal for Snohomish County, dated June 28, 1990;

26.3.2 Posting of a \$5 million bond as required by the City of Spokane Solid Waste Contract dated July 26, 1991;

26.3.3 Certificate of environmental impairment insurance, with County as Additional Named Insured under Section 17.3.2, with coverage in the amounts of \$3 million/\$6 million (occurrence/aggregate);

26.3.4 The written consent of Seattle-First National Bank, [as issuer of the letter of credit supporting payment of the industrial development revenue bonds issued to provide a portion of the financing for the solid waste facility contemplated by the Agreement,] to the substitution;

26.3.5 Payment to County of \$30,000 on or before March 1 of each year that Contractor operates under this section 26.3; and

26.3.6 There are no issues of continual and substantial noncompliance with the terms of the Agreement (including any of the performance standards, technical specification, conditions or other requirements of the Agreement) or of any permit required for proper operation of the Disposal Facility.

27. RIGHTS AND REMEDIES FOR DEFAULTS IN PERFORMANCE OF THE AGREEMENT

27.1 Contractor Default. There shall be five (5) categories of default by the Contractor in its performance under this Agreement:

27.1.1 A Category A default is the Contractor's failure to commence Waste handling, transportation and disposal service with Facilities properly permitted by law and constructed and operated in substantial and material compliance with the Specifications, on the date set forth in the Specifications.

If the Project is not on schedule in all material respects, and the County, following notice and consultation with Contractor, either determines the Contractor's proposed action is not reasonably adequate to meet in all material respects the Project schedule or determines the Contractor has failed to pursue in all material respects prompt, reasonable, and corrective action to remedy the delay following notice from and consultation with the County, the County may deem the Contractor in a Category A Default.

27.1.2 A Category B default is the Contractor's failure in any material respect, following the commencement of Facility operations, to accept and dispose of, in compliance with the Specifications, all in-County Waste delivered to the Contractor in accordance with this Agreement.

27.1.3 A Category C default is the Contractor's:

- (a) failure to procure and maintain a Performance Bond under Article 26; or
- (b) failure to procure and maintain insurance under Article 17.

27.1.4 A Category D default is the Contractor's acceptance and disposal of Waste at the Disposal Site in excess of the "Approved Waste Volume" as defined in Article 22.

27.1.5 A Category E default is any failure, other than a Category A, B, C or D default, by the Contractor to perform its obligations under this Agreement.

27.2 Consequences of Contractor Defaults.

27.2.1 Category A default. In the event of a Category A default, the Contractor or Surety shall be permitted to remedy the default within one hundred twenty (120) days from notice by the County and shall pay to the County liquidated damages in the amount of three hundred dollars (\$300) per day commencing as of date of notice. If the Category A default is

not remedied within one hundred twenty (120) days of County notice, the County may, at its sole option:

- (a) be released from its obligations under this Agreement and use any other method or Person to transport and/or dispose of Waste and may sue for actual damages;
- (b) seize and operate any Facilities;
- (c) seek the judicial remedy of specific performance;
- (d) proceed against the Performance Bond; or
- (e) pursue any combination of the foregoing or any other remedy provided by law.

27.2.2 Category B default. In the event of a Category B default, the Contractor or Surety shall be permitted to remedy the default within fifteen (15) days from notice to the County and shall pay to the County the County's actual damages for providing or procuring services under this Agreement. If the Category B default is not remedied within fifteen (15) days, the County may, at its sole option:

- (a) be released from its obligations under this Agreement and use any other method or Person to transport and/or dispose of Waste and may sue for actual damages;
- (b) seize and operate any Facilities necessary to remedy the default;
- (c) seek the appointment of a receiver for those Facilities in Klickitat County Superior Court, which receiver shall continue operation of those Facilities under the direction of that Court;
- (d) seek the judicial remedy of specific performance;
- (e) proceed against the Performance Bond; or
- (f) pursue any combination of the foregoing or any other remedy provided by law.

27.2.3 Category C default. In the event of a Category C default, the Contractor or Surety shall be permitted to remedy the default within the time periods set forth below unless otherwise stated.

- (a) Failure to procure and maintain insurance in the types and amounts required by Article 17 within five (5) days from notice by the County of the default; and
- (b) Failure to procure and maintain the Performance Bond within ten (10) days from notice of the default by the County; with liquidated damages in the amount of \$500 per day. Provided, failure to post the one (1) million dollar Performance Bond required by Section 26.2 shall constitute an immediate default and this Agreement - shall terminate immediately without any notice by the County notwithstanding any provision of this Agreement to the contrary.

If the Category C default is not remedied within the time above allowed, the County may at its sole option, proceed against the Performance Bond, terminate this Agreement, or pursue any combination of the foregoing or any other remedy provided by law.

27.2.4 Category D default.

(a) It is the intention of County and Contractor that the Disposal Site will not receive in excess of Approved Waste Volume. County and Contractor recognize, however, that contracts for and actual deliveries of Waste volumes are subject to variation beyond Contractor's control. Therefore, it is the intent of the parties to make receipt of Waste in excess of Approved Waste Volume per year sufficiently onerous that Contractor will not actively pursue operation at that volume, but not to penalize Contractor for minor and temporary variations from anticipated Waste volumes.

(b) Liquidated Damages.

(i) For disposal of Waste at the Disposal Site pursuant to a contract with term in excess of three (3) years that at the time of such contract the estimated amount of waste, when added to other estimated contract waste volumes in place at the time of the subsequent contract did not exceed Approved Waste Volume, Contractor shall pay liquidated damages for each ton of Waste in excess of Approved Waste Volume at a rate equal to an additional fifty percent (50%) of the administrative and solid waste fees in effect during that calendar year.

(ii) For disposal of Waste at the Disposal Site in excess of Approved Waste Volumes pursuant to contracts with terms in excess of five (5) years where the increase in waste volume has been approved by the Board of County Commissioners through the Comprehensive Solid Waste Management Plan, Contractor shall pay liquidated damages for each ton of waste at a rate equal to an additional fifty percent (50%) of the administrative and solid waste fees in effect during that calendar year.

(iii) For disposal of any other Waste at the Disposal Site in excess of Approved Waste Volume, Contractor shall pay County liquidated damages for each ton of Waste in excess of Approved Waste Volume at a rate equal to an additional one hundred percent (100%) of the administrative and solid waste fees in effect during that calendar year. That is, for each ton in excess of Approved Waste Volume Contractor shall pay a total of two hundred percent (200%) of administrative and solid waste fees in Article 12.

(c) In order to deal with fluctuations in Waste delivered to the Disposal Site, liquidated damages under this Section 27.2.4 shall be determined on the basis of annual average tons delivered for the relevant three (3) year period. The first three (3) year period commences as of the first day of the first full Calendar Quarter of 1991, and each subsequent three (3) year period shall commence after the end of the prior period.

(d) Estimated liquidated damages under this Section 27.2.4 shall be paid within ten (10) days after the Calendar Quarter following the end of each year in which volumes exceed Approved Waste Volumes. Thus, at the end of the second year of a three (3) year period, liquidated damage payments shall be based on average yearly tonnage in years one and two. At the end of each three (3) year period, liquidated damage payments shall be recalculated and adjusted to reflect the actual average yearly tonnage delivered to the Disposal Site during the three (3) year period. Additional payments to the County, or credits to the Contractor, shall be made within ten (10) days after the Calendar Quarter following the end of each year. If credit is due to the Contractor at the end of the Term of Agreement, payment shall be made to the Contractor within ten (10) days after the Calendar Quarter following the end of the Term.

(e) Example 1: If Approved Waste Volume is 2 million tons per year and the Waste delivered is 1,950,000 tons in the first year, 2,200,000 tons in the second year and

2,150,000 tons in the third year, liquidated damages shall be paid as follows:

Year 1: N/A

Year 2: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume (plus 50,000 ton carry over from Year 1) was met in Year 2 plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume (plus 50,000 ton carry over from Year 1) was met in Year 2.

Year 3: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume (no carry over adjustment available) was met in Year 3 plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume (no carry over adjustment available) was met in Year 3.

Example 2: If Approved Waste Volume is 2 million tons per year and the Waste delivered is 2,250,000 tons in the first year, 1,800,000 tons in the second year and 1,950,000 tons in the third year, liquidated damages shall be paid as follows:

Year 1: 100% of Article 12 fees for Section 27.2.4(b)(1) Waste received after the Approved Waste Volume was met plus 50% of Article 12 fees for Section 27.2.4(b)(2) Waste received after the Approved Waste Volume was met.

Year 2: Credit in the amount of two-thirds of the penalty paid in Year 1 (tonnage in Years 1 and 2 is 4,050,000, only 50,000 tons more than approved volume).

Year 3: Credit in the amount of the remaining amount of the penalty paid in Year 1 (tonnage in Years 1 through 3 was \$0).

(f) This Section 27.2.4 is the sole and exclusive remedy for Category D default.

27.2.5 Category E default.

(a) In the event of a Category E default, the Contractor shall be permitted to remedy the default within thirty (30) days from notice by the County. In the event Contractor shows cause why it should be entitled to reasonable additional time to cure the default, the County shall allow such additional time. If the Category E default is not remedied within thirty (30) days, or within the additional time allowed to Contractor, the County may, at its sole option,

- (1) be released from its obligations under this Agreement and use any

other method or Person to transport and/or dispose of Waste and may sue for actual damages;

- (2) seize and operate any Facilities;
- (3) seek the judicial remedy of specific performance;
- (4) proceed against the Performance Bond; or
- (5) pursue any combination of the foregoing or any other remedy provided by law.

(b) The remedies provided in Section 27.2.5(a)(1), (2), (4) and the corresponding provisions of (5) shall not be available unless the Category E default is material. In the event of any action by County to enforce its rights in respect to a Category E default, County shall be entitled to its reasonable attorneys' fees and costs when it is the prevailing party.

(c) If a Category E default continues on a chronic and material basis, and County has given notice to Contractor that such default is chronic and material, and Contractor continues such incidents of default notwithstanding such notice, the County may at its sole option terminate the Agreement.

(d) ~~In addition to the foregoing,~~ if the Contractor fails to timely pay fees or other amounts pursuant to Articles 12 and 31, Contractor shall pay the fee or amount owing plus interest, compounded daily, at the Prime Rate plus three percent (3%) from date due until paid.

27.3 Default Procedure.

27.3.1 Notice. To initiate default and trigger remedy periods under this Article for Category A, B, C and E defaults, the Project Manager shall give notice to the Contractor and the Surety of the County's intention to declare the Contractor in default. Unless the Contractor promptly shows cause to the County's satisfaction why it should not be declared in default under the Agreement, the County may declare the Contractor in default.

27.3.2 Performance by Surety. In the event that the County orders the Contractor to discontinue further performance under this Agreement and transfers the Contractor's obligation to perform to the Surety, the Surety shall within ten (10) days take possession of all Facilities necessary to perform under this Agreement, employ those Persons needed to perform the work and

purchase, lease or otherwise provide any necessary Facilities. The Security's action under this Section shall not relieve it of its obligations under the Agreement and the Performance Bond.

27.3.3 Failure by the Surety; County Substitution.

If the Surety fails to assume or continue performance within ten (10) days of its receipt of notice from the County, the Contractor shall at the County's request lease, sublease or otherwise license the County to use all, or a part of, the Facilities necessary under this Agreement. If the Contractor fails to provide the County with the Facilities necessary for performance of the Agreement, the County shall be entitled to seize and use any or all of the Facilities.

If the County secures performance of the services described in this Agreement at a cost less than the Tipping Fees established in accordance with Article 13, then the County shall retain that difference. However, if the cost to the County is greater, the Contractor and/or Surety shall be liable for and pay the excess amount to the County.

27.3.4 General. Any amount due the Contractor under this Agreement at the time of default shall be reduced by the damages suffered and expenses incurred by the County due to the default.

27.4 County Default. For each and every event of default by the County under this Agreement, within thirty (30) days of notice by the Contractor, and after the County has failed to cure the default or give Contractor reasonable assurances that the default or threatened default will be promptly cured, the Contractor shall have the right to all of the following remedies to the extent provided by law:

27.4.1 Judicial Remedy of Specific Performance. For each and every default, the Contractor shall be entitled to a judicial remedy of specific performance or mandamus requiring the County to specifically perform the County's basic responsibilities described in this Agreement; it being agreed that in the case of a default by the County, Contractor's remedies at law will be inadequate.

27.4.2 Injunctive Relief. For each and every default, the Contractor shall be entitled to the remedy of a permanent or temporary injunction, either in mandatory or prohibitory form, it being agreed that in the case of a default, the Contractor's remedy at law is inadequate.

27.4.3 Termination or Suspension of Contractor's Performance of the Contract. For each and every material default, Contractor shall be entitled to terminate or suspend Contractor's performance of the Agreement if the County has not remedied the default within one hundred twenty (120) days of notice.

27.4.4 General. In addition to the foregoing, Contractor shall be entitled to any other remedy provided by law.

27.5 Uncontrollable Circumstances/Impossibility.

27.5.1 A delay or interruption in or failure of performance of all or any part of this Agreement resulting from Uncontrollable Circumstances shall be deemed not a default under this Agreement.

27.5.2 A delay or interruption in or failure of performance of all or any part of this Agreement resulting from any change in or new law, order, rule or regulation of any nature which renders operation of a Facility in accordance with the terms of this Agreement legally impossible (for these purposes, a change in or new law, order, rule or regulation shall not include any new regulations under Chapter 70.105C.080 RCW and Subtitle D, 40 CFR Pt. 257, any court orders arising out of any litigation to which Contractor is a party as of the date of execution of this Agreement, any court order in respect of which Contractor failed to pursue reasonable appeals, and any order or rule adopted, issued or promulgated because of a past failure of the Contractor to meet its obligations under a new law, rule, regulation or permit or license or to operate the Facilities in accordance with this Agreement), and any other circumstances beyond the control of the Contractor which render legally impossible performance by the Contractor of its obligations under this Agreement shall be deemed not a default under this Agreement.

27.5.3 It is understood by the Parties that Contractor will make its reasonable best efforts to site a Disposal Site within the County. It is also understood, consistent with Article 4, that there is an obligation for environmental review and other approvals. Therefore, notwithstanding Section 23.1, any failure by Contractor to perform all or any part of this Agreement because of a failure to obtain any permits, licenses, or other government authorizations necessary for construction or operation of a Facility or for Contractor's performance under this Agreement, despite Contractor's reasonable best efforts to obtain such permits, licenses or authorizations, shall be deemed not a default under this Agreement.

27.6 Contractor's Bankruptcy/Receivership. If the Contractor is insolvent, dissolved pursuant to court order, files for bankruptcy, is adjudged bankrupt, or makes a general assignment for the benefit of creditors, or if a receiver is appointed for the benefit of its creditors, or if a receiver is appointed on account of its insolvency, that event could impair or frustrate the Contractor's performance of this Agreement. Therefore, it is agreed that upon the occurrence of those events, the County shall be entitled to request of the Contractor or its successor-in-interest, adequate assurance of future performance in accordance with the terms and conditions of this Agreement.

Failure of Contractor and Surety to comply with that request within ten (10) calendar days of service on both Contractor and Surety of a written request from the County for that assurance shall entitle the County to terminate or suspend Contractor's performance of the Agreement. The County shall not be bound to the Agreement by an insolvent Contractor's trustee or receiver.

27.7 Non Waiver. Nothing in this Article and no actions taken pursuant to this Article shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or Surety under any other provision of this Agreement or any provision of law.

27.8 Termination of Contract. If an Uncontrollable Circumstance occurs and prevents for a period of one (1) year the satisfactory performance of all the material provisions of this Agreement to be performed by Contractor, the County shall have the right, in its sole discretion, to terminate this Agreement.

27.9 Police and Eminent Domain -- Agreement Authority.

27.9.1 County's seizure and operation of a Facility, or County's lease, sublease or license of a Facility, pursuant to this Article, shall be without prejudice to Contractor's right to just compensation, and County's right to damages, in respect of such seizure, operation, lease, sublease or license.

27.9.2 Nothing in this Agreement shall prevent or limit the County's exercise of its police power, power of eminent domain, or other governmental authority.

27.9.3 In the event that during the Term of Agreement (a) an event of default by Contractor occurs and entitles County to terminate this Agreement and (b) the County's authority of eminent domain concerning the Facilities has been eliminated by law, the County shall, as an additional contractual remedy in respect of such default, have the authority to purchase, condemn, or acquire, upon payment of just compensation, any of the Facilities, as if County retained the authority of eminent domain it possessed when it executed this Agreement. County's right to exercise such contractual right shall be subject to all provisions of law (procedural and substantive) applicable to eminent domain proceedings for counties, Chapters 8.08 and 8.25 RCW, in effect as of the date of execution of this Agreement, including, without limitation, the requirement that any such taking be for a public purpose, that County obtain from Klickitat County Superior Court an order of public use and necessity, in respect of such taking, and that any such order shall be subject to judicial review by appellate courts as authorized by law; provided, however, that the just compensation to which Contractor shall be entitled shall be finally determined by arbitration pursuant to Article 28. Notwithstanding the provisions of Section 28.2, such arbitration shall be decided by a panel of three (3) arbitrators, each of whom shall be an

individual with experience in the valuation of solid waste disposal and related facilities. Contractor's costs and fees incurred in connection with all proceedings, including costs and fees of the arbitration proceedings, shall be borne by the County in the circumstances where Chapter 8.25-RCW would require reimbursement from County for Contractor's costs and fees.

28. ARBITRATION, JUDICIAL VENUE AND GOVERNING LAW

28.1 Subject to the conditions and limitations of this Section, controversies or claims arising out of or relating to Tipping Fee or other financial calculations under Articles 12 and 13, and Section 17.11 of this Agreement, and other Sections specifically providing for arbitration of disputes, shall be exclusively settled by arbitration under the laws of the State of Washington, in accordance with the Commercial Arbitration Rules of the American Arbitration Association. All other controversies and claims shall be decided exclusively by a court of competent jurisdiction in Klickitat County, Washington, under the laws of the State of Washington or in the U.S. District Court for the Eastern District of Washington, at Yakima.

28.2 All arbitrated disputes shall be heard and decided by one arbitrator.

28.3 There shall be no consolidation of any arbitration between the County and the Contractor with any other arbitration involving, arising from, or relating to this same Project.

28.4 Each Party hereto and the Surety accepts jurisdiction of the courts of the State of Washington for the purposes of commencing, conducting and enforcing arbitration proceedings and agrees to accept notice in writing sent by certified mail addressed to the Party of intention to proceed with arbitration and of any other step in connection therewith or enforcement thereof, with the same effect as though personally served therewith in the State of Washington. The decision of the arbitrator shall be final and binding upon the Parties and the Surety who hereby agree to comply therewith. The Parties agree that proper venue for any judicial proceeding to enforce any decision or award made by an arbitrator under this Section shall be exclusively in the County.

28.5 In the event suit or action or arbitration is instituted to enforce any right granted herein, each Party shall be responsible for payment of its own attorney's fees.

29. ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS

29.1 Qualified Party. This Agreement is executed with the Contractor as a qualified party to accomplish the Project. Except as provided in Section 29.3 below, the delegation of any Agreement duties will require the prior written consent of the County and of the Surety. Any such delegation of duties will not relieve the Contractor or its Surety of any liability and/or obligation to perform. In the event of any delegation of a duty, the delegate shall assume full responsibility for performance of that duty without affecting Contractor's liability.

29.2 Assignment. Except as provided in Section 29.3, the Contractor shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of the County. The County's consent under this Section 29.2 shall be subject to a standard of reasonableness from and after the tenth anniversary of the execution of this Agreement. The Contractor shall not assign any amounts due or to become due under this Agreement without prior written notice to the County.

29.3 Corporate Control. Notwithstanding Sections 29.1 and 29.2, Contractor shall have the right to

29.3.1 transfer interests in the beneficial ownership of the Contractor, and/or

29.3.2 assign this Agreement,

without County consent so long as Contractor (and/or its transferee or assignee) remains controlled 50% or more, directly or indirectly, by The Rabanco Companies or Rabanco Ltd., Inc.

For purposes of this Section 29.3, control by The Rabanco Companies or by Rabanco Ltd., Inc. means control directly or indirectly by any or all of

(a) those natural persons who currently control those entities;

(b) spouses or surviving spouses of those persons described in (a);

(c) lineal descendants of those persons described in (a) (adopted children shall be deemed lineal descendants for purposes of this Section);

(d) a trust, estate, corporation, limited partnership, voting trust or other entity controlled by, or the beneficiaries, shareholders or members of which are persons described in (a), (b) or (c) above; or

(e) a corporate trustee designated to act in a fiduciary capacity for the estate or trust of any of the persons described in (a), (b) or (c) above.

29.4 Successors. This Agreement shall be binding on any and all successors or assignees in accordance with this Article.

29.5 County Assignment. County may assign its rights under this Agreement in interlocal contracts with other municipal corporations for disposal of Waste or designation of solid waste handling Facilities upon Contractor's assent as set forth in Section 11.9 of this Agreement. Assignment includes, but is not limited to, indemnification under Article 16, and naming additional insureds under Article 17.

30. SYSTEMS

30.1 Scales. Contractor shall install, maintain and have available at the Disposal Site scales to weigh Waste that is received at the Facilities. Contractor shall cause normal maintenance and calibration of the scales to be performed in accordance with manufacturer's recommendation. County has the right once a month during normal working hours to enter the Facilities to inspect and to test the accuracy of scales. In the event the scales are not operable at any time, a vehicle or container will be charged based upon the volume in cubic yards of such vehicle or container divided by four (4) to obtain approximate tonnage, unless another standard of approximation is available from Disposal Site records. All transfer vehicles and private hauler collection vehicles will be weighed in and out of the Disposal Site. Weigh out will be optional if Contractor has a tare weight on file for the vehicle.

30.2 Drop Box/Recycling Centers. See Specifications.

30.3 Surface Transportation.

30.3.1 All transportation to and from the Disposal Site shall be subject to review and approval by the County. The County shall have absolute discretion in the approval of transportation routes in order to minimize the impact of vehicle trips on the County and Washington State system of roads and highways in the County.

30.3.2 All truck equipment shall comply with applicable local codes, state laws, and applicable federal requirements including, but not limited to, the following:

- (a) United States Department of Transportation
 - Federal Motor Vehicle Safety Standards (FMVSS)
 - Federal Motor Carrier Safety Regulations (FMCSR)
 - Interstate Motor Carrier Noise Emission Standards
- (b) United States Environmental Protection Agency (EPA)
 - Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines
 - Interstate Motor Carrier Noise Emission Standards

Trucks and containers operated in the County by or under contract to Contractor shall be uniform in appearance. Each truck operating in the County shall be equipped with a two-way radio capable of communicating with the Contractor's office and Facilities.

30.4 Intermodal Transfer Facility. Use of rail or barge to transport waste shall comply with all applicable federal, state and local laws and regulations, including, but not limited to, employee safety. Rail or barge transfer facilities shall be designed, constructed and operated consistent with the Specifications, and all applicable licenses, permits and approvals.

30.5 Disposal Site. See Specifications.

30.6 Horsethief Landfill.

30.6.1 Until such time as the Disposal Site becomes operational, the County shall continue to operate the Horsethief Landfill and shall use its reasonable best efforts to obtain necessary variances for that landfill so that it can continue in operation after November, 1989. In the event that the Horsethief Landfill is no longer operational and the Disposal Site is not yet operational, Contractor guarantees that for all in-County Wastes, fees shall be as set forth in Article 13.

30.6.2 In the event of an interim period, if any, between the closure of the Horsethief Landfill and the opening of the Disposal Site, the Contractor shall provide for an interim, public convenience, transfer/drop box facility for self-haul residential waste only.

30.7 Backup System. The Contractor shall, within ninety (90) days of execution of the Agreement, submit to the County for approval a complete and detailed plan detailing the mode of operation that the Contractor will activate if Uncontrollable Circumstance precludes the use of any Facility. The plan shall include, but not be limited to, the method of transport, the method of unloading, the method of disposal, and the length of time necessary to activate the plan. The back-up plan shall, among other things, provide for rights to dispose of Wastes at alternative disposal sites reasonably acceptable to the County, including without limitation The Dalles and Finley Buttes, Oregon, disposal sites.

30.8 Recycling. See Specifications.

30.9 Hazardous Waste. See Specifications.

30.10 Moderate Risk Waste and Agricultural Chemical Management. See Specifications.

31. COMMUNITY RELATIONS

31.1 Employment Relations. Subject to applicable law, Contractor shall use its reasonable best efforts to recruit, train, and hire County residents for new employees.

31.1.1 Efforts to recruit and hire County residents will include the following:

- (a) Posting employment notices in State and County offices, libraries, and other public offices in the County.
- (b) Publishing employment advertisements in County newspapers.
- (c) Opening an employment office in Goldendale for interviewing and placement of job applicants.
- (d) Posting employment notices in school placement offices.
- (e) Hiring of two (2) current County employees operating the County's Horsethief Landfill.

For the projected thirty (30) to sixty (60) permanent jobs, Contractor shall not actively seek employment applicants from outside the County unless applications from within the County prove insufficient. If sufficient skilled personnel are not available with regard to hiring residents of County, Contractor will cooperate with County to establish local training programs that will meet the employment goal of the Contract. In any event, Contractor notes that because of the location of the Disposal Site, permanent employees will most likely reside in County.

31.1.2 It is the intent of the County to stimulate local business and industry through the implementation of the Facilities. Therefore, to the extent permitted by law, Contractor shall use local labor and purchase materials, supplies, and equipment from businesses located within the County wherever and whenever possible or practicable. Contractor agrees to use reasonable best efforts to hire local firms and labor and use local suppliers and materialmen. Contractor shall report to the County on a quarterly basis regarding the way in which local firms, businesses, labor and material suppliers have been utilized and in each segment of the work effort. In order to facilitate employment of unemployed truck drivers living in the County, Contractor may seek approval for truck transport of Waste to the Disposal Site consistent with the Technical Specifications.

31.1.3 Training for new employees shall include:

- (a) instruction in safety and standard operating procedures from knowledgeable, experienced personnel, including: equipment suppliers, engineers, technicians, and experienced employees (drawn from other companies, initially);
- (b) instruction in fire protection and emergency response procedures;
- (c) instruction in federal, state and local environmental regulations; and
- (d) testing of necessary skills and understanding of operating and emergency response procedures.

31.1.4 Unless otherwise provided by law, wages paid by Contractor to Contractor's operational personnel in the County shall be subject to a minimum pay scale of \$8 to \$18 per hour. The pay scale shall be applied based on knowledge, skills, abilities, and responsibilities, and shall be adjusted from time-to-time as appropriate.

31.2 Scholarships. Contractor shall fund a college scholarship ("Scholarship") for high school students in Klickitat County. This fund will be named by Contractor and shall be administered by a foundation or other entity to be formed with the Parties' cooperation (the "Foundation"). The Scholarship will be awarded to a student or students in the County who intend to pursue studies at accredited two or four year colleges. Selection of the student or students shall be in accordance with the rules of the Foundation, to be agreed upon by the parties. It is the Contractor's intent, but not a contractual obligation, that the Foundation be qualified as a private foundation within the meaning of § 509(a) of the Internal Revenue Code of 1986 (the "Code") and that it be exempt from federal income tax under § 501(c)(3) of the Code. Contractor and the County shall work cooperatively to acquire the appropriate Internal Revenue Service determination letters and to conduct the Foundation as required to comply with federal tax laws.

The initial Scholarship fund balance will be \$5,000, and will grow at the following rate:

| | |
|--------------------------|---------------|
| 0 to 250,000 TPY | \$5,000/year |
| 250,000 to 500,000 TPY | \$10,000/year |
| 500,000 to 750,000 TPY | \$15,000/year |
| 750,000 to 1,000,000 TPY | \$20,000/year |

31.3 Cities' Planning. Contractor shall contribute \$15,000 to the County to assist the Cities of Bingen, Goldendale and

White Salmon in their review and preparation of the Cities' interlocal agreements with the County, and the review and adoption of comprehensive solid waste management plans. The contribution required by this Section shall be paid to the County within thirty (30) days of the execution of this Agreement.

31.4 County Tourism and Community Development. The Parties are committed to environmentally safe Facilities, and to the present and future economic security of the County. In order to facilitate the County's efforts to market and advertise the County's resources and facilities, and to further provide additional community facilities and resources, the Contractor shall pay \$200,000 to the County ("Community Development Account"). The Community Development Account shall be funded by four (4) equal payments. The first payment is to be made within six (6) months of Agreement execution, the second payment is to be made within eighteen (18) months of Agreement execution, the third payment is to be made within thirty (30) months of Agreement execution, and the fourth payment is to be made within forty-two (42) months of Agreement execution.

31.5 General. Contractor shall maintain an office with regular office hours in the County. The Contractor shall provide for records of and the prompt and efficient handling of all inquiries, claims or complaints, by County residents or other Persons, arising out of the activities of Contractor under this Agreement.

31.6 Economic Development. Within ninety (90) days of execution of the first Amendment to the Agreement, Contractor shall pay \$25,000, and \$6,250 by January 15, 1993 and quarterly thereafter, to County to advance economic development, marketing and waste handling and management practices, and other activities of County for the improvement of County business and economic interests.

31.7 Litter Control. Contractor shall provide, at cost not to exceed \$500 per year, hard hats, safety vests, gloves, and disposal bags to County sponsored or approved litter patrols and programs. The amounts set forth in this Section 31.7 and in Section 31.6 shall be adjusted annually by 100% of the CPI change for the previous year.

32. GUARANTEES AND WARRANTIES

32.1 The Contractor shall provide to the County any and all warranties and guarantees required by any of the Agreement Documents.

32.2 To the extent permitted by such warranties or guarantees, all guarantees or warranties of equipment, services or materials furnished to Contractor or subcontractors by any supplier shall be deemed to run to the benefit of the County. If any supplier of any equipment, services or material furnishes a guarantee or warranty for a period in excess of one year from the date of acceptance, Contractor's guarantee, as provided in Section 32.1 of this Article shall be deemed to extend for a like period as to such equipment, service or material.

32.3 The Contractor shall fulfill the conditions of any warranties of manufacturers for material or equipment.

32.4 Within a reasonable time after receipt of a written notice thereof, the Contractor shall correct any defects in workmanship which exist prior to or during the period of any guarantee provided herein and any damage caused by such defects or the repairing of such defects, at its own expense and without cost to the County, and without interruption to the Project.

32.5 The guarantees and warranties shall not be construed to modify, limit, or lessen in any way, any rights or remedies which the County may otherwise have against the Contractor or its Surety.

33. DISSOLUTION OF THE COUNTY AND SUCCESSOR TO THE COUNTY

In the event that the County is dissolved or its solid waste functions and powers relative to this Contract are taken from the County by legislative act or by referendum of the people or by agreement, all of the duties, rights, and remedies of the County under the Contract, including, but not limited to, all bonds executed for this Contract, shall remain in full force and effect and shall be transferred to either: (1) the successor to the County as specified by the legislative act or referendum by which the County is dissolved; or, (2) if no successor to the County is specified by the relevant legislation or referendum, the successor to the County shall hereby be deemed to be the State of Washington.

34. THE RABANCO COMPANIES' GUARANTY

34.1 The Rabanco Companies ("Rabanco") hereby irrevocably and unconditionally guarantees to the County, subject to the limitation set forth below, full and complete performance of all of the Contractor's obligations to the County under this Agreement (the "Guaranty"). The purpose of this Guaranty is to bind the Contractor and/or Rabanco to a minimum Capital Investment of Five Million Dollars (\$5,000,000) in the Project. Rabanco's liability under the Guaranty shall be limited to the difference between Five Million Dollars (\$5,000,000) and any and all Capital Investment made by the Contractor pursuant to or in connection with this Agreement or the Project.

34.2 For purposes of this Article 34, "Capital Investment" means all expenditures for the Project, except operating expenses paid after Waste is first received at the Disposal Site.

35. TERM

35.1 Agreement Term. The Term of Agreement shall commence on its execution and end twenty-five (25) years from that date.

35.2 Renewal Terms.

35.2.1 Extended-Term Contract Requirements. If by May 26, 1994, Contractor has secured or is selected to negotiate one or more Extended-term contracts for disposal of Waste, Contractor shall give County written notice of the same by June 26, 1994 and County shall grant Contractor one (1) or more five (5) year renewal options as are required by Contractor's Extended-term contract(s), to a maximum of three (3) five (5) year renewal terms.

35.2.2 For purposes of this Section 35.2, "Extended-Term contract" means contracts for disposal of waste that require contractor capacity to accept waste beyond the Term of Agreement under Section 35.1.

35.2.3 Optional Renewal Terms. In the event Contractor cannot or does not exercise the right provided by Section 35.2.1, or in the event that pursuant to Section 35.2.1, the Agreement is not renewed for all three (3), five (5) year renewal terms, this Agreement shall automatically be renewed for each of three (3), five (5) year terms unless either Party gives notice to the other of its intention not to renew this Agreement prior to each such renewal term. Notice under this Section 35.2.3 shall be given in writing not less than twelve (12) nor more than eighteen (18) months before expiration of the initial or renewal term then in effect.

36. SIGNATURE - EXECUTION


This Agreement first executed and dated the 26th day of May, 1989, is amended this 7th day of August, 1995.

KLICKITAT COUNTY, WASHINGTON

By 
Board of County Commissioners

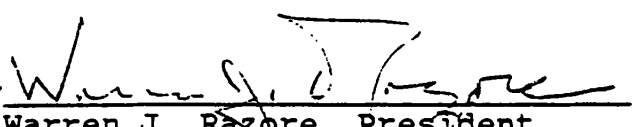
REGIONAL DISPOSAL COMPANY

By WJR ENVIRONMENTAL, INC.
MANAGING PARTNER

By 
Warren J. Razole,
President

The Rabanco Companies, a Washington general partnership, executes in the space below solely for purposes of making the Guaranty set forth at Article 34 of this Agreement. Accordingly, The Rabanco Companies neither undertakes nor assumes any liability or responsibility under or in respect of this Agreement except as otherwise expressly provided for at Article 34.

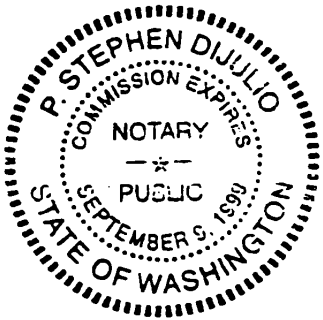
THE RABANCO COMPANIES

By 
Warren J. Razole, President
Rabanco Ltd., Inc.,
General Partner

STATE OF WASHINGTON)
 KING) ss.
COUNTY OF ~~Klickitat~~)

I certify that I know or have satisfactory evidence that JUARRE BAKKE signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chairman of the Board of County Commissioners of Klickitat County, Washington, a municipal a corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated this 4TH day of October, 1995.



Stephen DiJulio

Notary Public in and for the state of Washington, residing at KENT

My appointment expires 9/9/99

STATE OF WASHINGTON)
 ~~Klickitat~~) ss.
COUNTY OF ~~Klickitat~~)

I certify that I know or have satisfactory evidence that Warren J. Razore signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President and Chief Executive Officer of WJR Environmental, Managing Partner of Regional Disposal Company to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 21st day of August, 1995.

Warren J. Razore

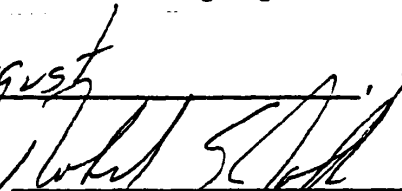
Notary Public in and for the state of Washington, residing at Walla Walla

My appointment expires 6/9/94

STATE OF WASHINGTON)
) ss.
COUNTY OF ~~Klickitat~~ King)

I certify that I know or have satisfactory evidence that Warren J. Razore signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Rabanco Ltd., Inc., as general partner of The Rabanco Companies, a general partnership, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 21st day of August, 1995.



Notary Public in and for the
state of Washington, residing
at Marine Island

My appointment expires 4/30/98

CLERK OF COURT
JUL 16 1995
CLERK DEPT.

**ADDENDUM NO. 1
TO AGREEMENT REGARDING SOLID WASTE HANDLING
BETWEEN KLICKITAT COUNTY AND REGIONAL DISPOSAL COMPANY**

1. **Introduction - Agreement.** Klickitat County ("County") and Regional Disposal Company ("RDC") parties to the Agreement regarding Solid Waste Handling entered May 26, 1989, first amended June 8, 1992 ("Agreement"), agree to this First Addendum to the Agreement ("Addendum No. 1").

2. **Purpose.** The purpose of this Addendum is to provide for the study of economic development opportunities for use of landfill gas ("LFG") from the Roosevelt Regional Landfill.

3. **Consultant - Project.** The County and RDC agree to engage Power Management Corporation ("PMC") to study and report consistent with PMC's proposal to County and RDC entitled "A Proposal to Maximize the Value of the LFG Resource at the Roosevelt Landfill ("Project").

4. **Pricing - Payment.** The project cost is \$69,600, plus applicable taxes. Additionally, PMC shall conduct an LFG Generation and Enhancement Study under the Project for a lump sum price of \$5,205 ("Optional Study"). RDC shall manage all accounting and invoices relating to the Project, and County shall reimburse RDC not more than \$34,795 for the Project and \$5,205 for Optional Study, plus pro rata share of applicable taxes. County's share of project cost will accrue incrementally upon County acceptance from RDC of PMC progress reports and progress billing. County payment of County's share of project cost to RDC shall be made after receipt of the Project and Optional Study, within thirty days of receipt of written invoice from RDC.

5. **PUD Participation.** County will enter into an interlocal agreement with Public Utility District No. 1 of Klickitat County ("PUD") for participation in County's funding of the Project. RDC authorizes Project information to be provided to PUD. Provided, however, Project data shall to the fullest extent provided by law be considered an exempt record under RCW 42.17.310 as "valuable formulae, designs, drawings, and research data," or such other exemption as may apply to the Project during the period that RDC, PUD, and/or County are considering developing the Landfill LFG for power generation.

6. **Project Management.** RDC, PUD and County shall serve as Project Managers, and oversee the work of PMC. PMC shall not withhold information from RDC, PUD or County and shall recognize equally County, PUD and RDC as its client for purposes of the Project.

7. Distribution. Three copies of the Final Report shall be delivered to both the PUD and County.

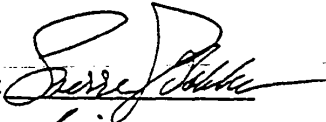
8. Period of Performance. The period of performance for this Addendum will end on December 31, 1995.

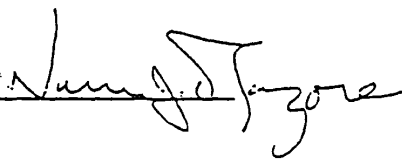
9. Agreement. Except as provided in this Addendum, the Agreement shall remain in full force and effect.

DATED this 21st day of August, 1995.

KLICKITAT COUNTY

REGIONAL DISPOSAL COMPANY

BY: 
chairman

By:  President

ADDENDUM NO. 2
TO AGREEMENT REGARDING SOLID WASTE HANDLING
BETWEEN KLICKITAT COUNTY AND REGIONAL DISPOSAL COMPANY

1. **Introduction - Agreement.** Klickitat County ("County") and Regional Disposal Company ("RDC"), parties to the Agreement regarding Solid Waste Handling entered May 26, 1989, last amended August 7, 1995 ("Agreement"), agree to this Second Addendum to the Agreement ("Addendum No. 2").

2. **Purpose.** The purpose of this Addendum is to provide for the development and implementation of a request for proposals (RFP) that will aid in determining the market value of the landfill gas ("LFG") produced at Roosevelt Regional Landfill and in determining how best to maximize that value.

3. **Consultants - Project.** County and RDC agree to engage Power Management Corporation ("PMC") to develop and implement the RFP consistent with PMC's proposal to County and RDC entitled "*Proposal to Assist Klickitat County and the Regional Disposal Company to Sell Landfill Gas from the Roosevelt Landfill to the Qualified LFG Purchaser with the Best Offer*" ("Project"), which provides for a County Project Manager and an RDC Project Manager for the Project.

County and RDC agree to engage Economic and Engineering Services, Inc. (EES) to review the request for proposals generated by PMC and provide consulting services pertaining to the Project on a task order basis.

4. **Pricing - Payment.** The Project cost for Phases I through IV is \$50,950, plus applicable taxes. Project costs for Phase V shall be determined on a time and materials basis, not to exceed \$10,000, plus applicable taxes, without written authorization by both County and RDC.

The costs of services from EES shall be determined on a time and materials basis, not to exceed \$10,000, plus applicable taxes, without written authorization by both County and RDC. All task orders shall be approved in writing by County and RDC, prior to EES incurring costs.

RDC shall manage all accounting and invoices relating to the Project and EES's services. County shall reimburse RDC not more than \$25,465 for Phases I through IV of the Project, plus pro rata share of applicable taxes. County shall reimburse RDC for one half of the cost of Phase V of the Project, not to exceed \$5,000, plus pro rata share of applicable taxes, unless authorized in writing by County.

County shall reimburse RDC for one half of the cost of EEC's services, not to exceed \$5,000, plus pro rata share of applicable taxes.

County's share of Project costs and County's share of EEC's services will accrue incrementally upon County acceptance from RDC of PMC and/or EEC's progress reports and progress billing. County payment of County's share of costs of the Project and/or EEC's services shall be made following receipt and acceptance of PMC and/or EEC's progress reports and progress billing and receipt of written invoice from RDC.

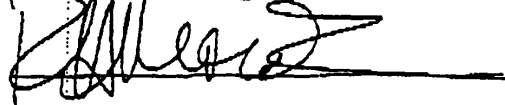
5. **Project Management.** RDC and County shall serve as Project Managers and oversee the work of PMC and EEC. PMC and EEC shall not withhold information from RDC or County and shall recognize equally RDC and County as its client for purposes of the Project and the performance of EEC's services. Failure of PMC or EEC to recognize RDC and County equally with respect to project management and all other aspects of the Project shall be a breach of this Addendum No. 2.

6. **Period of Performance.** The period of performance for this Addendum will end on December 31, 1997.

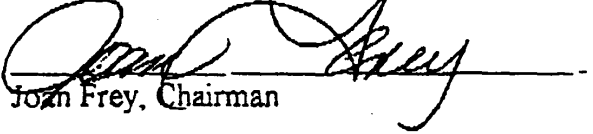
7. **Agreement.** Except as provided in this Addendum, the Agreement shall remain in full force and effect.

Dated this ____ day of July, 1997.


REGIONAL DISPOSAL COMPANY
Bellevue, Washington



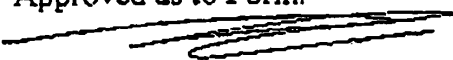
BOARD OF COUNTY COMMISSIONER
Klickitat County, Washington



John Frey, Chairman

Attest:

Ex-Officio Clerk of the Board

Approved as to Form:



Knute Rife, Prosecuting Attorney

ADDENDUM NO. 3

**To The Second Amended Agreement
Regarding Solid Waste Handling Between**

**Klickitat County
and
Regional Disposal Company**

1. **INTRODUCTION - AGREEMENT.** Klickitat County ("County") and Regional Disposal Company ("Contractor") are parties to the Second Amended Agreement Regarding Solid Waste Handling (August 7, 1995) ("Agreement"). This Addendum No. 3 to the Agreement ("Addendum") adds to and is made a part of the Agreement, and as such is fully subject to the Agreement's terms. If conflicts are found to exist between the two, the Addendum prevails over the Agreement as the more recent expression of the Parties' intent. Capitalized terms used herein have the meanings provided in the Agreement. Except as specifically provided in this Addendum, the Agreement shall remain in full force and effect.

2. **PURPOSE.** The purpose of this Addendum is to clarify the Parties' respective interests in development of the landfill gas resource at the Disposal Site. The Agreement originally addressed those interests in a manner that, in effect, discouraged either Party from developing the resource. This Addendum therefore establishes, in consideration of the Contractor's commitment to make certain payments, the Contractor's ownership and exclusive rights to the gas. This Addendum provides that the Contractor shall pay the County an amount equal to one-half of the Net Proceeds (as defined herein) generated by the gas resource, and that the County shall receive such amounts in the form of production payments based on the Contractor's gas sales or beneficial use. This Addendum establishes the means by which Net Proceeds shall be determined over time.

The Addendum recognizes that use of the gas resource at the landfill will require a change in approach to managing landfill gas. Currently, the Contractor collects and destroys landfill gas, which is required by regulation because landfill gas is considered a pollutant. The Contractor plans, however, to institute a program to use or sell the gas as a fuel resource.

This Addendum recognizes that there will be extra costs involved in managing gas as a resource. Therefore, in defining the Net Proceeds that are to be divided between the Contractor and the County, this Addendum allows the Contractor to deduct from gross revenue certain marginal costs. These marginal costs are the extra costs the Contractor incurs to use or sell the landfill gas instead of collecting it and destroying it. The additional efforts and facilities used by the Contractor to enhance, develop and sell landfill gas are referred to as the "Gas Project."

This Addendum further recognizes that implementation of a Gas Project will likely make unnecessary the gas-fired leachate evaporator required by Sections 2.6 and 2.7 of Appendix A, and consequently voids the Contractor's obligation to construct the evaporator as set forth in Section 9. The amount the Contractor will save as a result of not having to construct the evaporator is taken into account in determining Net Proceeds. However, this Addendum recognizes that these savings can be offset by certain costs incurred for capital facilities to manage leachate that would have been destroyed by the evaporator.

3. DETERMINATION OF NET PROCEEDS AND PRODUCTION PAYMENTS.

The Contractor may use or sell landfill gas (including any component thereof) collected at the Disposal Site ("Landfill Gas") for energy recovery or for other beneficial use. The Contractor shall pay Production Payments to the County for Landfill Gas as provided in this Addendum.

3.1 Production Payments. In this Addendum, "Production Payments" means a payment calculated to equal fifty percent (50%) of any Net Proceeds from the production of and sale or other beneficial use of Landfill Gas.

3.2 Net Proceeds. In this Addendum, "Net Proceeds" means any gross revenue received and any tax credits realized under Section 29 of the Internal Revenue Code ("Gross

Revenue") less Marginal Costs (see Subsection 3.3). "Gross Revenue" includes, but is not limited to, the fair market value of goods or services received by Contractor or goods sold or services provided at a discount to Contractor as a result of a Gas Project (including utility services or discount utility services).

3.3. Marginal Costs. Marginal Costs are those costs incurred by the Contractor (either before or following execution of this Addendum) to develop, produce, collect, deliver and sell Landfill Gas, to the extent such costs exceed the Base Costs, as defined in Subsection 3.4 below. Marginal Costs include, for example, the Contractor's costs to enhance production of Landfill Gas, such as costs incurred to add moisture to the landfill (other than leachate, which must be disposed of with or without the Gas Project) and to install a larger gas conveyance system capable of transporting the expanded volumes of gas. Costs shall be fairly apportioned among such other Facilities or activities at the Disposal Site to the extent they are not exclusively related to the Gas Project. For example, if one half of a vehicle's operating time is devoted to Gas Project work, and the other half to activities not related to the Gas Project, only one half of the truck's cost would be Marginal Costs. By way of further example, Marginal Costs may include the following kinds of costs:

3.3.1 *capital costs*, including those incurred to facilitate or enhance production, collection, treatment or delivery of Landfill Gas; costs incurred to develop energy recovery facilities; costs incurred to select, contract with and compensate any contractors; and costs of permitting for facilities or processes used in connection with Landfill Gas;

3.3.2 *finance costs*, including interest paid or attributed on funds borrowed or invested at commercially reasonable rates for the capital costs of Landfill Gas systems;

3.3.3 all *taxes* (other than federal income tax) paid on gross revenue from the sale or other disposition of Landfill Gas, or on increases in property value attributable to improvements associated with the Gas Project and any amounts paid due to the invalidation by the I.R.S. or other government authority of tax credits previously claimed under Section 29 of the Internal Revenue Code;

3.3.4 *operating costs* associated with Landfill Gas systems, for example, costs of maintenance, labor, costs of overseeing any contractors, and costs of environmental compliance;

3.3.5 *closure costs*, including the projected cost of dismantling equipment or otherwise closing Gas Project systems, for example, the costs of salvaging equipment, restoring the area, and complying with regulatory requirements for closure and restoration; and

3.3.6 *delivery costs*, which are those costs paid under contract to a Landfill Gas purchaser for Contractor's failure to deliver Landfill Gas as required by Contractor's contract(s) with Landfill Gas purchaser(s), or the cost of insurance against such risks.

3.4 Base Costs.

3.4.1 Base Costs Generally. "Base Costs" are the costs that the Contractor would incur in managing Landfill Gas in compliance with applicable regulations without considering the additional costs of the Gas Project (that is, the costs Contractor would incur to comply with landfill gas regulations if it did not implement the Gas Project). Base Costs are to be established by determining the costs that would be necessary for the Contractor to manage Landfill Gas in compliance with the following regulations, as they may be amended from time to time: (a) Ch. 173-351 WAC (Criteria for Municipal Solid Waste Landfills); (b) Ch. 173-400 WAC (General Regulations for Air Pollutant Sources); and (c) 40 CFR §§ 60.750 et. seq. (Standards of Performance for Municipal Solid Waste Landfills). Base Costs shall also include, to the extent that the Landfill Gas management requirements of the following are more strict than (a), (b) and (c), the costs that would be necessary for the Contractor to manage Landfill Gas in compliance with: (d) the Agreement (as amended by this Addendum); and (e) Klickitat County Conditional Use Permit No. CU-92-14 (Oct. 29, 1992).

3.4.2 Base Costs Component to Account for Leachate Evaporator. Base Costs include the following to account for the cancellation of the Agreement's requirement that the Contractor build a gas-fired leachate evaporator: The "Avoided Costs of the Leachate Evaporator" less the "Capital Costs of Replacing the Leachate Evaporator," provided that the

latter may not in any case exceed the former. The "Avoided Costs of the Leachate Evaporator" are the capital costs, but not operation and maintenance costs, avoided by the Contractor in consequence of Contractor's release (set forth in Section 9 below) from the obligation to construct the leachate evaporator, such costs to be determined based on bona fide third-party proposals to construct the leachate evaporator. The "Capital Costs of Replacing the Leachate Evaporator" include the capital costs, but not the operation and maintenance costs, incurred by the Contractor to construct leachate management facilities needed in lieu of the leachate evaporator described in Sections 2.6 and 2.7 of Appendix A. They include, for example, the capital costs of leachate storage, delivery, treatment or destruction facilities that would not have been needed if the leachate evaporator had been built. The capital costs for leachate management facilities addressed in this Subsection 3.4.2 are intended to be accounted for by a one-time computation. After such costs are accounted for, costs of leachate management (including but not limited to costs related to facilities for managing leachate) shall not be taken into account in the determination of Marginal Costs or Base Costs.

4. PRODUCTION PAYMENT SCHEDULE.

4.1 Contractor shall determine the Net Proceeds quarterly, and shall provide the County a written statement. The written statement shall include the underlying figures, calculations and other information necessary to reasonably substantiate Net Proceeds.

4.2 The Contractor shall pay the County Production Payments due under this Addendum at the end of the first calendar quarter following the sale of Landfill Gas. To the extent that Net Proceeds are negative in any quarter, such negative figure shall carry forward and apply against Gross Revenue. In no event shall the County be required to make payments to the Contractor under this Addendum.

4.3 Notwithstanding anything else herein, the Contractor shall have no duty to pay Production Payments to the County with respect to Net Proceeds from the last five percent (5%)

of the Landfill Gas collected at the Disposal Site. It is the Parties' expectation, however, that the five percent threshold will not be reached during the effectiveness of this Addendum.

5. **FINANCIAL RECORDS.** The County may audit those Contractor financial records pertaining to the determination of Net Proceeds, in accordance with Section 4.7 of the Agreement.

6. **ARBITRATION.** Disputes arising under this Addendum are subject to arbitration pursuant to Section 28 of the Agreement.

7. **SECTION SURVIVES.** This Addendum shall take effect and be in force from and after the date the Contractor first receives Gross Revenue from the sale or other beneficial use of landfill gas from the Gas Project , provided, however, that Section 9 of the Addendum shall take effect upon execution of the Addendum by the Parties. The Addendum, including the obligation to make Production Payments, shall survive the termination of the Agreement by five (5) years.

8. **NEW SECTION 15.7.** A new section 15.7 is added to the Agreement as follows:

15.7 **Landfill Gas.** Pursuant to Addendum No. 3 to the Agreement, Landfill Gas produced at the Disposal Site shall belong to the Contractor. The Contractor shall pay Production Payments on Landfill Gas in accordance with Addendum No. 3 to the Agreement.

9. LEACHATE EVAPORATOR. The Contractor has no obligation to build or use a leachate evaporator under Sections 2.6 and 2.7 of Appendix A.

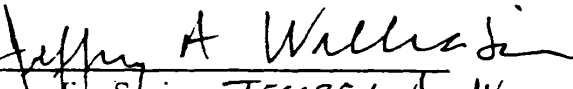
DATED this 18th day of February, 1998.

Klickitat County

Regional Disposal Company
By WJR Environmental, Inc.,
Managing Partner
By



Ray Thayer, Chairman
Board of County Commissioners



~~Jim Sepie~~ JEFFREY A. WILLIAMS
~~Executive Vice President~~

4ZA22U.DOC

ADDENDUM NO. 4

TO THE SECOND AMENDED AGREEMENT
REGARDING SOLID WASTE HANDLING BETWEEN

KLICKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

1. INTRODUCTION – AGREEMENT. Klickitat County (“County”) and Regional Disposal Company (“Contractor”) are parties to the Second Amended Agreement Regarding Solid Waste Handling (August 7, 1995) (“Agreement”). This Addendum No. 4 to the Agreement (“Addendum”) adds to and is made a part of the Agreement, and as such is fully subject to the Agreement's terms. If conflicts are found to exist between the two, the Addendum prevails over the Agreement as the more recent expression of the Parties' intent. Capitalized terms used herein have the meanings provided in the Agreement. Except as specifically provided in this Addendum, the Agreement shall remain in full force and effect.

2. PURPOSE. The purpose of this Addendum is to approve the acquisition of Regional Disposal Company, a Washington general partnership (“RDC”) by Allied Waste Industries, Inc., a Delaware corporation (“Allied”), and to approve Allied and RDC as the Contractor under the Agreement.

3. CONTRACTOR. Wherever the terms “Contractor” or “Regional Disposal Company” are used in the Agreement, those terms shall be deemed to mean Allied operating through its subsidiary RDC.

4. ROOSEVELT REGIONAL LANDFILL.

4.1 The "Disposal Site," as defined at Agreement Section 3.12 shall be the Roosevelt Landfill, 500 Roosevelt Grade Road, Roosevelt, Washington.

4.2 For purposes of this Section 4, "waste controlled by Contractor" shall mean Acceptable Waste (a) under the contractual or other control of Contractor; (b) owned by Contractor; or (c) for which Contractor may select a disposal facility. The term "waste controlled by Contractor" does not include Acceptable Waste that by contract condition unilaterally imposed by an entity that is not a Party or valid law, is required to be transported to and disposed at a disposal facility other than the Disposal Site.

4.3 Subject only to the Approved Waste Volume in Agreement Section 22, all waste controlled by Contractor, and originating within the states of Washington, Oregon, Idaho (north of the 46th Parallel) and Alaska, and the province of British Columbia, shall be disposed at the Disposal Site. Waste from the South Napa Waste Management Authority shall be disposed at the Disposal Site, unless and until a written variance to this requirement is granted by County.

4.4 Contractor shall continue to use its reasonable efforts for continued, preferential use of the Disposal Site for disposal of all waste controlled by Contractor, and originating within the Province of Alberta, the states of Idaho (south of the 46th Parallel), Montana and Wyoming and that part of Northern California shown in Figure 1 of the Comprehensive Solid Waste Management Plan (November 1992 SWMP Addendum).

4.5 To the extent inconsistent herewith, Agreement Section 9.6 is hereby superceded.

5. CLOSURE AND POST CLOSURE. Contractor shall maintain separate Disposal Site (including any mono-cell) closure and post closure funds required by Agreement Section 25,

federal or state law or regulation, regardless of any change in federal or state law allowing the aggregation of closure and post closure fund(s) for multiple landfill sites.

6. CONTRACTOR'S REPRESENTATIVE – NOTICE.

6.1 In addition to designation of Contractor's Representative under Agreement Section 6, Contractor shall designate a person ("Contract Person") at each of its offices in Klickitat County, Contractor's Regional Office, and Contractor's Corporate Office. The Contractor's Representative may also be designated as a Contract Person. In the absence or unavailability of Contractor's Representative, a Contract Person designated by Contractor shall serve as Contractor's Representative and shall have the same authority and responsibility under the Agreement.

6.2 Notices to Parties shall continue to be directed as set forth in Agreement Section 18.2.

7. SECTION 34 GUARANTY. Agreement Section 34, The Rabanco Companies' Guaranty, is hereby superceded and shall have no further force or effect.

8. MODEL RURAL RECYCLING PROGRAM.

8.1 Contractor reaffirms its commitment to the implementation of the model rural recycling program in the County, as summarized at Appendix A, Technical Specification Section 1.8. This Addendum Section 8, clarifies, and does not limit, Contractor's obligations for the planning and implementation of the model rural recycling program.

8.2 Contractor shall annually commit and pay to the model rural recycling program, or such other program as mutually agreed between County and Contractor, such amounts as are consistent with Contractor's identified financial support set forth at Table 4-11 of the Comprehensive Solid Waste Management Plan (1990).

9. ROOSEVELT COMMUNITY DEVELOPMENT. Contractor is obligated as follows with respect to Roosevelt Associates Plat, Klickitat County Planning Department, Docket No. P-97-02 ("Roosevelt Development").

9.1 Contractor, on behalf of Roosevelt Associates, is responsible for performance of items as described in Miscellaneous Indemnity Bond Number B279-17-70, between Roosevelt Associates and Public Utility District No. 1 of Klickitat County ("PUD") and executed June 4, 1998, a copy of which is attached hereto and incorporated herein by this reference.

9.2 Contractor shall convey to the County, at no cost to the County, real property for twenty-one (21) units of low-to-moderate income housing. The total real property provided will not exceed 200,000 square feet. The obligation to pay 20 PUD hook-up fees, as set forth in Section 9.1 above, is in addition to any hook-up fees received by the PUD in connection with the 21 units of low-to-moderate income housing. The obligation for payment of water/wastewater monthly fees for 20 units at the Roosevelt Development, as set forth in Section 9.1, above, is separate from and without credit for any monthly fees received by the PUD in connection with the 21 units of low-to-moderate income housing.

9.3 The conveyance of real property, as described in Paragraph 9.2, shall be in addition to such other Roosevelt Development property, rights-of-way, and associated plat dedications and shall conform to all applicable County plat standards and conditions at the time of conveyance.

10. COST REIMBURSEMENT. Contractor shall reimburse County for all fees and expenses, including reasonable attorney and consultant fees, incurred by County in the review of the acquisition of Regional Disposal Company by Allied, and in the development and implementation of this Addendum No. 4.

11. ADDENDUM NO. 3. Addendum No. 3 to the Agreement (February 18, 1998) is hereby repealed and shall have no force or effect.

12. PERFORMANCE/STANDARDS.

12.1 Contractor acknowledges and accepts all terms and conditions of the Agreement, including Appendix A, Technical Specification, and Appendix B, Other Waste Protocol.

12.2 A wheel wash, as required by Appendix A, Technical Specification Section 2.2.2 shall be constructed and operational by December 31, 1998. For every day after December 31, 1998 that the wheel wash is not constructed and available for operation, Contractor shall pay to County the fee of Five Hundred Dollars (\$500.00).

12.3 Contractor shall within six (6) months of the Effective Date of this Addendum No. 4 submit to the County, for its review and approval, a plan (including implementation schedule) for the replacement or retrofitting of containers to mitigate leakage during storage and transport.

12.4 County shall meet with Contractor, at Contractor's reasonable request, to consider changes or modifications to Technical Specification or other performance standards. The County's obligation under this Section 12.4 does not require and shall not be construed to require County agreement with any Contractor request.

13. LANDFILL GAS. County may transfer or assign, by sale, lease or otherwise, its rights to landfill ("methane") gas under Appendix A, Technical Specification Section 2.7.1 to PUD, or such other person as County determines in its sole discretion, without further Contractor assent under Agreement; provided that, subject to County's regulatory control, such transfer or assignment shall not interfere with the operation of the Disposal Site or Contractor's compliance with all laws and regulations.

14. ARBITRATION. Disputes arising under this Addendum No. 4 are subject to arbitration pursuant to Agreement Section 28.

15. EFFECTIVE DATE. This Addendum No. 4 shall take effect on the closing of the Agreement and Plan of Reorganization between Allied and Rabanco Acquisition Company, et al., dated April 23, 1998, as may be amended (the "Effective Date"). The Effective Date shall occur no later than ten (10) business days after approval and execution of this Addendum by the Parties.

16. ASSIGNMENT; CORPORATE CONTROL; SUCCESSORS.

16.1 Agreement Sections 29.2, Assignment, and 29.3, Corporate Control, are hereby superceded and shall have no further force and effect.

16.2 A new section 29.2 is added to the Agreement, as follows:

29.2 Assignment. For purposes of this Agreement, "assignment" shall mean the assignment or transfer of Contractor's Agreement rights or obligations, Contractor's corporate reorganization, change of organization, merger, or any acquisition or disposition as such terms are further defined hereafter.

(a) For purposes of Section 29, "acquisition" means the agreement by Contractor or any of its Subsidiaries to acquire or agree to acquire by merging or consolidating with, or by purchasing a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association, or other business organization or division thereof or otherwise acquire or agree to acquire any assets in the states or areas referenced in Section 4 of this Addendum that are material, individually or in the aggregate, to the Business Condition of a Party.

(b) For purposes of Section 29, "disposition" means the agreement by Contractor or any of its Subsidiaries to sell, lease, license, transfer, mortgage, encumber or

otherwise dispose of any of its assets or cancel, release, or assign any indebtedness or claim in the states or areas referenced in Section 4 of this Addendum, except (i) in the ordinary course of business or (ii) in amounts that are not material, individually or in the aggregate, to the Business Condition of a Party.

(c) As used in Section 29, "Business Condition" with respect to any entity shall mean the business, financial condition, results of operations or assets (giving effect to the consequences of the transactions contemplated by this Agreement) of any Party.

16.3 A new section 29.3 is added to the Agreement, as follows:

29.3 County Consent The Contractor shall not assign any rights or obligations under or arising from this Agreement without the prior written consent of the County. The County's consent under Agreement Section 29 shall be subject to the standard of reasonableness from and after the tenth anniversary of the Effective Date of Addendum No. 4 to the Agreement. All costs and expenses, including reasonable attorney and consultant fees, incurred by County related to a review of a Contractor proposed Assignment shall be reimbursed to County by Contractor.

17. AUTHORITY. Allied represents and warrants to the County as follows:

17.1 Organization and Qualifications. It is duly organized and validly existing under the laws of the State of Delaware, with full legal right, power and authority to enter into and perform its obligations.

17.2 Authority.

(a) This Addendum has been duly authorized, executed and delivered by it and constitutes a legal, valid, and binding obligation of it, enforceable against it in accordance with its terms.

(b) Neither the execution or delivery by it of this Addendum, nor the bound, or constitutes a default thereunder performance by it of its obligation in connection with the transactions contemplated hereby or thereby, nor the fulfillment by it of the terms or conditions hereof or thereof: (i) conflicts with, violates, or results in a breach of any constitution, law, or governmental regulation applicable to it, or (ii) conflicts with, violates, or results in a breach of any material term or condition of any order, judgment or decree, or any agreement or instrument to which it is a party or by which it or any of its properties or assets are.

17.3 Compliance With Laws. There is no action, suit or proceeding, at law or in equity, before or by any court or governmental authority pending or, to the best of its knowledge, threatened against it, which might materially adversely affect the performance by it of its obligation hereunder, or which, in any way, questions validity, legality or enforceability of this Addendum or any other agreement or instrument entered into by it in connection with the transaction contemplated hereby.

17.4 Defense. Contractor shall pay all costs, expenses and reasonable attorney fees incurred by County in the defense of any action, claim or suit by a person not a party to the Agreement, such action, claim or suit challenging the validity or enforceability of the Addendum.

18. EXECUTION. This Addendum No. 4 is executed this 29th day of June, 1998.

KLICKITAT COUNTY



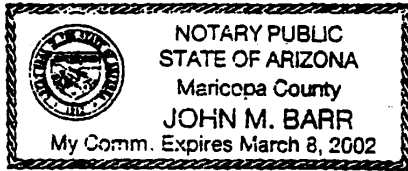
RAY THAYER, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

LARRY D. HENK *[Signature]*

I certify that I know or have satisfactory evidence that ~~Thomas van Weelden~~ signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President and Chief Executive Officer of Allied Waste Industries, Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 17th day of JUNE, 1998.



[Signature]
Notary Public in and for the state of
ARIZONA, residing at
8776 E SHEA BLVD # B5A, SCOTTSDALE, AZ.

My appointment expires MARCH 8, 2002

APPENDIX A

TECHNICAL SPECIFICATION
TO
SECOND AMENDED AGREEMENT
REGARDING SOLID WASTE HANDLING

BETWEEN

KLICKITAT COUNTY

AND

REGIONAL DISPOSAL COMPANY

AUGUST 7, 1995

APPENDIX A
TECHNICAL SPECIFICATION

TABLE OF CONTENTS

| | | |
|------|---|----|
| 1.0 | GENERAL | 1 |
| 1.1 | Agreement Documents | 1 |
| 1.2 | Applicable Standards and Codes | 1 |
| 1.3 | Definitions | 1 |
| 1.4 | Performance Bond | 3 |
| 1.5 | Permits | 3 |
| 1.6 | Other Waste Handling | 3 |
| 1.7 | Hazardous Waste | 4 |
| | 1.7.1 Unacceptable Waste | 4 |
| | 1.7.2 Moderate Risk Waste Plan | 4 |
| | 1.7.3 Moderate Risk Waste Plan Implementation | 6 |
| 1.8 | Recycling | 6 |
| 1.9 | Agricultural Chemical Waste Disposal | 9 |
| 1.10 | Emergency Landfill Site | 10 |
| 2.0 | DISPOSAL SITE DEVELOPMENT | 10 |
| 2.1 | General | 10 |
| | 2.1.1 Geohydrological Investigations | 11 |
| | 2.1.2 Buffer Zones | 11 |
| | 2.1.3 Site Development Plan | 11 |
| | 2.1.4 Access Roads | 11 |
| | 2.1.5 Fencing | 11 |
| | 2.1.6 Utilities | 12 |
| | 2.1.7 Operating Hours | 12 |
| | 2.1.8 Monitoring | 12 |
| 2.2 | Systems | 13 |
| | 2.2.1 Scales | 13 |
| | 2.2.2 Wheel Wash | 13 |
| | 2.2.3 Public Convenience Drop Box | 13 |
| 2.3 | Earthwork | 13 |
| | 2.3.1 General | 13 |
| | 2.3.2 Liner | 14 |
| | 2.3.3 Cap | 14 |
| | 2.3.4 Daily and Intermediate Cover | 14 |
| | 2.3.5 Material Certification | 15 |
| 2.4 | Geomembrane | 15 |
| | 2.4.1 General | 15 |
| | 2.4.2 Quality Assurance | 15 |
| | 2.4.3 Quality Control | 20 |
| 2.5 | Surface Water | 26 |
| 2.6 | Leachate Collection and Treatment Systems | 26 |
| | 2.6.1 Leachate Collection System | 26 |
| | 2.6.2 Leachate Treatment System | 27 |
| | 2.6.3 Testing | 27 |
| | 2.6.4 Maintenance | 28 |

| | | |
|-------|--|----|
| 2.7 | Landfill Gas Collection and Treatment Systems . . . | 28 |
| 2.7.1 | General | 28 |
| 2.7.2 | Testing and Maintenance | 28 |
| 2.8 | Landscaping | 29 |
| 2.9 | Operations | 29 |
| 2.9.1 | Operations Plan | 29 |
| 2.9.2 | Litter Control | 29 |
| 2.9.3 | Closure and PostClosure | 29 |
| 3.0 | SURFACE TRANSPORTATION | 30 |
| 3.1 | General | 30 |
| 3.2 | Structural Improvements and Maintenance | 30 |
| 3.3 | Signage | 31 |
| 3.4 | Improvements at Intermodal Transfer Facility | 31 |
| 3.5 | Other Improvements | 31 |
| 3.6 | Emergency Conditions | 31 |
| 4.0 | DROP BOX/RECYCLING STATIONS | 32 |
| 4.1 | General | 32 |
| 4.2 | Capacity | 32 |
| 4.3 | Operating Hours | 32 |
| 4.4 | Litter Control | 32 |
| 5.0 | INTERMODAL TRANSFER FACILITY | 33 |
| 5.1 | General | 33 |
| 5.2 | Capacity | 33 |
| 5.3 | Operating Hours | 33 |
| 5.4 | Containers | 33 |
| 6.0 | PROJECT DEVELOPMENT SCHEDULES | 34 |
| 6.1 | Design Schedules | 34 |
| 6.2 | Construction Schedules | 34 |

APPENDIX A

TECHNICAL SPECIFICATION

1.0 GENERAL

1.1 Agreement Documents

It is the intent of this Technical Specification to assign all responsibility for the preparation of technical documents, permits, designs and for all testing, construction and operating activities to Contractor.

All designs, plans, specifications and other technical documents shall be reviewed by the County.

1.2 Applicable Standards and Codes

All work performed under this Agreement shall meet or exceed the requirements of WAC Chapter 173-304, Minimum Functional Standards for Solid Waste Handling, 40 CFR Pts. 257 and 258, Solid Waste Disposal Facility Criteria, and all applicable local, state and federal standards as are currently in effect or hereafter amended. Contractor shall be responsible for determining applicable codes, acquiring copies at its sole expense, and complying with the requirements of codes and standards. Contractor shall be responsible for exercising sound engineering practices in all work.

1.3 Definitions

Unless otherwise indicated below, capitalized terms shall have the meaning established in Article 3 of the Agreement.

1.3.1 Active Area means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being, are proposed to be, or have been conducted. Buffer zones shall not be considered part of the active area of a facility.

1.3.2 Buffer Zone means that part of a facility that lies between the active area and the property boundary.

1.3.3 ASTM means the American Society for Testing and Materials.

1.3.4 Daily Cover means soil or other suitable material that has been approved by the jurisdictional health department as cover for wastes.

1.3.5 Dangerous Waste means those solid wastes designated in WAC 173-303-070 through 173-303-103 as dangerous or extremely hazardous waste.

- 1.3.6 Environmental Control Systems refers to the systems constructed at the Disposal Site which are necessary to bring the landfill into compliance with WAC 173304 standards. These systems include but are not limited to the soil liner and geomembrane, leachate collection and treatment, landfill gas collection and treatment, and surface water drainage.
- 1.3.7 Geomembrane is applied to flexible membrane liners. More specifically, "geomembrane" refers to polyethylene geomembranes made from resins with a specific gravity greater than 0.935 which includes those polymers known as high density polyethylene (HDPE).
- 1.3.8 Geomembrane Panel is defined as the unit area of geomembrane that is to be seamed in the field. If geomembrane is not fabricated into panels at the factory, a panel is defined as a roll or portion of a roll cut in the field.
- 1.3.9 Geotextile refers to the synthetic construction fabric to be used for protection of the geomembrane, stabilization of surfaces, and/or as a filtration fabric.
- 1.3.10 Geosynthetic shall include all materials relating to the geomembrane and geotextile.
- 1.3.11 Hazardous Household Substance means any liquid, solid, contained gas, or sludge, including any material, substance, product, commodity, or waste, used or generated in the household, regardless of quantity, that exhibits any of the characteristics or criteria of dangerous waste set forth in Chapter 173-303 WAC. Such substances become moderate risk waste when discarded.
- 1.3.12 Intermediate Cover means soil or other suitable material that has been approved by the jurisdictional health department as a temporary cover for a completed cell of waste.
- 1.3.13 Master Seamer means the most experienced seamer working on the fabrication or installation of the geomembrane.
- 1.3.14 Moderate Risk Waste means (a) any waste that exhibits any of the properties of hazardous waste as defined in Chapter 173-303 WAC but is exempt from regulation because the waste is generated in quantities below the threshold for regulation, and (b) any household wastes which are generated from the disposal of substances identified by the Department of Ecology as hazardous household substances.
- 1.3.15 On-Site Structures means any buildings constructed at the Disposal Site including but not limited to office buildings, equipment maintenance buildings, shop and parts storage

buildings, equipment and miscellaneous storage buildings and utility housing buildings.

- 1.3.16 Property Boundary means the perimeter property line as recorded with the County Assessor's office.
- 1.3.17 Public Convenience Drop Box Facility means a facility used for the placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas.
- 1.3.18 Public Wells means wells providing water for a municipality.
- 1.3.19 Recyclables means glass, aluminum, metal cans, newspaper and any other materials agreed upon by the Contractor and the County.
- 1.3.20 RCRA means Resource Conservation and Recovery Act.
- 1.3.21 Seaming Technician means the person performing the seaming operations of the geomembrane panels in the field. Seaming Technicians shall be supervised by the Master Seamer.
- 1.3.22 Technical Proposal means Section IV, including drawings, of the Proposal and Qualifications for the Klickitat County Regional Solid Waste Landfill submitted by Contractor on January 22, 1989 in response to the RFQ/P.

1.4 Performance Bond

See Article 26 of the Agreement.

1.5 Permits

Contractor shall be responsible for all local, state, and federal permits and permit requirements associated with all phases of the Project, including but not limited to, the siting, construction, operation and closing of the Disposal Site and associated improvements; the drop box/recycling stations; and the intermodal transfer facility. The County shall provide reasonable assistance to Contractor in obtaining said permits. Copies of all permits and reports shall be provided to the County.

1.6 Other Waste Handling

Contractor shall not receive Other Waste as defined in Section 3.22 of the Agreement until a permit, when required, allowing disposal of such Other Waste is issued by the Southwest Washington Health District (the applicable jurisdictional health authority as referred to in the Agreement). Other Waste shall not be accepted at the drop box/recycling stations. Permits will be issued by the Southwest Washington Health District. Permits shall

designate the source and type of Other Waste and shall further designate specific handling requirements and disposal location at the Disposal Site. All handling and disposal of Other Waste shall be in accordance with the local, state and federal standards. Contractor shall submit annual reports to the County disclosing the Other Wastes disposed of at the Disposal Site.

1.7 Hazardous Waste

1.7.1 Unacceptable Waste

The Contractor shall not accept hazardous waste as defined in Section 3.19 of the Agreement. Handling of hazardous waste shall be as specified in Article 15 of the Agreement.

1.7.2 Moderate Risk Waste Plan

The Contractor shall provide a plan to receive and dispose of Countywide Moderate Risk Waste to the County within 180 days of execution of the Amended Agreement for its approval. As a minimum the following shall be included:

a) Reception of Moderate Risk Waste

(1) Service at Disposal Site.

Contractor shall receive Moderate Risk Waste at the Disposal Site throughout the year, provided that residents of the County shall provide the Contractor a minimum of two-hours' notice by telephone, to permit Contractor to arrange for personnel to be available to assist with proper handling of the Moderate Risk Waste at the Disposal Site.

(2) Drop-Off/Mobile Trailer Service.

Subject to the conditions set forth below, Contractor shall, in addition to providing Moderate Risk Waste collection service at the Disposal Site, operate a Moderate Risk Waste drop-off or mobile trailer service at the Contractor's Transfer Stations. Contractor's responsibility to operate a Moderate Risk Waste drop-off or mobile trailer service is contingent upon:

(a) Contractor's ability to obtain and maintain approval from agencies on economically reasonable terms (not to exceed Contractor's capital costs for implementation of these Section 1.7.2(a) (2) services);

(b) The Department of Ecology's conclusion that no permit other than those required for the handling and/or disposal of Waste is required for the moderate.

risk waste drop-off/mobile trailer service or for the facilities involved; and

(c) The County's inclusion of a Moderate Risk Waste drop-off/mobile trailer and collection program consistent with this Section 1.7.2 in its moderate risk waste management plan prepared pursuant to RCW 70.105.220.

Moderate Risk Waste drop-off/mobile trailer services provided under this Section 1.7.2(a)(2) shall be made available during normal Contractor business hours.

b) Location

The Contractor shall receive Moderate Risk Waste at the drop box/recycling stations or publicly-owned areas such as parking lots or fire stations approved by the County. The sites shall provide easy access with adequate space to safely conduct arrival, drop off and exiting maneuvers. Maps, clear directions, and roadside signs shall be provided and distributed by the County. Collection of Moderate Risk Waste shall not occur at any location other than those authorized under the County's moderate risk waste management plan, as it may be revised from time to time. Receipt of Moderate Risk Waste at the authorized locations and only at these locations, shall not be subject to the provisions of Article 15 of the Agreement.

c) Personnel

The Moderate Risk Waste collection site shall be staffed with at least one individual trained in the handling of Moderate Risk Waste. Volunteer organizations may be utilized as needed, provided adequate supervision is provided. The plan submitted to the County shall specify duties of each person to be working at the receiving operation.

d) Containers

Containers used to store Moderate Risk Wastes shall be designed to prevent intermingling of the various forms of wastes and to contain spills. The containers shall be leakproof and secured during any non-operating hours that they occupy the collection site.

The containers shall be located so as to reasonably separate the public from the collection activities including workers unloading the Moderate Risk Waste from participants' vehicles. Citizen participants shall be kept away from waste inventory, identification and storage/containerization areas.

e) Transport and Disposal

All Moderate Risk Waste collected shall be transported and disposed of by the Contractor at a site permitted to accept hazardous waste. Contractor shall bear transportation costs. County shall pay only regulatory and disposal costs. The fees set forth in Article 12 of the Agreement shall not apply to Moderate Risk Waste Received by Contractor pursuant to the Moderate Risk Waste Service Plan approved by the County.

If any of the Moderate Risk Wastes collected are reasonably able to be recycled, the Contractor shall recycle such material and be entitled to the proceeds.

f) Public Education

Public education is an important aspect of the Moderate Risk Waste collection program. An on-going public education program shall be developed and administered by the County which will focus on the proper handling and disposal of Moderate Risk Waste and promote participation in Moderate Risk Waste collection and recycling programs.

1.7.3 Moderate Risk Waste Plan Implementation

When instructed by the County, Contractor shall implement the Moderate Risk Waste Management Plan developed in Section 1.7.2 above as scheduled by the County but not before commencement of construction of the Disposal Site.

1.8 Recycling

The Contractor, in cooperation with the County, shall provide a plan for and implementation of a Countywide model recycling program for the County within 120 days of execution of the Agreement. The plan shall be approved by the County prior to its implementation. As a minimum, the following shall be included:

a) Existing System

The recycling plan shall recognize the existing system of recycling in the County including the program administered by the County Senior Services Department. The Contractor shall work with the County in an attempt to enhance the existing system and develop a plan consistent with the County Solid Waste Management Plan. In addition to the residential program described below, at the request of the County Contractor shall develop and implement a plan for waste reduction and recycling by commercial and public facilities. Contractor may

charge a reasonable fee for such services to commercial facilities.

b) Curbside Recycling

After waste reduction, recycling is the County's next highest solid waste management priority. As a result, residential collection of source separated recyclables shall begin no later than March 1, 1990. The residential recycling program to be administered by the County shall be available to all single family households and multi-family residences up to four-plexes. Materials to be collected will include newspaper, cardboard, glass, and aluminum. Other materials including mixed paper, tin cans and plastic containers may also be collected at the County's option. The materials will be collected on a regular schedule at least monthly. All recyclable materials shall be processed and hauled to market by the Contractor.

The Contractor shall provide at its cost all participating households, as described above, with collection containers. A determination of the size and type of containers will be made in the plan.

Recycling Plans provided by the Contractor in cooperation with the County pursuant to this Section 1.8 shall not be amended by the Contractor, except following review and comment by the County. Disputes under this section shall be resolved by arbitration pursuant to Section 28 of the Agreement.

The Contractor's Recycling Plan may temporarily exclude glass from the residential household collection program, if market conditions for recycled glass are significantly less favorable than market conditions for such items as aluminum cans, cardboard and bond paper. Contractor shall use its best efforts to employ a party or parties such as clients of the New Hope Farm to operate or serve on a sorting line (that is, to provide the labor associated with manual sorting of recyclables from the residential household recycling stream). Modification in such a program may be necessary during periods in which glass is collected as a recyclable.

The Parties shall meet periodically to review the recycling program and consider amendment of any or all components of the residential household collection and recycling program.

In the event the County, with assistance from Contractor, is unable to secure the services of a qualified collection contractor, at the County's option

the Contractor shall provide the collection service for residential household recycling. The Contractor shall be entitled to recover actual costs for providing such collection service from participating households through collection fees. If the Contractor is unable to collect such fees from participating households, the County will pay to the Contractor \$1.00 (subject to adjustment for CPI, changes in law, and changes in insurance premiums) per participating household per month not to exceed \$18,000 per year, for providing collection services. Payment shall be made within 60 days of invoice by Contractor, but no sooner than the beginning of the third calendar quarter of each year.

c) Drop Box/Recycling Stations

The drop box/recycling stations shall include provisions for public recycling and a container for recyclables as defined in Section 4.0 of the Specifications. Customers may drop off recyclables at the drop box stations free of charge.

Drop box/recycling stations shall have information available to self-haul customers about waste reduction and recycling opportunities.

d) Public Education

The plan shall provide for an on-going public education program advocating waste reduction and recycling techniques and participation. Public information programs for waste reduction and recycling shall be developed and implemented by the Contractor which are directed to the general public, commercial, and industrial enterprises. Programs for the public shall include sponsoring print media campaigns; distributing literature at shopping/business areas and drop box/recycling stations; and offering community workshops and slide presentations through civic and service organizations. As the County solid waste management system continues to develop, educational efforts should address issues of resource depletion, impacts of waste disposal and changes in the waste stream.

New programs and services, especially ones which require changes of behavior, need to be supported by distribution of educational materials, workshops and other educational services. The Contractor shall incorporate educational information on waste reduction and recycling with information on waste services in its printed materials.

The public information program shall include information on recycling, composting, and household hazardous waste collection. As programs are designed, sufficient emphasis on getting the information to the public shall be included.

The Contractor may supply information to clearly identify which products and packaging are not reusable or recyclable, or conversely, which products and packaging are reusable and recyclable and made of recycled materials.

It is the County's intention to encourage the schools' participation in educating students in waste reduction and recycling. The County shall be responsible for promoting school curricula for waste reduction and recycling. The Contractor shall make reasonably available to the schools individuals to make presentations when requested.

e) Program Evaluation

The Contractor shall collect data on the amount and type of materials which are recycled to enable the County to track and evaluate its progress in meeting its recycling goals. The performance of the recycling programs shall be assessed annually to determine whether recyclables are being recovered equally successfully in all neighborhoods and from all types of generators and whether the public information and education efforts are effective in promoting the waste reduction and recycling programs.

f) Title to Materials

The Contractor shall have title to and responsibility for processing and marketing all recyclable materials and disposal of all residue collected by or delivered to the Contractor.

1.9 Agricultural Chemical Waste Disposal

The Contractor shall support the County's agriculture industry in properly handling and disposing of agricultural chemicals and empty containers of agricultural chemicals.

a) Educational Program for Agriculture Wastes

The Contractor shall cooperate with the County in developing an outreach educational program on the proper handling and disposal of empty agricultural chemical containers. The program shall make available information on and shall encourage handling of such containers in compliance with state and federal law.

b) Free Disposal of Properly-Emptied Containers

The Contractor shall accept without charge for disposal at the Disposal Site all containers of agricultural chemicals that have been used in the County and have been emptied and triple-rinsed in accordance with applicable law.

c) Disposal of Other Agricultural Chemical Wastes.

Unless restricted from doing so by applicable regulation or permit condition, Contractor shall accept at the Disposal Site other Agricultural Chemical Waste containers and materials that have been used in the County, and shall transport them to and dispose of them at a properly permitted disposal site. Contractor may charge a reasonable fee for such services.

d) Permits

Contractor shall secure such permits or permit amendments necessary for the program outlined herein; provided, however, Contractor shall have no obligation for receipt and transport of Agricultural Chemical Waste in the event that such activity would require a treatment, storage or disposal (TSD) facility permit under Chapter 173-303 WAC or RCRA Subtitle C.

1.10 Emergency Landfill Site

Following commencement of operations of the Disposal Site in cases where the Disposal Site is not able to accept in-County waste, Contractor will transport all in-County waste to an alternate landfill site reasonably acceptable to the County. The County or its citizens shall not incur any additional costs for this service.

2.0 DISPOSAL SITE DEVELOPMENT

2.1 General

The Disposal Site shall meet or exceed the requirements for a non-arid area facility as specified in WAC Chapter 173-304. The Contractor shall prepare and submit to the County for its review the procedures to be used by the Contractor for quality assurance and quality control for all construction at the Disposal Site including but not limited to fencing, utilities, scales, wheel wash, drop box, earthwork and environmental control systems.

2.1.1 Geohydrological Investigations

Detailed geotechnical and ground water investigations will be conducted to characterize the quantity and quality of construction materials and to provide a geohydrological assessment of the property as required by WAC 173-304.

2.1.2 Buffer Zones

The Disposal Site shall be designed in such a manner as to leave a buffer zone, as defined in WAC 173-304, of at least 250 feet between the active area and the property boundary.

2.1.3 Site Development Plan

A site development plan shall be submitted to the County for its review. The plan shall include but not be limited to facilities locations, grading plans showing minimum and maximum elevations of the proposed refuse area, and cell sequencing plans.

The Disposal Site shall be constructed and operated in phases that are sized according to the anticipated waste stream. Typical cell size at 1 million tons per year will be approximately 25 acres. When the grades reach their final design elevation, final cover shall be placed and that portion of the Disposal Site shall be closed.

2.1.4 Access Roads

All public use access roads at the Disposal Site shall be paved with all-weather surfacing in accordance with Section 3.0 of these Specifications. All other access roads shall be asphalt or gravel-surfaced as determined by Contractor. A method of controlling dust shall be maintained in a manner acceptable to the County.

Design of access roads into and on the facility shall be such that public and commercial traffic is separated to the greatest extent possible.

In the event of the successful siting of the Clark site, approval of Contractor's use of the East Road shall not be unreasonably withheld.

2.1.5 Fencing

A perimeter fence shall be constructed around the Disposal Site in accordance with WAC Chapter 173-304. Fencing shall be six-foot chain link fence in public entrance areas. All other fence shall be as a minimum, four-strand (4) barbed wire. Fencing shall be constructed prior to the first date of operation.

2.1.6 Utilities

Water shall be provided from an on-site well. The well shall be of sufficient capacity to meet all needs, including but not limited to domestic, landscape irrigation, and construction needs.

In addition to water demand for domestic and operational use, demands for fire flow shall be provided. On-site storage shall be constructed to provide a fire flow as dictated by the County Public Works Department and the Washington Surveying and Rating Bureau. A minimum fire flow of 3,000 gallons per minute for a duration of one hour may be provided in lieu of more restrictive requirements if allowed by jurisdictional authorities. The storage system for fire flow shall consist of a lined holding pond with a minimum of 2 feet of freeboard or a storage tank and a fixed fire pump which discharges to fire hydrants.

The site shall be served by electrical power and phone communications. On-site communication and communication with haul vehicles between the intermodal facility and the Disposal Site shall be provided by radio.

Sewer service shall be provided by on-site septic tank and drainfield disposal systems in accordance with generally applicable local standards.

2.1.7 Operating Hours

Disposal Site operating hours shall be adequate to accommodate in-County Waste and the contracted waste stream, or in accordance with operating permits. The public convenience drop box facility shall be open to the public on the same schedule.

2.1.8 Monitoring

A ground water and surface water monitoring system shall be provided that meets the requirements of WAC 173-304 and RCRA Subtitle D.

A gas monitoring system shall be provided to detect subsurface gases at the Disposal Site property boundaries and within on-site structures in accordance with the above regulations.

Air quality monitoring shall be provided in accordance with Federal RCRA Subtitle D and other applicable local, state and federal standards.

2.2 Systems

2.2.1 Scales

A truck scale shall be provided at the entrance of the facility. The scale shall be a Fairbanks Model 14-4307 or equal or as needed to meet the requirements of the truck and trailer combinations used. This is an in-ground, 60-ton capacity, 80-foot by 10-foot platform scale. If actual haul vehicles used exceed the capacity of the Fairbanks scale, as specified in the Washington State Department of Transportation (WSDOT) Standard Specifications for Road, Bridge and Municipal Construction, a scale meeting the WSDOT specifications shall be used.

The scale facility shall include a microprocessor-based computer system for weight recording and accounting. All refuse entering the facility shall be weighed and entered into the accounting system. Contractor shall provide a means by which the County residents using the public convenience drop box are entered into the weight and accounting system and are differentiated from out-of-County residents.

2.2.2 Wheel Wash

A drive-through wheel wash system shall be provided. Its dimensions shall be at least 80 feet by 10 feet.

2.2.3 Public Convenience Drop Box

A drop box available to the public shall be provided near the entrance to the Disposal Site. The public shall not be allowed direct access to the active area of the Disposal Site.

The drop box facility shall have a minimum of two 40-cubic-yard box containers. One box will be for waste, the second will be for mixed recyclables. The boxes shall be located in a subgrade stall so that the elevation of the top of the retaining wall is approximately one foot above the public tipping area providing for direct disposal into the drop box by the public.

2.3 Earthwork

2.3.1 General

Contractor shall provide construction plans and specifications for all earthwork for the County's review.

If blasting is required, a plan and schedule for blasting shall be submitted to the County for its review.

If material is to be imported from off-site borrow sources, a plan for excavating, transporting and stockpiling of materials shall be submitted to the County for its review. The plan shall include as a minimum, an excavation grading plan, methods for prevention of contamination of the imported material and haul routes from the borrow source to the Disposal Site. All borrow excavation and stockpiling shall be in accordance with all Washington State Department of Natural Resources regulations and the latest edition of the WSDOT Standard Specifications for Road, Bridge, and Municipal Construction, Division 3, Production from Quarry and Pit Sites and Stockpiling. Improvements to haul routes shall be as stated in Article 3 of these Specifications.

2.3.2 Liner

a. Soil Layer

The bottom liner shall include a soil layer of 2 feet minimum thickness with a maximum permeability of 10^{-6} centimeters per second (cm/sec).

b. Bentonite Clay Liner

A bentonite clay liner (Claymax™ or equal) shall be placed over the soil liner within the leachate collection trenches. This liner shall extend at least 6 feet either side of the leachate collection pipe centerline.

c. Geomembrane Liner

A high density polyethylene (HDPE), geomembrane liner shall be placed over the soil liner. This liner shall be at least 80 mils thick and meet the specifications of National Sanitation Foundation Standard No. 54 (flexible membrane liners).

2.3.3 Cap

A cap design shall be submitted to the County for its review and as a minimum shall consist of two feet of soil having a maximum permeability of 10^{-5} centimeters per second with an additional 2 feet of topsoil placed over this. The cap will be seeded with native grasses immediately upon completion or as soon as weather conditions reasonably permit.

2.3.4 Daily and Intermediate Cover

Daily cover will consist of at least 6 inches of compacted soil placed as soon as possible and no less than the end of each working day. Intermediate cover shall be sloped to drain and have a minimum thickness of 12 inches.

Intermediate cover shall be placed at the frequency specified by the Health District.

2.3.5 Material Certification

Based on geologic investigations conducted by Contractor, a materials specification shall be prepared for all soil components of the liner and cover systems. The material specification shall determine the gradation requirements of the various soil components in accordance with ASTM C117, C136, and D1140, wet sieving and shall be reviewed by the County.

Certifications that the materials conform to the specification requirements, along with copies of the test results certified in writing from a certified commercial testing laboratory, shall be submitted to the County for review at least 10 days before the material is required for use. All material samples and testing shall be furnished by Contractor. Samples of the finished product for gradation testing shall be taken from each 1,500 tons of prepared materials and tested. Samples shall be representative and be clearly marked to show the source of the material and the intended use on the project.

Optimum moisture content and maximum density for compacted materials shall be determined by ASTM D698. In-place density and moisture content shall be determined by one of the following methods: ASTM 2922, D 1556, or D 3017. Contractor shall test in-place density and moisture content of all soil components of the liner and cover systems at a rate that will assure that the specified permeability is achieved.

2.4 Geomembrane

2.4.1 General

High density polyethylene geomembrane (HDPE) will be used in construction of environmental control systems as described in Sections 2.3.2 Liner, and 2.6 Leachate Collection and Treatment Systems. Sections 2.4.2 Quality Assurance and 2.4.3 Quality Control, shall apply to all phases of geomembrane installation throughout the life of the Disposal Site.

2.4.2 Quality Assurance

The geomembrane manufacturer, fabricator and installer shall meet the requirements specified herein. Contractor shall assure the qualifications of the manufacturer, fabricator and installer. In addition, Contractor shall be responsible for submitting quality assurance certifications and warranties to the County for their review prior to

contracting for geomembrane work. Qualifications for the manufacturer, fabricator and installer shall be as follows:

1. Geomembrane Manufacturer

The geomembrane manufacturer shall meet prequalification requirements for the production of the geomembrane rolls from the resin and for the quality of the resin. Contractor shall submit the following information with respect to the geomembrane manufacturer.

- a. Corporate background and information.
- b. Manufacturing capabilities:
 - (1) Information on the designated plant size, equipment, personnel, number of shifts per day and capacity per shift.
 - (2) Daily production quantity available for this contract.
 - (3) Quality control procedures for manufacturing.
 - (4) List of material properties including certified test results, to which are attached geomembrane samples.
- c. A list of at least ten (10) completed facilities totaling a minimum of two million (2,000,000) square feet, for which the manufacturer has manufactured the specified type of geomembrane. For each facility, the following information shall be provided:
 - (1) Name and purpose of facility, its location and address, and date of installation.
 - (2) Name of owner, project manager, designer, fabricator, installer, and name and phone number of contact at the facility who can discuss the project.
 - (3) Thickness of geomembrane, surface area of geomembrane manufactured.
 - (4) Available information on the performance of the geomembrane system and facility.
- d. Statement that no reclaimed polymer is added to the resin (however, the use of polymer recycled during the manufacturing process may be permitted

if done with appropriate cleanliness and if recycled polymer does not exceed two (2) percent by weight).

The geomembrane manufacturer shall have sufficient production capacity and qualified personnel to meet the demands of the project. The geomembrane manufacturer shall be approved by the County. Approval by the County shall not be unreasonably withheld.

2. Fabricator

The fabricator shall meet pre-qualification requirements for the fabrication of geomembrane panels constructed from rolls received from the manufacturer, and shall have sufficient production capacity and qualified personnel to meet the demands of the project. The geomembrane fabricator shall be approved and/or licensed by the geomembrane manufacturer. Contractor shall submit the following information with respect to the geomembrane fabricator:

- a. Corporate background and information.
- b. Fabricator capabilities:
 - (1) Copy of geomembrane manufacturer's letter of approval or license.
 - (2) Information on plant size, equipment, personnel, number of shifts per day, and capacity per shift.
 - (3) Daily production quantity available for this contract.
 - (4) Quality control procedures for fabrication.
 - (5) Samples of fabricated seams and list of certified seam properties, minimum values, and employed test methods.
 - (6) Resume of the Master Seamer to be assigned to this project, including dates and duration of employment.
 - (7) Resume of the engineer or fabrication supervisor to be assigned to this project, including dates and duration of employment.
 - (8) A list of personnel performing factory seaming operations, along with pertinent experience information.

- c. A list of at least ten (10) completed facilities, totaling a minimum of two million (2,000,000) square feet, for which the fabricator has fabricated the specified type of geomembrane. For each facility, the following information shall be provided:
- (1) Name and purpose of facility, its location and address, and date of installation.
 - (2) Name of owner, project manager, designer, manufacturer, installer, and name and phone number of contact at the facility who can discuss the project.
 - (3) Name and qualifications of the supervisor(s) of the fabricator's crew.
 - (4) Thickness of geomembrane, surface area of the fabricated geomembrane.
 - (5) Type of seaming and type of seaming apparatus used.
 - (6) Duration of fabrication.
 - (7) Available information on the performance of the geomembrane system and the facility.

All personnel performing seaming operations shall be qualified by experience. At least one (1) seamer shall have experience seaming a minimum of one million (1,000,000) square feet of geomembrane using the same type of seaming apparatus to be used for this project. The most experienced seamer, herein referred to as the Master Seamer, shall provide direct supervision, as required, over less experienced seamers. No factory seaming shall take place without the master seamer being present.

3. Installer

The installer shall meet pre-qualification requirements for field handling, storing, deploying, seaming, temporary restraining against wind and water, and other site aspects of the geosynthetics installations, including the transportation of these materials to the site, and for the anchoring systems.

Contractor shall submit the following information with respect to the geomembrane installer.

- a. Corporate background information.

- b. Description of installation capabilities, including:
- (1) Information on equipment and personnel.
 - (2) Average daily production anticipated.
 - (3) Quality control procedure.
 - (4) Samples of field seams and list of certified seam properties, minimum values, and test methods.
 - (5) Installation schedule.
 - (6) Resume of the Master Seamer to be assigned to this project, including dates and duration of employment.
 - (7) Resume of the field engineer or installation supervisor to be assigned to this project, including dates and duration of employment.
 - (8) A list of personnel performing field seaming operations along with pertinent experience information.
- c. A list of at least ten (10) completed facilities, totaling a minimum of two million (2,000,000) square feet, for which the installer has installed the specified type of geomembrane. For each facility, the following information shall be provided:
- (1) Name and purpose of facility, its location and address, and date of installation.
 - (2) Name of owner, project manager, designer, manufacturer, fabricator (if any), and name and phone number of contact at the facility who can discuss the project.
 - (3) Name and qualifications of the supervisor(s) of the Installer's crew(s).
 - (4) Thickness of geomembrane, surface area of the installed geomembrane.
 - (5) Type of seaming and type of seaming apparatus used.
 - (6) Duration of installation.

(7) Available information on the performance of the geomembrane system and the facility.

d. A copy of the approval letter(s) and/or license(s) by the geomembrane manufacturer.

The installer shall be trained and qualified to install geosynthetics. The geomembrane installer shall be approved and/or licensed by the geomembrane manufacturer and/or geomembrane fabricator.

All personnel performing seaming operations shall be qualified by experience. At least one (1) seamer shall have experience seaming a minimum of one million (1,000,000) square feet of geomembrane using the same type of seaming apparatus to be used at the site. The most experienced seamer, hereinafter referred to as the Master Seamer, shall provide direct supervision, as required, over less experienced seamers. No field seaming shall take place without the Master Seamer being present.

2.4.3 Quality Control

a. Inspection

During seaming process, Contractor shall log the following every two (2) hours:

- (1) Ambient temperature measured six (6) inches above geomembrane surface.
- (2) Extrudate temperatures in barrel and at nozzle.
- (3) Operating temperature of hot wedge.

During installation and seaming, all seams and non-seam areas of the geomembrane shall be visually examined for defects, holes, blister, undispersed raw materials, and any sign of contamination by foreign matter. The surface of the geomembrane shall be clean at the time of the examination. Areas suspected of deficiencies shall be marked and non-destructively or destructively tested as specified herein. Work shall not proceed with any materials which will cover locations which have been repaired until passing test results are achieved.

The Contractor shall provide to the County a certification that a Master Seamer conducted and/or supervised all seaming operations.

b. Laboratory Testing

Upon delivery of the rolls fabricated of geomembrane panels, Contractor will take samples as specified herein and forward to a certified geosynthetic quality assurance laboratory for testing to ensure conformance to the construction specifications prepared by Contractor and reviewed by the County. Copies of all test results shall be made available to the County for their review prior to the installation of the material. The following shall be performed by the laboratory:

- (1) Tests to determine the following characteristics shall be performed on geomembranes:
 - (a) Density.
 - (b) Carbon black content (and visual inspection to evaluate carbon black dispersion).
 - (c) Thickness (measured with calipers, at several random locations on the sample).
 - (d) Tensile characteristics (yield strength, elongation at yield, break strength, elongation at break).
- (2) Test procedures shall comply with the following:
 - (a) Density (ASTM D 792 Method A or ASTM D 1505).
 - (b) Thickness (ASTM D 1593 or ASTM D 374 Method C).
 - (c) Tensile strength (ASTM D 638).
- (3) Sampling Procedures: Samples shall be taken across the entire width of the roll and shall not include the first three (3) feet. Unless otherwise specified, samples shall be 3-foot long by the roll width. Unless otherwise specified, sample shall be taken at a rate of one per lot/batch or one per one hundred thousand (100,000) square feet, whichever is least.
- (4) Materials not conforming to the construction specifications shall be repaired or removed from the site.

c. Non-Destructive Testing

Field seams shall be non-destructively tested over their full length using a vacuum test unit, air pressure (for double fusion seams only), or other approved methods. Non-destructive testing shall be carried out as the seaming progresses, not at the completion of all the field seaming.

Vacuum testing shall meet the following requirements:

- (1) The equipment shall consist of the following:
 - (a) A vacuum box assembly consisting of a rigid housing, a transparent viewing window, a soft neoprene gasket attached to the bottom, port hole, or valve assembly, and a vacuum gauge.
 - (b) A steel vacuum tank and pump assembly equipped with a pressure control and pipe connections.
 - (c) A rubber pressure/vacuum hose with fittings and connections.
 - (d) A soapy solution and applicator.
- (2) The following procedures shall be followed:
 - (a) Energize the vacuum pump and reduce the tank pressure to approximately ten (10) inches of mercury, i.e., five (5) psi gauge.
 - (b) Place the box over the wetted seam area (soapy solution).
 - (c) Ensure that a leak-tight seal is created.
 - (d) For a period of not less than fifteen (15) seconds, examine the geomembrane through the viewing window for the presence of soap bubbles.
 - (e) All areas where soap bubbles appear shall be marked and repaired.

The following procedures are applicable to those processes which produce a double seam with an enclosed space:

- (1) The equipment shall consist of the following:
 - (a) An air pump (manual or motor driven) equipped with a pressure gauge capable of generating and sustaining a pressure between twenty-five (25) and thirty (30) psi and mounted on a cushion to protect the geomembrane.
 - (b) A rubber hose with fittings and connections.
 - (c) A sharp hollow needle, or other approved pressure feed device.
- (2) The following procedures shall be followed:
 - (a) Seal both ends of the seam to be tested.
 - (b) Insert needle or other approved pressure feed device into the tunnel created by the fusion weld.
 - (c) Energize the air pump to a pressure between twenty-five (25) and thirty (30) psi, close valve, and sustain pressure for approximately five (5) minutes.
 - (d) If loss of pressure exceeds two (2) psi or ten (10) mm mercury or does not stabilize, locate faulty area and repair.
 - (e) Remove needle or other approved pressure feed device and seal the penetration holes.

The following procedures shall apply to locations where seams cannot be non-destructively tested:

- (1) All such seams shall be cap-stripped with the same geomembrane.
- (2) If the seam is accessible to testing equipment prior to final installation, the seam shall be non-destructively tested prior to final installation.
- (3) If the seam cannot be tested prior to final installation, the seaming and cap-stripping operations shall be observed by the Engineer and Contractor for uniformity and completeness.

d. Destructive Testing

The purpose of these tests is to evaluate seam strength. Seam strength testing shall be performed as

the seaming work progresses, not at the completion of all field seaming.

Contractor shall cut samples for destructive testing at the location and frequency as follows:

- (1) Destructive test samples shall be collected at a minimum frequency of one (1) test location per five hundred (500) feet of seam length.
- (2) Samples, in addition to the minimum frequency, shall be taken as required by Contractor.
- (3) Test locations shall be determined during seaming and may be prompted by suspicion of excess crystallinity, contamination, offset welds, or any other potential cause of imperfect welding.
- (4) Neither the seaming technician nor the Master Seamer shall be informed in advance of the locations where the seam samples will be taken.

Samples shall be cut at locations designated by Contractor as the seaming progresses in order to obtain laboratory test results before the geomembrane is covered by another material. Each sample shall be numbered and the sample number and location identified on a panel layout drawing.

All holes in the geomembrane resulting from destructive sampling shall be immediately repaired.

The samples shall be twelve (12) inches wide by forty-four (44) inches long with the seam centered lengthwise. A one (1) inch-wide strip shall be cut from each end of the sample and these shall be tested (shear and peel) in the field as described below. The remaining sample shall be cut into three (3) parts and distributed as follows:

- (1) One (1) portion for the installer, twelve (12) inches by twelve (12) inches.
- (2) One (1) portion for the quality assurance laboratory for testing, 12 inches by 18 inches.
- (3) One (1) portion to the County for archive storage, twelve (12) inches by twelve (12) inches.

The two (2), one (1) inch wide strips shall be tested by Contractor in the field, by hand or tensiometer, for peel and shear, respectively.

Laboratory testing shall be done by a certified geosynthetic quality assurance laboratory paid for by Contractor. Testing shall include "Seam Strength" and "Peel Adhesion" (ASTM D 638 with Type M-1, specimen one-half (1/2) inches wide, tested at two (2) inches per minute). The minimum acceptable values to be obtained in these tests are those indicated by the manufacturer's specifications for 80 mil HDPE which have been reviewed by the County. At least five (5) specimens shall be tested for each test method. Specimens shall be selected alternately by test from the samples (i.e., peel, shear, peel, shear. . .). If laboratory testing yield results less than the minimum specified values, the sample shall have failed.

The following procedures shall apply whenever a sample fails the destructive test, whether performed by field or laboratory testing:

- (1) The seam shall be reconstructed between any two (2) passed test locations, or
- (2) The welding path can be traced to an intermediate location (at least ten (10) feet minimum from the location of the failed test in each direction) and a small sample taken for an additional field test at each location. If these additional samples pass the field tests, then full laboratory samples shall be taken. If these laboratory samples pass, then the seam shall be reconstructed between these locations. If either sample fails, then the process shall be repeated to establish the zone in which the seam should be reconstructed.

All acceptable seams must be bounded by two (2) locations from which samples passing laboratory destructive tests have been taken. In cases exceeding one hundred and fifty (150) feet of reconstructed seam, a sample taken from within the reconstructed zone must pass destructive testing. Whenever a sample fails, additional testing may be required for seams that are welded by the same welder and/or welding apparatus or welded during the same time shift.

When seaming of a geomembrane liner is completed, or when seaming of a large area of a geomembrane liner is completed, and prior to placing overlying materials, Contractor shall identify the location of excessive geomembrane wrinkles. Wrinkles so identified shall be cut and re-seamed and tested.

2.5 Surface Water

The surface water management system consists of drainage ditches, culverts, detention and retention basins, terraces, and temporary erosion control measures. Its purpose is to safely pass flows from peak storm events, maintain the peak flows from the 25-year, 24-hour storm at existing levels, and prevent degradation of water quality from site runoff.

Terraces shall be provided every 30 vertical feet on finished slopes. Terraces shall be at least 15 feet wide and include a graveled road for access. Rock check dams or other erosion control structures shall be constructed as appropriate to prevent erosion and scouring.

Ditches will be lined as appropriate to prevent erosion and scouring of the ditch at peak flow velocities. Culverts shall be sized for at least the 25-year, 24-hour storm.

Detention basins shall be sized to reduce the peak flow of the 25-year, 24-hour storm to levels existing before development.

Surface water discharge will be monitored as specified in Section 2.1.8.

2.6 Leachate Collection and Treatment Systems

2.6.1 Leachate Collection System

A leachate collection layer shall be placed over the HDPE geomembrane liner. The collection layer shall prevent the leachate from exceeding a depth over the geomembrane of 12 inches. It shall consist of a 16-ounce geotextile fabric and an overlying layer of aggregate having a minimum hydraulic conductivity of 10^{-2} cm/sec and a minimum depth over the geomembrane liner of 12 inches.

The leachate removal system includes a network of pipes that remove leachate by gravity flow to the leachate treatment and disposal system. The spacing of the pipes shall be such that the maximum head of leachate developed over the geomembrane liner is less than 12 inches.

The collection trenches shall include a polyethylene drainage net beneath the collection pipe and extending at least 5 feet either side of the collection pipe centerline. The leachate collection pipe shall be 12-inch, perforated, HDPE. The pipe shall be of sufficient strength to withstand dynamic loads from construction and operating equipment and the weight of at least 200 feet of overlying solid waste.

2.6.2 Leachate Treatment System

The leachate treatment and disposal system shall dispose of collected landfill leachate in an environmentally sound manner. The system shall include a double-lined flow equalization pond and an evaporator. The double-lined pond shall include a 12-inch-thick soil liner with a maximum hydraulic conductivity of 10^{-6} cm/sec, an 80-mil HDPE geomembrane secondary liner, a polyethylene drainage net leak detection system, a bentonite clay liner (Claymax™ or equal), and an 80-mil HDPE geomembrane primary liner.

A pump station shall be provided to remove leachate from the pond and pump it to the evaporator.

The evaporator shall be a two-stage process including evaporation of the leachate and combustion of the evaporate in a high-temperature afterburner. Fuel for combustion shall be methane collected from the landfill. Auxiliary fuel shall be available for use if quantities of methane gas are insufficient. Approximately 10% of the leachate will not be evaporated and it shall be recirculated back into the landfill in a manner to enhance rapid biologic stabilization of the solid waste.

Should the evaporator system fail to meet performance requirements, the Contractor shall provide an alternate leachate disposal system. Evaporation ponds, spray irrigation or other systems approved by the Southwest Washington Health District shall be acceptable.

2.6.3 Testing

Contractor shall perform hydrostatic pressure tests on all non-perforated leachate collection lines and force mains. Pipes shall be tested at the greater of (1) 150% of maximum working pressure, or (2) 70 psi. The test shall be made by closing valves or providing bulkheads or plugs and filling the piping systems with water. Provisions shall be made for release of air in the lines. Lines may be filled with water sometime before testing to allow for absorption of water by pipe or joint material. After joints are apparently tight and there is no evidence of leakage, the test pressure shall be maintained a minimum of one hour. During the test, pipe, fittings and joints shall be completely tight and the system shall have zero leakage.

Upon completion of the lagoon, Contractor shall test the leachate holding pond by filling the lagoon with fresh water to within 1 foot of the top and maintaining this elevation for a period of 2 weeks prior to the beginning of the tests. Contractor will establish the water level

at the start of the test and shall check the level once each day and record the level. The test shall be for a period of 7 days, during which the water surface shall not drop measurably due to seepage. A control pan with minimum surface area of 5 square feet to indicate rainfalls and evaporation shall be used in the test. The test results shall be modified accordingly. If the net water level drops by more than 1 inch in this 7-day period, Contractor shall repair the bottom and embankment and the test will be repeated. Repair and testing shall be repeated until seepage is not greater than specified. An alternative test method may be used if approved by the County, which approval shall not be unreasonably withheld.

2.6.4 Maintenance

Contractor shall provide a maintenance plan for the leachate collection system, storage pond, and treatment system to the County for its review.

As a minimum the plan shall include construction of cleanouts, visual inspection, monitoring and provisions for cleaning the leachate pond.

2.7 Landfill Gas Collection and Treatment Systems

2.7.1 General

The landfill gas management system shall be an active vacuum extraction system consisting, as a minimum, of horizontal, perforated pipes laid in trenches excavated into the solid waste at approximately 60-foot centers in the vertical direction, and 200-foot centers in the horizontal direction; however, an engineering report analyzing actual field conditions shall be prepared by the Contractor to verify the required spacing of the horizontal collection pipes. The engineering report shall be submitted to the County for its review. Collected gas shall be pumped to the leachate evaporator and afterburner for combustion. Combustion temperatures shall be at least 1400°F. Should the evaporator system fail to meet performance requirements, the Contractor shall provide an alternate gas treatment system that is approved by the Southwest Washington Health District.

Methane gas not otherwise used by the afterburner or alternate treatment system shall be made available to the County for economic development opportunities or used by the Contractor to reduce on-site energy needs.

2.7.2 Testing and Maintenance

Contractor shall prepare a plan for testing of the landfill gas collection and treatment system as well as an

operation and maintenance manual. These documents shall be reviewed by the County.

2.8 Landscaping

Contractor shall prepare a landscaping plan and submit it to the County for its review. As a minimum, the plan shall provide for all landfilling activities to be screened from view of neighboring residences and public roads. The support complex at the facility entrance shall be landscaped to provide an attractive appearance. A barrier of trees shall be constructed around the perimeter of the fill area to serve as both a visual buffer and as a wind block to aid in the control of litter. All landscaping shall be maintained by Contractor until such time as vegetation is able to support itself independently. These trees shall be irrigated by a drip system supplied by the on-site water system.

All graded areas, stockpiles and other areas devoid of vegetation shall be hydroseeded. No area shall remain in a barren condition except during construction or landfilling activities directly affecting said area.

2.9 Operations

2.9.1 Operations Plan

An operations plan shall be provided to the County for its review. The plan shall be in accordance with WAC 173-304. The plan shall include procedures for placement of the initial layer of waste in new cell areas.

2.9.2 Litter Control

Fixed and portable litter control fences shall be used in active areas of the landfill at all times. A barrier of trees shall be constructed around the perimeter of the fill area as specified in Section 2.8 of these specifications. Perimeter fences of the facility as well as public roads leading to the landfill shall be patrolled daily to pick up litter.

2.9.3 Closure and Post-Closure

An operation and maintenance plan for closure and post-closure of the Disposal Site shall be provided to the County for its review. The plans shall be in accordance with WAC 173-304.

Closure and post-closure requirements shall be subject to any local, state or federal regulations adopted during the life of the landfill.

3.0 SURFACE TRANSPORTATION

3.1 General

This section shall apply to all County roads accessing the facilities including but not limited to County roads serving the Disposal Site, intermodal facility, transfer station and borrow areas.

All access shall be by all-weather roads. Contractor shall submit a roadway improvement plan to the County for its review and approval. All paving shall be in accordance with the latest edition of WSDOT Standard Specifications for Road, Bridge, and Municipal Construction. The Contractor shall prepare and submit to the County for its review the procedure to be used by the Contractor for quality assurance and quality control for all roadway improvements.

No Waste shall be transported by the Contractor by truck within the boundary of the Columbia River Gorge National Scenic Area except for Waste from Skamania or Clark Counties, Waste transported from drop box/recycling stations or as otherwise approved by the County. In order to facilitate employment of unemployed truck drivers living in the County, Contractor may truck haul Waste on I-84, and on SR-14 from Biggs to Roosevelt, and on such other routes to the Disposal Site as may be approved by the County Public Works Director.

3.2 Structure Improvements and Maintenance

The Contractor shall bear the cost of structural improvements to and maintenance of In-County Haul Routes that access the Facilities. The Contractor shall perform structural improvements to such routes as the County Public Works Director may reasonably determine. The Contractor shall also perform (or reimburse the County for) maintenance of these routes including snow plowing, and maintaining signage or traffic markings installed pursuant to subsection 3.3. On or before October 15, 1995, Contractor shall pay to the County Road Fund \$30,000 ("Road Account"). County shall advise Contractor of payments from the Road Account by invoice to Contractor. Contractor shall pay to County, within 30 days of receipt of such invoice, such amounts to reimburse and maintain the Road Account at \$30,000. In the event of improvements to be performed by County, the cost of which will exceed \$30,000, the County reserves the right to require prepayment by Contractor prior to proceeding with such improvements.

3.3 Signage

Reasonable warning, identification, directional and traffic control signs, signals, lane divider markings, and painted pavement markings for the control of vehicles to and from all facilities shall be furnished and installed by Contractor. The County may, at its discretion, furnish and install said signage. The County shall provide Contractor with written cost estimates for such work; however, Contractor shall compensate the County for its actual costs. All signage will comply with the standards outlined in the Manual on Uniform Traffic Control Devices.

3.4 Improvements at Intermodal Transfer Facility

Contractor shall submit a plan for the improvements at the intermodal transfer facility to the County for its review. The plan shall include as a minimum provisions for widening, when necessary, all roadways to allow for two-way WB-50 traffic and structural improvements to all roadways as defined herein, all at Contractor's expense.

3.5 Other Improvements

As part of the roadway improvement plan defined herein, Contractor shall include other improvements that may be reasonably needed to assure the continued safety of truck and passenger traffic. Evaluation of the need for such improvements and the resulting design shall be in accordance with Washington State Department of Transportation standards. Other improvements shall be included in the roadway improvement plan as defined herein and shall be at Contractor's expense.

3.6 Emergency Conditions

In the event of inclement weather or emergency conditions, County may not have personnel or equipment in the Roosevelt area to remove snow, clear slides, spread sand or perform other work as directed by the County Engineer on East Road ("Limited Road Work"). Upon approval by County, and in accordance with County specifications and direction, Contractor shall perform Limited Road Work. Contractor shall be reimbursed by County for Limited Road Work based on equipment used. County shall pay Contractor at equipment rental rates established from time-to-time by the County for use of County equipment. Equipment rental rates shall be the exclusive amount of reimbursement for Contractor's performance of Limited Road Work. Sand will be provided by County, and stored at Contractor's site at a location mutually agreed between Contractor and County.

4.0 DROP BOX/RECYCLING STATIONS

4.1 General

Drop box/recycling stations shall be provided at Contractor's expense. They shall be located at sites provided by Contractor in the vicinity of Dallesport, BZ Corners, and Goldendale. The facilities shall accept in-County waste from in-County haulers and general public including private individuals, businesses, and commercial solid-waste collectors. The individual locations selected by the Contractor for construction of said facilities shall be reviewed by the County.

The drop box/recycling stations shall be of the direct-dump type. Drop box containers will be located in a subgrade stall so that the elevation of the top is approximately level with the tipping area. Containers for recyclables shall be provided in accordance with Section 1.8 of these Specifications. Each facility shall be aesthetically pleasing and landscaped. The landscaping shall be maintained at all times. The site plan, design, and operational features of each facility shall be reviewed by the County.

The Contractor shall prepare and submit to the County for its review the procedure to be used by the Contractor for quality assurance and quality control for all construction work at the drop-box/recycling stations.

4.2 Capacity

The 1990 capacity of the drop box/recycling stations shall be approximately as follows:

| | | |
|------------|---|------------|
| Dallesport | - | 6,000 tpy |
| BZ Corners | - | 2,000 tpy |
| Goldendale | - | 10,000 tpy |

Actual capacity will be determined in final system design.

4.3 Operating Hours

The drop box/recycling stations will be open on a schedule agreed to by the County.

4.4 Litter Control

Contractor and County will cooperate in patrolling for litter in the vicinity of drop box/recycling stations. Litter on and around the tipping area and perimeter fences shall be patrolled as required to keep these areas and the access to the facilities reasonably free of litter.

5.0 INTERMODAL TRANSFER FACILITY

5.1 General

The intermodal transfer facility will be located near the Columbia River and the Burlington Northern Railroad. The site will be developed or modified as reasonably necessary to accommodate the type of rail or barge haul technology ultimately selected by Contractor. Modification will likely include installation of additional railroad track and paving additional area for loading and unloading transfer trailers. All access roads to the facility shall be improved as defined in Section 3.4 of these Specifications. All such work, and modifications, and improvements shall be at the Contractor's expense.

Depending on the transfer technology chosen, unloading would consist of removing containers by front-end loader or bridge crane or by converting road-rail trailers to highway configuration and hauling them to the Disposal Site.

The Contractor shall prepare and submit to the County for its review the procedures to be used by the Contractor for quality assurance and quality control for all construction work at the intermodal transfer facility.

5.2 Capacity

This facility shall be capable of handling over 2,800 tons per day. This capacity is equivalent to 1 million tons per year. If rail haul is used, Contractor shall construct additional track as necessary to provide increased waste handling rail capacity.

5.3 Operating Hours

The facility would be open to accept loaded trailers or deliver unloaded trailers 24 hours per day. Transfer from the intermodal transfer facility to the Disposal Site would occur from 0600 to 1700 daily or as determined by permits.

5.4 Containers

Containers shall be of a size compatible with a payload of an untied bale of a weight that can be routinely attained, consistent with road limits. They shall be capable of being sealed so as to eliminate leakage during storage and transport, and the doors shall be sealable with a cargo security seal to ensure they are not opened by unauthorized personnel and that they do not open during

transport or storage. They shall also be dedicated solely to the containerization of non-hazardous waste.

The container is to be sealed by the political subdivision generating the waste, and it is not to be opened again until it is dumped at the working face of the Disposal Site.

Chassis shall meet all federal, state and local requirements.

6.0 PROJECT DEVELOPMENT SCHEDULES

Upon giving its notice to proceed, the Contractor expects to complete the requirements of this project in accordance with the following schedule (time periods below are from date notice to proceed is given). The Contractor shall give separate notices to proceed with each permit and construction element.

| | | | |
|-----------------|------------------------|----------|--------|
| <u>Permits:</u> | Conditional Use Permit | 12 to 24 | months |
| | Solid Waste Permit | 12 to 24 | months |
| | Surface Mining Permit | 12 to 24 | months |
| | Building Permits | 12 to 24 | months |
| | Water Rights Permit | 12 to 24 | months |

| | | | |
|----------------------|-----------------------------|---------|--------|
| <u>Construction:</u> | Landfill | 6 to 18 | months |
| | Drop Box/Recycling Stations | 6 to 18 | months |
| | Intermodal Transfer Station | 6 to 18 | months |

Contractor's notice to proceed with construction of Disposal Site may be given following Contractor's determination that construction and operation of the Disposal Site is commercially feasible but in no event later than the eighth anniversary of the execution of the Agreement (subject to provisions of Section 4.15.4 of the Agreement).

6.1 Design Schedules

At such time as the Contractor begins design of the facilities to be constructed under this Agreement, Contractor shall provide to the County a bar chart schedule of the elements of facilities planning and design requiring County review. The bar chart schedule shall be updated from time to time as appropriate.

6.2 Construction Schedules

The Contractor shall use its reasonable best efforts to notify the County thirty days prior to Contractor's intention to begin construction of facilities under this Agreement. At such time as Contractor begins construction

of such facilities, Contractor shall provide to the County a bar chart schedule of the construction. The bar chart schedule shall be updated from time to time as appropriate.

APPENDIX B
TO
FIRST AMENDED
AGREEMENT
REGARDING SOLID WASTE HANDLING

BETWEEN
KLiCKITAT COUNTY
AND
REGIONAL DISPOSAL COMPANY

June 8, 1992

OTHER WASTE PROTOCOL

1. INTRODUCTION.

Under the Agreement, certain Other Waste (see Section 3.22.10) may be Acceptable Waste if approved by the County. This Appendix B sets out the protocol in order for such Other Waste to be accepted at the Disposal Site.

2. NOTICE.

County shall be notified by Contractor, regulatory agency, waste originator or other Person of any application, request or submission (jointly, "Application") for (a) delisting of waste as a Hazardous Waste under 40 CFR 260; or (b) exempting or declassifying waste as a Dangerous Waste under Washington Law. Notice to County as a consulted agency under Chapter 43.21C RCW shall satisfy the notice obligation under this protocol. Notwithstanding the foregoing, any such notice must be given under Agreement Article 18 no less than ten (10) days prior to any public hearing on an application.

3. REVIEW AND APPROVAL.

3.1 In the event that notice provisions of Section 2 are satisfied, Contractor may seek by written application ("Application") County approval for Other Waste acceptance at the Disposal Site.

3.2 Contractor shall submit the Application with all available information not previously provided to County concerning the Other Waste to the Solid Waste Project Manager. The Solid Waste Project Manager shall issue a written report ("Report") within thirty (30) days of Application, approving or denying the

Application. In the event no Report is issued in the time provided, the Application shall be deemed approved.

3.3 In the event of a conditioned acceptance or rejection in the Report, Contractor may request within ten (10) days of Report, review by the County Commissioners. The County Commissioners shall expeditiously consider the Application and may affirm the Report, modify the Report, approve the Application, or return the Application to the Solid Waste Project Manager for a further Report. The further Report shall be subject to the same procedures as in Section 2.2 and this Section 2.3.

3.4 The decision of the Board of County Commissioners on an Application shall be final, and not subject to Agreement Article 28.

4. OTHER PERMITS.

Nothing in this protocol shall preclude the requirement for or application of any other permit, review or approval that may be required for disposal of Waste at the Disposal Site.

5. COMPREHENSIVE PLAN.

5.1 During the life of the Agreement, the County Solid Waste Management Plan ("Plan") will be amended from time-to-time. Under Washington State Department of Ecology Guidelines for the Development of Local Solid Waste Management Plans and Plan Revisions (WDOE 90-11), specific waste streams ("such as sludge, problem waste, infectious waste, moderate risk waste, demolition waste, and inert waste") are to be addressed.

5.2 This Protocol and Agreement definitions necessary thereto may be revised by the Public Works Director, upon review by the Board of County Commissioners, following Plan amendments or modifications, to address specific Waste handling practices consistent with the Plan.

PERFORMANCE BOND**Bond No. 929132675****KNOW ALL MEN BY THESE PRESENTS: That we, Rabanco Regional Disposal Company**

166 127th Avenue NE Bellevue WA 58005

as Principal, and the National Fire Insurance Company of Hartford, a
CT corporation, as Surety, subject to the Conditions, Limitations and Exclusions of this Performance
Bond, are firmly bound unto Klickitat County Solid Waste Department
131 West Court, MS-CH-27 Goldendale WA 98620, hereinafter referred to as the Obligee,
for such monetary amount as incurred by the Obligee, not to exceed the penal sum of
Five Million Dollars (\$5,000,000.00),
as may be required to remedy any contractual default by the Principal in the performance of that certain written contract
between Principal and Obligee dated August 7, 1995 for Second Amended Agreement, Solid Waste Contract Not
Including Closure/Post-Closure Obligatons
hereinafter referred to as the Contract; for the payment hereof, we bind ourselves, our heirs, executors, administrators
and successors, jointly and severally.

CONDITIONS

The obligation of this Performance Bond shall be null and void unless: (1) the above Contract is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is actually in default under the above Contract, and is declared by the Obligee thereafter to be in default; (3) the Obligee has performed all of the obligations of the Obligee under the above Contract; and (4) the Obligee has provided written notice of the default to the Surety as promptly as possible, and in any event, within ten (10) days after such default.

LIMITATIONS AND EXCLUSIONS

The Surety, as the sole election and discretion of the Surety, may take any of the following actions:

- (1) With notice to the Obligee, provide financial assistance to the Principal to remedy any contractual default by the Principal; or,
- (2) Undertake the completion of the above Contract by the Surety, through its agents or through independent contractors; or,
- (3) Determine the amount for which the Surety may be liable to the Obligee, and as soon as a practicable thereafter, tender payment thereof to the Obligee; or,
- (4) Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating thereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

The obligation of this Performance Bond Shall not include liability for loss, cost, damage, fines, penalties or expense (including attorney's fees) from personal injury (including death), or from property damage (including environmental impairment or cleanup), or from any criminal or tortious act arising out of the performance, default or completion of the above Contract, nor shall the Surety obligated to provide or maintain any policy or undertaking of liability insurance

This bond is for a one year term beginning February 1, 2000. In the event of default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the direct loss to the Obligee due to actual excess costs of performance of the contract up to the termination of this term of this bond. No suit shall be brought on this bond after one year following its termination. Neither non-renewal by the Surety, nor failure or inability of the Principal to file a replacement bond, shall constitute loss of the Obligee recoverable under this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety.

The Obligation of this Performance bond inures solely to the benefit of the obligee. No right of action shall accrue under this Performance Bond to or for the use of any person, firm, corporation, public or private entity other than the obligee. In the event that the Obligee is comprised of more than one person, firm corporation, public or private entity, the conditions, limitations and exclusions of this Performance Bond shall apply jointly and severally to each and all constituents of the Obligee, and the aggregate liability of the Surety to the Obligee shall in no event exceed the above penal sum.

The consent of the Surety shall be required with regard to any changes or alterations in the above Contract including, but not limited to, where the cost thereof, added to prior changes or alterations, causes the aggregate cost of all changes and alterations to exceed 10 percent of the original contract price, or where the completion thereof is extended by more than 90 days.

No right of action shall accrue under this Performance bond unless demand is brought by suit, action or other legal proceeding commended against the Surety within one year after the day that the Principal last performed labor or supplied material for the above Contract. Any and all claims and causes of action (including warranty requirement or the remedy of latent defects) not so commended shall be deemed extinguished and forever barred from action under this Performance Bond.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control, or the obligation of the surety be deemed null and void to the extent of any enlargement or augmentation to the liabilities of the Surety prescribed by this Performance Bond.

Rabanco Regional Disposal Company

By: Kathleen A Weaver

Kathleen A. Weaver Power of Attorney

Principal

National Fire Insurance Company of Hartford

By: Justine Handzel

Justine Handzel

Attorney-in-fact

1411 Opus Place
Downers Grove, IL 60515

NOTARIAL ACKNOWLEDGEMENT

STATE OF ILLINOIS
COUNTY OF KANE

On this 1st day of February, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came **Kathleen A. Weaver**, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois; that she is an Attorney-in-Fact for Rabanco Regional Disposal Company, a subsidiary of Allied Waste Industries, and that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.

My Commission Expires:

Esther C Jimenez



NOTARIAL ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF Kane

On this 1st day of February, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came Justine Handzel, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois: that she is an Attorney-in-Fact of National Fire Insurance Company of Hartford, the corporation described in and which executed the foregoing instrument: that she knows the seal of said corporation: that it was so affixed by order of The Board of Directors of said corporation and that she signed this name thereto by like order: that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.

My Commission Expires:

Esther C. Jimenez





ALLIED WASTE INDUSTRIES, INC.

POWER OF ATTORNEY

Allied Waste Industries, Inc., incorporated under the laws of the State of Delaware, and having its chief place of business at 15880 N. Greenway-Hayden Loop, #100, Scottsdale, Arizona, 85260, hereby makes, constitutes and appoints Weible, Cahill & Company, LLC, acting through and by either William P. Weible or Kathleen A. Weaver or Justine Handzel, its true and lawful attorney and affix its corporate seal to and deliver for and on behalf as surety thereon or otherwise, bonds of any of the following classes, to wit:

1. Surety bonds and/or Bid Bonds to the United States of America or agency thereof, including those required or permitted under the laws or regulations relating to Customs or Internal Revenue; License and Permit Bonds or other indemnity bonds under the laws, ordinances or regulations of any State, City, Town, Village, Board, other body organization, public or private; bonds to Transportation Companies; Lost Instrument bonds; Lease bonds, Worker's Compensation bonds; Miscellaneous Surety Bonds; and bonds on behalf of Notaries Public, Sheriffs, Deputy Sheriffs and similar public officials.
2. Surety bonds and/or Bid bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, included, but not limited to, Allied Services, LLC, Allied Waste Systems, Inc., Allied Waste Transportation, Inc., American Disposal Services of Missouri, Inc. and BFI Waste Systems of North America, Inc., in connection with bonds, proposals, or contracts.

To sign and seal all bids bonds and surety bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, relating to the provision of solid waste collection, transportation, recycling, or disposal services by Allied Waste Industries, Inc. and its subsidiaries. Allied Waste Industries, Inc. hereby agrees to ratify and confirm whatsoever Weible, Cahill & Company, LLC shall lawfully do pursuant to this power of attorney and the procedural guidelines set forth to Weible, Cahill & Company, LLC, and until notice or revocation has been given by Allied Waste Industries, Inc. the acts of the said attorney shall be binding on the undersigned.

IN WITNESS WHEREOF this POWER OF ATTORNEY has been signed this 27th day of August, 1999, on behalf of Allied Waste Industries, Inc. by its Vice President-Legal, Mr. Steven M. Helm.

Allied Waste Industries, Inc.

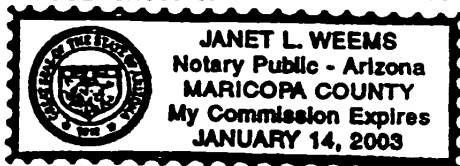
By: _____

Steven M. Helm

State of Arizona)
)
 County of Maricopa)

ss.

Subscribed to and sworn before me this 27th day of August, 1999 by Steven M. Helm.



Janet L. Weems

Notary Public

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That CONTINENTAL CASUALTY COMPANY, an Illinois corporation, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, a Connecticut corporation, AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania corporation (herein collectively called "the CCC Surety Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signature and seals herein affixed hereby make, constitute and appoint

William P. Weible, Molly M. Moran, Lori A. Noggle, Sharon M. Hudson, William Cahill, Kimberly Sawicki, Deborah Buss, Kathleen A. Weaver, Justine Handzel, Esther C. Jimenez, Individually

of North Aurora, Illinois

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CCC Surety Companies have caused these presents to be signed by their Group Vice President and their corporate seals to be hereto affixed on this 10th day of December, 1999



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Handwritten signature of Marvin J. Cashion

Marvin J. Cashion Group Vice President

State of Illinois, County of Cook, ss:

On this 10th day of December, 1999, before me personally came Marvin J. Cashion, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Group Vice President of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Handwritten signature of Diane Faulkner

My Commission Expires September 17, 2001

Diane Faulkner Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of each corporation printed on the reverse hereof are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seals of the said corporations this 1st day of February, 2000.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Handwritten signature of Mary A. Ribikawskis

Mary A. Ribikawskis Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF CONTINENTAL CASUALTY COMPANY:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article IX—Execution of Documents

Section 3. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President or the Board of Directors, may, at any time, revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 3 of Article IX of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA:

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the Board of Directors of the Company.

"Article VI—Execution of Obligations and Appointment of Attorney-in-Fact

Section 2. Appointment of Attorney-in-fact. The Chairman of the Board of Directors, the President or any Executive, Senior or Group Vice President may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The President or any Executive, Senior or Group Vice President may at any time revoke all power and authority previously given to any attorney-in-fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"Resolved, that the signature of the President or any Executive, Senior or Group Vice President and the seal of the Company may be affixed by facsimile on any power of attorney granted pursuant to Section 2 of Article VI of the By-Laws, and the signature of the Secretary or an Assistant Secretary and the seal of the Company may be affixed by facsimile to any certificate of any such power and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certified by certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company."

ADOPTED BY THE BOARD OF DIRECTORS OF NATIONAL FIRE INSURANCE COMPANY OF HARTFORD:

This Power of Attorney is made and executed pursuant to and by authority of the following Resolution duly adopted on February 17, 1993 by the Board of Directors of the Company.

"RESOLVED: That the President, an Executive Vice President, or any Senior or Group Vice President of the Corporation may, from time to time, appoint, by written certificates, Attorneys-in-Fact to act in behalf of the Corporation in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. Such Attorney-in-Fact, subject to the limitations set forth in their respective certificates of authority, shall have full power to bind the Corporation by their signature and execution of any such instrument and to attach the seal of the Corporation thereto. The President, an Executive Vice President, any Senior or Group Vice President or the Board of Directors may at any time revoke all power and authority previously given to any Attorney-in-Fact."

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company at a meeting duly called and held on the 17th day of February, 1993.

"RESOLVED: That the signature of the President, an Executive Vice President or any Senior or Group Vice President and the seal of the Corporation may be affixed by facsimile on any power of attorney granted pursuant to the Resolution adopted by this Board of Directors on February 17, 1993 and the signature of a Secretary or an Assistant Secretary and the seal of the Corporation may be affixed by facsimile to any certificate of any such power, and any power or certificate bearing such facsimile signature and seal shall be valid and binding on the Corporation. Any such power so executed and sealed and certified by certificate so executed and sealed, shall with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Corporation."