

**FRANCHISE AGREEMENT  
FOR SOLID WASTE TRANSPORT**

This Franchise Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_ between the County of San Benito ("County") and \_\_\_\_\_ ("Franchisee") for the purpose of transporting solid waste in the unincorporated area of San Benito County.

**TERMS**

**1. Scope and Duration of Franchise.**

The initial term of this agreement shall be for one (1) year. Such agreement may be renewed for additional terms of one (1) year if the Franchise is not in default of this agreement and all fees, charges and other payments are current and all obligations hereunder have been fulfilled. This agreement will automatically renew annually for a period of one (1) year unless revoked.

This agreement grants the Franchisee the non-exclusive right to operate a solid waste transportation franchise which includes the right to transport solid waste within the unincorporated area of San Benito County for disposal of the solid waste within the unincorporated area of San Benito County pursuant to the requirements and definitions and guidelines of the San Benito County Solid Waste Accumulation, Collection, Transportation and Disposal Ordinance No. 724, or any other applicable ordinances in force during the course of this agreement.

For purposes of this agreement, a franchise is any person, corporation, agency, or any other entity, who is commercially transporting solid waste within and into the unincorporated area of San Benito County.

**2. Fee.**

In consideration for the Franchisee's right to conduct said activities, Franchisee shall pay a fee according to the terms and schedules specified in Attachment "A". Attachment "A" is attached hereto and by reference made a part hereof. The franchisee fee shall remain fixed during any term or renewal term. However, despite the provision for renewal specified in paragraph 1 above, County may establish a different franchise fee by adopting a different franchise fee sixty (60) days before the commencement of a new term of this Franchise agreement.

3. **Contract Administrator.**

The Integrated Waste Management Director for San Benito County is designated by County as its contract administrator for this contract. All matters concerning this contract which are within the responsibility of County shall be under the direction of, or shall be submitted to, the Contract Administrator or any County employee as the Contract Administrator may appoint. County, may in its sole discretion, change its designation of the contract administrator and shall promptly give written notice to Franchisee of any such change.

4. **Guarantee of Code Compliance.**

Franchisee hereby agrees, covenants and promises to comply with all provisions of the San Benito County Solid Waste Accumulation, Collection, Transport and Disposal Ordinance, Ordinance No. 724, or any other applicable ordinance which is in effect during the course of this Franchise Agreement, pertaining to Franchisee's transportation or disposal of solid waste or green material.

Failure to comply shall constitute grounds for termination of this Franchise Agreement.

5. **County's Right to Inspect.**

Franchisee agrees to allow County to inspect waste transport truck and disposal site(s) upon reasonable notice to Franchisee. Inspections shall take place during regular business hours and County shall notify Franchisee in writing of said inspection at least twenty-four (24) hours prior to inspection.

6. **Indemnification.**

Franchisee agrees to indemnify, defend and hold harmless the County and County's officers, agents and employees from and against any and all claims and losses whatsoever arising out of or in any way related to Franchisee's performance under this franchise agreement or the Solid Waste Accumulation, Collection, Transport and Disposal Ordinance No. 724, (or any other applicable ordinance in effect during course of this agreement) including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorney's fees, court costs, investigation costs, and expert's fees) incurred by the Franchisee's in connection with such claims. "Performance" includes the party's action or inaction and the action or inaction of that party's officers, employees, agents and employees.

Franchisee's indemnity obligation hereafter shall not extend to claims and losses arising out of County's sole negligence or willful misconduct or breach of the terms and conditions of this Agreement.

7. **Insurance Coverage Requirements.**

Franchisee, at its sole cost and expense, shall maintain the proof of comprehensive motor vehicle liability insurance as required by the State of California. This policy shall be full force and effect during the term of this agreement. Franchisee shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned, and hired) used in providing services under this agreement.

8. **Proof of Insurance.**

Prior to the execution of this agreement by the County, Franchisee shall provide proof of motor vehicle liability insurance to the County, showing that Franchisee has in effect the insurance required by this agreement. Franchisee shall file a new or amended certificate within 30 days after any change is made in any insurance policy which would alter the information of the certificate then on file.

9. **Independent Contractor.**

Franchisee and its officers, agents and employees, in the performance of activities authorized by this franchise agreement, are independent contractors in relation to County and not officers or employees of County. Nothing in this agreement shall create any of the rights, powers, privileges or immunities of any employee of the County. Franchisee shall be solely liable for all applicable taxes and Social Security taxes, arising out of the performance of this agreement.

10. **Compliance with Applicable Laws.**

Franchisee, at its sole cost and expense, shall comply with all applicable federal, state and local laws and regulations in effect during term of this Franchise Agreement in performing the activities and providing the services authorized by this franchise agreement and the San Benito County Solid Waste Accumulation, Collection, Transport and Disposal Ordinance No. 724, or any other applicable ordinances or laws pertaining to the transportation or disposal of solid waste or green material.

11. **Bankruptcy.**

Franchisee shall immediately notify County in the event that Franchisee ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors. Where such proceedings are not withdrawn or discharged within thirty (30) days, then the County may at its option terminate this agreement.

12. **Prohibition Against Assignment and Subcontracting.**

Except as specifically authorized herein, no rights under this agreement may be assigned and no duties may be delegated or subcontracted by one party without the prior written consent of the other party, and any attempted assignment, subcontracting or delegation without such consent shall be void and will terminate this franchise agreement. Consent to an assignment or delegation shall not be withheld unreasonably.

13. **Severability.**

Should any provision herein be found or deemed to be invalid, this agreement shall be construed as not containing such provision, and all other provision which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this agreement are declared to be severable.

14. **Entire Agreement.**

This agreement is the entire agreement of the parties. There are not understandings or agreements pertaining to this contract except as are expressly stated in writing in this agreement or in any document attached hereto or incorporated herein by reference.

15. **Notices.**

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrator personally, by regular mail, or by facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, with first-class postage fully prepaid; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 16 of this contract, provided that an original of such notice is deposited in the United States mail, addressed to a party's contract administrator as indicated in this contract, on the same day as the facsimile transmission is made.

**16. Information About Contract Administrators.**

The following names, titles, addresses, and telephone numbers are the pertinent information for the respective contract administrators for the parties.

**COUNTY** \_\_\_\_\_

**FRANCHISEE** \_\_\_\_\_

Director  
 County of San Benito  
 Integrated Waste Management Dept.  
 3220 Southside Road  
 Hollister, CA 95023  
 (831) 636-4110 Tel.  
 (831) 636-4176 Fax

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

**17. Reporting Requirement.**

Each franchisee shall prepare and file reports with the County. The reports shall include information regarding the volume and nature of solid waste, the location where the transported waste originated, and information regarding recycling/reuse efforts.

Blank report forms can be obtained from the contract administrator listed in paragraph 16, or from the John Smith Road Landfill.

Reports from transportation franchisees shall be filed with the County at the following times:

- a. For Franchisees depositing solid waste at the John Smith Road Landfill, the Origination of Solid Waste Document shall satisfy the reporting requirements. The Origination Document shall be completed and filed at the time of deposit and payment of fees.
- b. For Franchisees depositing clean green and all other solid waste at locations other than John Smith Road Landfill, reports shall be completed and filed at the time of making the required quarterly payments.

Failure to file or complete forms shall result in an automatic termination of the Franchise Agreement.

**18. Termination.**

On the breach of any term, covenant or condition by franchisee on its part to be kept or performed, at the option of the County, all of such rights and privileges of franchisee hereunder and all of the other duties and obligations of County hereunder shall forthwith terminate and thereafter this agreement shall be null and void.

IN WITNESS WHEREOF, the parties have executed this Franchise Agreement as of the date first written above.

**FRANCHISEE:**

X \_\_\_\_\_  
 Name: \_\_\_\_\_  
 X \_\_\_\_\_  
 Title: \_\_\_\_\_  
 X \_\_\_\_\_  
 Address: \_\_\_\_\_

X \_\_\_\_\_  
 Date

X \_\_\_\_\_  
 Phone

**COUNTY:**

\_\_\_\_\_  
 Director, Integrated Waste Management  
 County of San Benito

\_\_\_\_\_  
 Date

**APPROVED AS TO LEGAL FORM:**

Steven R. Sanders, County Counsel

By: Steven R. Sanders

(Date) 12-15-00

## ATTACHMENT A

### **FRANCHISE FEES FOR SOLID WASTE TRANSPORT**

#### **I. Franchise Fees**

##### **A. Solid Waste**

Franchisee agrees to pay \$2.00 per ton of solid waste transported into the unincorporated area of the County of San Benito from outside the County of San Benito, which is direct land applied and incorporated into the soil, within the unincorporated area of the County of San Benito.

##### **B. Compostable Material**

Franchisee agrees to pay \$0.25 per ton of compostable material transported into the unincorporated area of the County of San Benito from outside the County of San Benito, which when accumulated will become active compost as defined by state regulations and is deposited on locations authorized for composting by State and/or local permits to accept such material within the unincorporated area of San Benito County.

##### **C. Exemptions From Payment of Fees**

1. Franchisees who transport solid waste and/or compostable material which originates from the Cities of Hollister, San Juan Bautista or the Unincorporated area of the County of San Benito, shall be exempt from the payment of fees.
2. Franchisees who transport solid waste and/or compostable material except as defined in A. and B. above, which originates outside the County of San Benito for disposal at John Smith Road Landfill, shall be exempt from the payment of fees.

#### **II. Payment Schedule:**

All franchisees that transport solid waste and compostable material into the unincorporated area of the County of San Benito as defined in A. and B. above shall pay the County quarterly for said activities. Payments shall be made by the last day of the month of April, July, October and January to:

Integrated Waste Management Department  
3220 Southside Road  
Hollister, CA 95023

Any amount not paid according to the terms of this agreement shall be delinquent and interest shall accrue at the rate of one percent (1%) per month on such delinquent amount.