

**Letter Dated April 27, 2016 Confirming
Requirements for Transfer of Refuse
Disposal Land Use Fee**

Attachment 6

THE SHIFT AWAY FROM DISPOSAL TO DIVERSION

With the passage of AB 939, the state of California effectively shifted the responsibility for waste (trash) from the haulers/landfills to the jurisdictions (cities and counties). The State requires counties and cities have programs to divert waste from landfilling. The County of San Bernardino runs and or maintains 43 programs. Franchise fees are the funding source to fund these programs and the support staff. For the purposes of complying with the Integrated Waste Management Act, the unincorporated area of a county is considered a single jurisdiction, consequently, any political subdivision beyond that in the county unincorporated area (such as a CSD) are not considered separately. In short, if the CSD takes the franchise fee revenue, then the CSD must fund, implement and maintain diversion programs comparable to those of the County of San Bernardino. Further the CSD is required to report annually to the County on its programs and diversion. Below is a summary (most recent first by enactment year) of some of the major legislation that drives waste management in California:

AB 1826- MANDATORY COMMERCIAL ORGANICS RECYCLING LAW (2014)

AB 1826 requires businesses to recycle their organic waste, depending on the amount of waste they generate per week. AB 1826 requires jurisdictions to implement an organic waste recycling program to divert organic waste generated by businesses, including multifamily residential dwellings of five units or more, on and after January 1, 2016. Jurisdictions are required to conduct outreach and education to inform businesses how to recycle organic waste, as well as conduct monitoring to identify those not recycling and to notify them of the law and how to comply.

Organic waste is defined as food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Please note that multifamily dwellings are not required to have a food waste diversion program. AB 1826 phases in the mandatory recycling of commercial organics over time, as outlined below:

- April 1, 2016: Businesses generating 8 cubic yards of organic waste per week are required to arrange for organic waste recycling services
- January 1, 2017: Businesses generating 4 cubic yards of organic waste per week are required to arrange for organic waste recycling services
- January 1, 2019: Businesses generating 4 cubic yards or more of commercial solid waste per week are required to arrange for organic waste recycling services

Businesses required to recycle their organic waste shall implement at least one, or a combination, of the following actions:

- Source separate organic waste from other waste and subscribe to a basic level or organic waste recycling service that includes collection and recycling of organic waste
- Recycle its own organic waste onsite or self-haul for recycling
- Subscribe to an organic waste recycling service that may include mixed waste processing that specifically recycles organic waste
- Sell or donate its recyclable organic waste

AB 341- MANDATORY COMMERCIAL RECYCLING LAW (2011)

AB 341 requires businesses that generate four cubic yards or more of commercial solid waste per week and multifamily residential dwellings of five units or more to arrange for recycling services. Businesses can implement one or any combination of the following in order to be compliant:

- Self-haul recyclable materials to a recycling facility
- Subscribe to a hauler recycling service
- Arrange for pickup of recyclable materials
- Subscribe to a recycling service that includes mixed waste processing that yields diversion results comparable to source separation

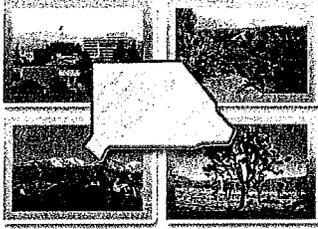
AB 341 also requires jurisdictions to implement a commercial solid waste recycling program that consists of education, outreach, and monitoring of businesses. Each jurisdiction reports the progress achieved in implementing its commercial recycling program by providing updates in its electronic annual report.

SB 1016- SOLID WASTE PER CAPITA DISPOSAL MEASUREMENT ACT (2008)

SB 1016 changed AB 939 compliance requirements by changing to a disposal-based indicator—the per capita disposal rate. The per capita disposal rate approach is not determinative of jurisdiction compliance. CalRecycle uses the per capita disposal as an indicator to evaluate program implementation and jurisdiction performance. CalRecycle's evaluation is focused on how jurisdictions implement their programs.

AB 939- INTEGRATED WASTE MANAGEMENT ACT (1989)

AB 939 requires all California jurisdictions (Cities and Counties) to reduce the amount of waste being disposed by meeting a 50 % diversion requirement. Also requires counties to prepare a Countywide Integrated Waste Management Plan (CIWMP), Countywide Siting Element (SE), and Countywide Summary Plan (SP) and cities and counties to prepare a Source Reduction & Recycling Element (SRRE), Household Hazardous Waste Element (HHWE), and Nondisposal Facility Element (NDFE). All jurisdictions are required to submit Annual Reports (AR) to CalRecycle that outline their source reduction, recycling, composting, special waste materials, public education, policy incentives, facility recovery, transformation, and household hazardous waste programs in order to show progress in meeting the mandated diversion goals.



LAFCO

Local Agency Formation Commission for San Bernardino County

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San Bernardino, CA 92415-0490
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Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

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Executive Officer

SAMUEL MARTINEZ
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MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

April 27, 2016

Gerry Newcombe, Director
Department of Public Works
825 East Third Street
San Bernardino, CA 92415-0835

RE: LAFCO 3202 - Reorganization to include
Formation of the Wrightwood Community Services
District and Dissolution of County Service Area 56

Dear Mr. Newcombe:

Thank you for responding to LAFCO's request for information regarding LAFCO 3202. This letter confirms receipt of your email response to Michael Tuerpe of my office dated April 22. I have summarized your response as follows:

- *The agreements with the Helendale CSD can serve as models for transferring the Refuse Disposal Land Use Fee following formation of the Wrightwood CSD. We will use this as a part of our analysis for the Commission consideration of the proposal.*
- *There is no General Fund support provided to the Solid Waste Enterprise Fund for any of its programs or services. This information will be included in the Commission's determination for property tax transfer as required by Government Code Section 56810.*

If you have any questions on this correspondence, please do not hesitate to contact me at (909) 388-0480 or by email at kmcdonald@lafco.sbcounty.gov.

Sincerely,

KATHLEEN ROLLINGS-McDONALD
Executive Officer

cc: Gary McBride, Chief Financial Officer
Art Rivera, Deputy Director of Public Works
Natalie Lopiccolo, Wrightwood CSD Committee

SOLID WASTE FEE TRANSFER AGREEMENT

THIS SOLID WASTE FEE TRANSFER AGREEMENT (‘the “Agreement”’) is made and dated as of the date indicated on the cover page hereof between the COUNTY OF SAN BERNARDINO, a political subdivision of the State of California (the “County”), and the HELENDALE COMMUNITY SERVICES DISTRICT, a California community services district organized and existing pursuant to the laws of the State of California (the “District”).

RECITALS

The County owns, manages and operates a sanitary landfill system for the disposal of municipal solid waste generated within the County (the “Disposal System”). The Disposal System includes six active regional landfills, nine transfer stations and two community collection centers.

The Disposal System is used for the disposal of municipal solid waste which is not reused, recycled, or otherwise diverted from landfill disposal, pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the “Act”). Each Disposal System site incorporates various elements of the County’s Comprehensive Disposal Site Diversion Program necessary to meet AB 939 mandates and enhance recycling for the communities of San Bernardino County.

The County administers a refuse disposal land use fee, pursuant to Chapter 4 of Division 4 of Title 1 of the San Bernardino County Code of Ordinances and Section 16.0222 of Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code of Ordinances, which is imposed on residential parcels within the District (the “Refuse Disposal Land Use Fee”), entitling the owners of such parcels to utilize refuse disposal sites without the payment of any pay-at-the-gate fee for ordinary refuse generated on such residential property. In addition, the Refuse Disposal Land Use Fee offsets the cost for disposal of waste from the Helendale community.

Resolution No. 2927 of the Local Agency Formation Commission of the County of San Bernardino (“LAFCO”) was adopted on June 21, 2006 (“Resolution No. 2927”), making determinations on and approving the incorporation of, the District, which was subsequently approved by the electorate at the November 7, 2006 general election.

Resolution No. 2927 authorizes the District to collect, transfer and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

Resolution No. 2927 further provides that all previously authorized charges, fees, assessments, and/or taxes of the County Service Area 70 Improvement Zones B and C currently in effect shall be continued and assumed by the District as the successor agency in the same

manner as provided in the original authorization pursuant to the provisions of the Government Section 56886(t).

On _____, 2010, LAFCO adopted its Resolution No. _____ (a true and correct copy of which is attached hereto as Appendix "A" and incorporated herein by this reference) ("Resolution No. _____"), affirming the District's authorization to (1) collect, transfer and dispose of solid waste and provide solid waste handling service, and (2) continue and assume the Refuse Disposal Land Use Fee in the same manner as provided in the original County authorization, pursuant to Condition No. 10 of Resolution No 2927.

The District and the County desire to enter into this agreement to provide for the terms and conditions under which the District will continue and assume the Refuse Disposal Land Use Fee.

The District has determined that the execution of this Agreement by the District will serve the public health, safety and welfare of the District by providing greater disposal rate stability, more predictable and reliable long-term disposal service, and the continuation of sound environmental management.

The County has determined that the execution of this Agreement by the County will continue its history of serving the public health, safety and welfare by furthering the County's existing work to plan, manage, operate and finance the Disposal System on a prudent and sound long term businesslike basis.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the County on the County authorization date indicated on the cover page hereof.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the District on the District authorization date indicated on the cover page hereof.

COVENANTS

It is, therefore, agreed by the County and the District as follows:

ARTICLE I DEFINITIONS AND INTERPRETATIONS

SECTION 1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the meanings set forth below.

(A) "Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded and replaced from time to time.

(B) "Agreement" means this Solid Waste Fee Transfer Agreement between the County and the District as the same may be amended or modified from time to time in accordance herewith.

(C) "Contract Date" means the first date on which this Agreement has been executed by both parties hereto.

(D) "County" means the County of San Bernardino, a political subdivision of the State and party to this Agreement.

(E) "Disposal System" means the County's solid waste disposal system, which currently consists of six (6) active regional landfills, nine (9) transfer stations and two community collection centers, as may hereafter be subject to change.

(F) "District" means the Helendale Community Services District, a California community services district and party to this Agreement.

(G) "LAFCO" means the Local Agency Formation Commission of the County of San Bernardino.

(H) "Refuse Disposal Land Use Fee" means the fee originally adopted by the County under Chapter 4 of Division 4 of Title 1 of the San Bernardino County, CA Code of Ordinances and Section 16.0222 of Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code of Ordinances, continued and assumed by the District pursuant to LAFCO Resolution No. _____.

(I) "State" means the State of California.

SECTION 1.2 INTERPRETATION. In this Agreement, unless the context otherwise requires:

(A) References Hereto. The terms "hereby", "hereof", "herein", "hereunder" and any similar terms refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the Contract Date.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(E) No Third Party Beneficiaries. Nothing in this Agreement is intended to confer on haulers or any other person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this Agreement.

(F) Counterparts. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(G) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(H) Severability. If any clause, provision, subsection, Section or Article of this Agreement shall be ruled invalid by any court of jurisdiction, then the parties shall: (1) promptly meet and negotiate a substitute for such clause, provision, subsection, Section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties therein; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist, unless such invalidity frustrates the underlying primary purpose of the Agreement.

(I) Recitals. The recitals to this Agreement are not intended to bind the parties hereto. In the event of a conflict between the recitals and the operative provisions of this Agreement, the operative provisions shall prevail. The recitals shall not be used to interpret the provisions of the Agreement.

ARTICLE II REPRESENTATIONS AND WARRANTIES

SECTION 2.1 REPRESENTATIONS AND WARRANTIES OF THE DISTRICT. The District represents and warrants that:

(A) Existence. The District is a community services district validly existing under the Constitution and laws of the State in accordance with California Government Code Section 61000 et seq.

(B) Due Authorization. The District has duly authorized the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by the District.

SECTION 2.2 REPRESENTATIONS AND WARRANTIES OF THE COUNTY. The County represents and warrants that:

(A) Existence. The County is a political subdivision of the State validly existing under the Constitution and laws of the State.

(B) Due Authorization. The County has duly authorized the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by the County.

ARTICLE III OBLIGATIONS

SECTION 3.1 LEGALLY REQUIRED DISTRICT ACTION. District shall take all legally required and necessary actions to continue and assume the Refuse Disposal Land Use Fee collected from within District boundaries, including, without limitation, providing such documentation as may be reasonably requested by the County Auditor and the County Tax Collector with respect to the District's compliance with the Constitution and the laws of the State entitling it to collect the Refuse Disposal Land Use Fee.

SECTION 3.2 LEGALLY REQUIRED COUNTY ACTION. County shall take all legally required and necessary actions to permanently transfer and assign to the District the Refuse Disposal Land Use Fee collected from within District boundaries, including, without limitation, providing such documentation as may be reasonably requested by the District with respect to the County's compliance with the Constitution and the laws of the State entitling it to impose the Refuse Disposal Land Use Fee.

SECTION 3.3 LEGAL EFFECT OF TRANSFER. The permanent transfer and assignment to the District of the Refuse Disposal Land Use Fee collected from within the District's boundaries as contemplated herein shall entitle the District to the revenues collected in connection therewith, provided, however, that any delinquent Refuse Disposal Land Use Fees collected from within District boundaries that were due and payable prior to the effective date of this Agreement shall be payable to the County. Subsequent to such permanent transfer and assignment, no owner or occupant of any parcel subject to the Refuse Disposal Land Use Fee within the boundaries of the District shall be entitled to or have the right to utilize the Disposal System without the payment of any pay-at-the-gate fee, subject to agreement between the County and the District relating thereto.

ARTICLE IV BREACH, ENFORCEMENT, AND EFFECTIVE DATE

SECTION 4.1 BREACH. The parties agree that in the event either party breaches any obligation under this Agreement or any representation made by either party hereunder is untrue in any material respect, the other party shall have the right to take any action at law or in equity (including actions for injunctive relief, mandamus and specific performance) it may have to enforce the payment of any amounts due or the performance of any obligations to be performed hereunder. Notwithstanding the above, neither party shall have the right to terminate this Agreement except as provided in Section 5.3 hereof.

SECTION 4.2 NO WAIVERS. No action of the County or the District pursuant to this Agreement (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the County or the District in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or

otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the County or the District under this Agreement shall preclude any other or further exercise thereof of the exercise of any other right, power or remedy.

SECTION 4.3 FORUM FOR DISPUTE RESOLUTION. The parties acknowledge and agree that this Agreement was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Agreement will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of court that would allow them to request or demand a change of venue. If any third party brings an action or claim concerning this Agreement, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino District.

SECTION 4.4 EFFECTIVE DATE. This Agreement shall become effective, shall be in full force and effect, and shall be legally binding upon the District and the County, as of the Contract Date.

ARTICLE V GENERAL PROVISIONS

SECTION 5.1 INDEMNIFICATION.

(A) The District agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its unauthorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever accruing from and hereafter the Contract Date, including without limitation, any challenge brought pursuant to Article XIII C or XIII D of the California Constitution, and including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any such claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The District's indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

(B) The County agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless the District and its unauthorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever accruing heretofore prior to the Contract Date, including without limitation, any challenge brought pursuant to Article XIII C or XIII D of the California Constitution, and including the acts, errors or omissions of any person and for any costs or expenses incurred by the District on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The County's indemnification obligation applies to the District's "active" as well as "passive" negligence but does not apply to the District's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

SECTION 5.2 ATTORNEY FEES. Each party to this Agreement shall bear its own costs and attorneys' fees if any legal action is instituted by a party to this Agreement against the other party to this Agreement to enforce or declare such party's rights hereunder.

SECTION 5.3 AMENDMENTS. Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by written agreement duly authorized and executed by both parties.

SECTION 5.4 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be determined an original and all of which taken together will constitute one and the same instrument.

SECTION 5.5 FURTHER ASSURANCES. At any and all times the District and County so far as may be authorized by law shall pass, make, do, execute, acknowledge and deliver any and every such further resolutions acts, deeds, conveyances, instruments, assignments, transfers and assurances as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

SECTION 5.6 ASSIGNMENT OF AGREEMENT. Except as expressly set forth herein, neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party, which may be withheld in the other party's sole discretion. Notwithstanding the foregoing, either party may assign this Agreement to another public entity, subject to the reasonable consent of the other party. In such circumstances the party not requesting the assignment shall have the right to demand assurances of the financial, technical and legal ability of the proposed assignee to undertake the responsibilities and obligations of the assigning party.

SECTION 5.7 BINDING EFFECT. This Agreement shall bind and inure to the benefit of the parties hereto any successor or assignee acquiring an interest hereunder consistent with the provisions of Section 5.11 hereof.

SECTION 5.8 FORMER COUNTY OFFICIALS. District agrees to provide or has already provided information on former County administrative officials (as defined below) who are employed or represent District. The information provided includes a list of former County Administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of District. For purposes of this provision, "County Administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Appendix B, List of Former County Officials)

SECTION 5.9 IMPROPER CONSIDERATION. District shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash,

discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Agreement. District shall immediately report any attempt by an officer, employee or agent of County to solicit (either directly or through an intermediary) improper consideration from District. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office.

SECTION 5.10 NOTICES. Any notice or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth on the cover page of this Agreement. Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by notice to the other party.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, COUNTY and DISTRICT have caused this Agreement to be executed by their duly authorized officers or representatives as of the dates set forth below.

COUNTY OF SAN BERNARDINO

HELENDALE COMMUNITY SERVICES DISTRICT

By: _____
Gary C. Ovitt, Chairman
Board of Supervisors

By: _____
James Keoshkerian, President
Board of Directors

Date: _____

Date: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

LAURA H. WELCH, Clerk of the
Board of Supervisors

CLERK OF THE BOARD OF
DIRECTORS

By: _____
Deputy

By: _____

Date: _____

Date: _____

Approved as to Legal Form:
RUTH E. STRINGER, Counsel

By: _____
Deputy

Date: _____

SOLID WASTE MANAGEMENT AGREEMENT

THIS SOLID WASTE MANAGEMENT AGREEMENT (the "Agreement") is made and dated as of the date indicated on the cover page hereof between the COUNTY OF SAN BERNARDINO, a political subdivision of the State of California (the "County"), and the HELENDALE COMMUNITY SERVICES DISTRICT, a California community services district organized and existing pursuant to the laws of the State of California (the "District").

RECITALS

The County owns, manages and operates a sanitary landfill system for the disposal of municipal solid waste generated within the County (the "Disposal System"). The Disposal System includes six active regional landfills, nine transfer stations and two community collection centers.

The Disposal System is used for the disposal of municipal solid waste which is not reused, recycled, or otherwise diverted from landfill disposal, pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act"). Each Disposal System site incorporates various elements of the County's Comprehensive Disposal Site Diversion Program necessary to meet AB 939 mandates and enhance recycling for the communities of San Bernardino, County.

The County administers a refuse disposal land use fee, pursuant to Chapter 4 of Division 4 of Title 1 of the San Bernardino County Code of Ordinances and Section 16.0222 of Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code of Ordinances, which is imposed on residential parcels within the District in order to discourage illegal dumping (the "Refuse Disposal Land Use Fee"), entitling the owners of such parcels to utilize refuse disposal sites without the payment of any pay-at-the-gate fee for ordinary refuse generated on such residential property. In addition, the Refuse Disposal Land Use Fee offsets the cost for disposal of waste from the Helendale community.

Resolution No. 2927 of the Local Agency Formation Commission of the County of San Bernardino ("LAFCO") was adopted on June 21, 2006 ("Resolution No. 2927"), making determinations on and approving the incorporation of, the District, which was subsequently approved by the electorate at the November 7, 2006, general election and confirmed by LAFCO pursuant to its adoption of Resolution No. 2951 on December 4, 2006 ("Resolution No. 2951").

Resolution No. 2927 and Resolution No. 2951 authorize the District to collect, transfer and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.

Resolution No. 2927 and Resolution No. 2951 further provide that all previously authorized charges, fees, assessments, and/or taxes of the County Service Area 70 Improvement

Zones B and C currently in effect shall be continued and assumed by the District as the successor agency in the same manner as provided in the original authorization pursuant to the provisions of the Government Section 56886(t).

On July 21, 2010, LAFCO adopted its Resolution No. 3099 (a true and correct copy of which is attached hereto as Appendix "A" and incorporated herein by this reference) ("Resolution No. 3099"), affirming the District's authorization to (1) collect, transfer and dispose of solid waste and provide solid waste handling service, and (2) continue and assume the Refuse Disposal Land Use Fee in the same manner as provided in the original County authorization, pursuant to Condition No. 10 of Resolution No 2927 and Resolution No. 2951.

On _____, the District and the County entered into a Solid Waste Fee Transfer Agreement ("Fee Transfer Agreement") to provide for the terms and conditions under which the District will continue and assume the Refuse Disposal Land Use Fee.

The District and the County desire to enter into this Agreement to provide for the terms and conditions under which the District's residents will use the Disposal system.

The District has determined that the execution of this Agreement by the District will serve the public health, safety and welfare of the District by providing greater disposal rate stability, more predictable and reliable long-term disposal service, and the continuation of sound environmental management.

The County has determined that the execution of this Agreement by the County will continue its history of serving the public health, safety and welfare by furthering the County's existing work to plan, manage, operate and finance the Disposal System on a prudent and sound long term businesslike basis.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the County on the County authorization date indicated on the cover page hereof.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the District on the District authorization date indicated on the cover page hereof.

COVENANTS

It is, therefore, agreed by the County and the District as follows:

ARTICLE I DEFINITIONS AND INTERPRETATIONS

SECTION 1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the meanings set forth below.

(A) "Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded and replaced from time to time.

(B) "Agreement" means this Solid Waste Management Agreement between the County and the District as the same may be amended or modified from time to time in accordance herewith.

(C) "Contract Date" means the first date on which this Agreement has been executed by both parties hereto.

(D) "County" means the County of San Bernardino, a political subdivision of the State and party to this Agreement.

(E) "Disposal System" means the County's solid waste disposal system, which currently consists of six (6) active regional landfills, nine (9) transfer stations, and two community collection centers, as may hereafter be subject to change.

(F) "District" means the Helendale Community Services District, a California community services district and party to this Agreement.

(G) "LAFCO" means the Local Agency Formation Commission of the County of San Bernardino.

(H) "Refuse Disposal Land Use Fee" means the fee originally adopted by the County under Chapter 4 of Division 4 of Title 1 of the San Bernardino County, CA Code of Ordinances and Section 16.0222 of Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code of Ordinances, continued and assumed by the District pursuant to Resolution No. 2927 and Resolution No. 2951 and affirmed by LAFCO Resolution No. 3099.

(I) "Refuse Disposal Land Use Pass" means the card, voucher, or other form of program developed by the District and issued to a qualified resident of the District that would entitle the holder thereof to Self-Haul residential refuse for disposal at a County Disposal System facility for a number of times during a period of time, as determined by the District, with the charges for such refuse disposal invoiced to the District.

(J) "Self-Haul" means the disposal of waste at a County Disposal System facility by a person not commercially engaged in the disposal thereof who collects and disposes of waste that is generated from residential or business activities conducted by such person.

(K) "State" means the State of California.

SECTION 1.2 INTERPRETATION. In this Agreement, unless the context otherwise requires:

(A) References Hereto. The terms "hereby", "hereof", "herein", "hereunder" and any similar terms refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the Contract Date.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(E) No Third Party Beneficiaries. Nothing in this Agreement is intended to confer on haulers or any other person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this Agreement.

(F) Counterparts. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(G) Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(H) Severability. If any clause, provision, subsection, Section or Article of this Agreement shall be ruled invalid by any court of jurisdiction, then the parties shall: (1) promptly meet and negotiate a substitute for such clause, provision, subsection, Section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties therein; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist, unless such invalidity frustrates the underlying primary purpose of the Agreement.

(I) Recitals. The recitals to this Agreement are not intended to bind the parties hereto. In the event of a conflict between the recitals and the operative provisions of this Agreement, the operative provisions shall prevail. The recitals shall not be used to interpret the provisions of the Agreement.

ARTICLE II REPRESENTATIONS AND WARRANTIES

SECTION 2.1 REPRESENTATIONS AND WARRANTIES OF THE DISTRICT. The District represents and warrants that:

(A) Existence. The District is a community services district validly existing under the Constitution and laws of the State in accordance with California Government Code Section 61000 et seq.

(B) Due Authorization. The District has duly authorized the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by the District.

SECTION 2.2 REPRESENTATIONS AND WARRANTIES OF THE COUNTY. The County represents and warrants that:

(A) Existence. The County is a political subdivision of the State validly existing under the Constitution and laws of the State.

(B) Due Authorization. The County has duly authorized the execution and delivery of this Agreement and this Agreement has been duly executed and delivered by the County.

ARTICLE III LANDFILL PASS PROGRAM

SECTION 3.1 REFUSE DISPOSAL LAND USE PASS. The District shall utilize the funds it receives from the Refuse Disposal Land Use Fee to develop and implement a Refuse Disposal Land Use Pass program pursuant to which the District will issue a distinctive Refuse Disposal Land Use Pass to qualified property owners subject to the Refuse Disposal Land Use Fee continued and assumed by the District pursuant to Resolution No. 2927, Resolution No. 2951, LAFCO Resolution No. 3099, and the Fee Transfer Agreement. The Refuse Disposal Land Use Pass will entitle the holder thereof to Self-Haul residential refuse to a County Disposal System facility for a number of times during a period of time, as determined by the District, with the charges for such refuse disposal invoiced to the District.

SECTION 3.2 ACCEPTANCE OF PASS. The County shall accept when presented at a County Disposal System facility all valid Refuse Disposal Land Use Passes issued by the District. The County shall maintain an accounting of Self-Haul trips using a Refuse Disposal Land Use Pass, retain such Refuse Disposal Land Use Passes, and invoice the District on a monthly basis at the then-current gate fee rate by preparation and presentation of a written statement showing the Refuse Disposal Land Use Passes and calculation of the associated charges.

SECTION 3.3 REIMBURSEMENT FOR SELF-HAULING. The District shall pay to County on a monthly basis all proper and substantiated gate fees at the then-current rate for each visit to a County Disposal System facility by a property owner Self-Hauling refuse and presenting a valid Refuse Disposal Land Use Pass at the entrance thereto.

SECTION 3.4 ADMINISTRATION. The District and the County agree to cooperate in good faith in the administration of the program that is the subject matter of this Agreement in accordance with this Agreement and Appendix A, entitled "Conditions," attached hereto and incorporated herein by this reference, and may make such changes in the implementation thereof, including but not limited to the possible use of automated recording, as jointly deemed necessary

ARTICLE V
GENERAL PROVISIONS

SECTION 5.1 INDEMNIFICATION.

(A) The District agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its unauthorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the acts, errors, or omissions of the District under this Agreement, and for any costs or expenses incurred by the County on account of any such claim, except where such indemnification is prohibited by law. The District's indemnification obligation does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

(B) The County agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless the District and its unauthorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of the acts, errors, or omissions of the County under this Agreement, and for any costs or expenses incurred by the District on account of any such claim, except where such indemnification is prohibited by law. The County's indemnification obligation does not apply to the District's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.

SECTION 5.2 ATTORNEY FEES. Each party to this Agreement shall bear its own costs and attorneys' fees if any legal action is instituted by a party to this Agreement against the other party to this Agreement to enforce or declare such party's rights hereunder.

SECTION 5.3 AMENDMENTS. Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by written agreement duly authorized and executed by both parties.

SECTION 5.4 COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be determined an original and all of which taken together will constitute one and the same instrument.

SECTION 5.5 FURTHER ASSURANCES. At any and all times the District and County so far as may be authorized by law shall pass, make, do, execute, acknowledge and deliver any and every such further resolutions acts, deeds, conveyances, instruments, assignments, transfers and assurances as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

SECTION 5.6 ASSIGNMENT OF AGREEMENT. Except as expressly set forth herein, neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party, which may be withheld in the other party's sole discretion. Notwithstanding the foregoing, either party may assign this Agreement to another public entity, subject to the reasonable consent of the other party. In such circumstances the party not requesting the assignment shall have the right to demand assurances

of the financial, technical and legal ability of the proposed assignee to undertake the responsibilities and obligations of the assigning party.

SECTION 5.7 BINDING EFFECT. This Agreement shall bind and inure to the benefit of the parties hereto any successor or assignee acquiring an interest hereunder consistent with the provisions of Section 5.10 hereof.

SECTION 5.8 FORMER COUNTY OFFICIALS. District agrees to provide or has already provided information on former County administrative officials (as defined below) who are employed or represent District. The information provided includes a list of former County Administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of District. For purposes of this provision, "County Administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit. (See Appendix B, List of Former County Officials)

SECTION 5.9 IMPROPER CONSIDERATION. District shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Agreement. District shall immediately report any attempt by an officer, employee or agent of County to solicit (either directly or through an intermediary) improper consideration from District. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office.

SECTION 5.10 NOTICES. Any notice or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth on the cover page of this Agreement. Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by notice to the other party.

IN WITNESS WHEREOF, COUNTY and DISTRICT have caused this Agreement to be executed by their duly authorized officers or representatives as of the dates set forth below.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

COUNTY OF SAN BERNARDINO

HELENDALE COMMUNITY SERVICES DISTRICT

By: _____
Gary C. Ovitt, Chairman
Board of Supervisors

By: _____
James Keoshkerian, President
Board of Directors

Date: _____

Date: _____

SIGNED AND CERTIFIED THAT
A COPY OF THIS DOCUMENT HAS
BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

LAURA WELCH, Clerk of the
Board of Supervisors

CLERK OF THE BOARD OF
DIRECTORS

By: _____
Deputy

By: _____

Date: _____

Date: _____

Approved as to Legal Form:
RUTH E. STRINGER, Counsel

By: _____
Deputy

Date: _____

APPENDIX A

CONDITIONS

GENERAL CONDITIONS:

- Helendale Community Services District (the "District") will ensure that waste generated within its borders and delivered to the County's Disposal System by either its franchised waste hauler or its employees is accurately identified with the District as the situs of origin. District-issued land use passes will be issued only to qualifying District residents, for disposal originating within the District.
- The District and its franchised waste hauler will each maintain a monthly charge account with the County's Solid Waste Management Division ("SWMD") in good standing to facilitate the acceptance of District waste and the payment of disposal costs.
- The District and its franchised hauler will participate in the monthly data exchange process with SWMD that takes place between the 1st and 10th of each month to ensure accurate waste disposal information and gate fees are posted to the County's waste disposal information system, known as Compuweigh.
- The District and its franchised waste hauler will not be eligible for monthly Unincorporated Residential Refund (URR) credits for any District generated waste.
- The District, its franchised waste hauler, and SWMD will agree on waste allocation deriving from any shared routes where customers are served from the District and other unincorporated areas. The District will not be responsible for disposal charges incurred from waste originated outside its jurisdiction.

FOR FISCAL YEAR 2010/11:

- SWMD applies its Land Use assessments, including the District residential parcels.
- Auditor/Controller/Treasurer (ACT) transfers all current year collected SWMD Land Use assessments to the District.
- ACT transfers all prior year collected SWMD Land Use assessments to SWMD.
- Both SWMD and the District allow the already County-issued Land Use Passes to be used by District residents.
- The District will reimburse SWMD a first-year only actual cost of \$2,913.10 for applying the Land Use assessments on the property tax bills and producing and mailing Land Use Passes to District property owners. Using the current Fee Ordinance parcel book #s of 462, 465, 466, & 467 which covers the District, 2,778 parcels had assessments applied and were mailed Land Use Passes. The previous LAFCO parcel listing showed 2,519

District residential parcels with the SWMD Land Use assessment. Each applied assessment costs $\$0.30 \times 2,778 = \833.40 . Each Land Use Pass production and mailing cost $\$0.75 \times 2,778 = 2,079.70$.

- SWMD will provide the District a statement listing each Land Use assessment by parcel, for District reimbursement verification.
- Monthly, SWMD Fiscal Staff will identify County-issued Land Use Pass transactions for District origin, create a supporting worksheet and apply the charges to District's billing account.
- Monthly, SWMD Fiscal Staff will send a bill to the District with all charges to include:
 - Monthly Summary Billing Statement (Cover Page/Invoice sent to all charge customers)
 - Monthly Transaction Detail Listing (sent to all charge customers)
 - Monthly summary charges for County-issued Land Use Pass charges based on District origin.

FOR FISCAL YEAR 2011/12 AND FUTURE YEARS:

- SWMD does not submit District parcels to ACT Property Tax for inclusion in County's annual SWMD Land Use assessment.
- District submits its own parcel listing to ACT Property Tax for its Land Use assessment.
- ACT transfers FY 09/10 and prior years' collected SWMD Land Use assessments to SWMD.
- ACT transfers FY 10/11 collected SWMD Land Use assessments to the District.
- Monthly, SWMD Fiscal Staff will include summarized District-issued Land Use Pass charges as part of the Monthly Summary Billing Statement and Monthly Transaction Detail Listing.
- Monthly, SWMD Fiscal Staff will send a bill to District with all charges to include:
 - Monthly Summary Billing Statement (Cover Page/Invoice sent to all charge customers).
 - Monthly Transaction Detail Listing, including summary charges for District-issued Land Use Pass charges (sent to all charge customers).