



People. Partnership. Performance.

P.O. Box 1837
Tacoma, WA 98401-1837
www.portoftacoma.com

March 03, 2017

TO: PLANHOLDERS

SUBJECT: Port of Tacoma 2016 Demolition Program
PROJECT NO. 091574 / 091580 / 101066.01
CONTRACT NO. 070323

ADDENDUM NUMBER TWO

This addendum is issued to amend the following:

BIDDING DOCUMENTS

A. APPENDIX A, CONTRACT FOR WASTE DISPOSAL BETWEEN THE PORT AND LRT.

- 1. DELETE and REPLACE** The issued Appendix A, Contract for Waste Disposal Between the Port and LRI with the attached Appendix A, Contract for Waste Disposal Between the Port and LRI.

B. SECTION 00 11 13 – ADVERTISEMENT FOR BIDS

- 1. DELETE** the issued Sealed Bid Date/Time/Location: paragraph and **REPLACE** with the following:

Bids will be received at the Front Reception Desk, Port Administration Office, One Sitcum Plaza, Tacoma, Washington until 2:00 P.M. **on March 14, 2017**, at which time they will be publicly opened and read aloud.

Receipt for this addendum shall be indicated in the space provided in Section 00 41 00, Bid Form.

END OF SECTION

ATTACHMENT A – Revised Contract for Waste Disposal Between the Port and LRI

Contract#
070156

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CONTRACT FOR WASTE DISPOSAL

As of the date set forth below, the "Effective Date", this CONTRACT FOR WASTE DISPOSAL (this "Contract") is made by and between the PORT OF TACOMA, hereinafter referred to as "Port", and PIERCE COUNTY RECYCLING, COMPOSTING AND DISPOSAL, LLC d/b/a LRI, a limited liability company of The State of Washington and hereinafter referred to as "Contractor", with both also referred to herein as "Parties".

RECITALS

1. The purpose of this Contract is to establish disposal rates for work authorized on a Project specific basis by individual purchase order entered into between the Port and Contractor (each a "Purchase Order") or between the Port's Construction Contractor and the Contractor from time to time ("Construction Contractor Process").
2. Contractor understands and agrees that Port is not assigning any work to Contractor pursuant to this Contract.
3. By entering into this Contract, Port is not encumbering any funds (federal, state or otherwise).

1. TERM OF THE CONTRACT

The term of this Contract shall commence on 10/23/15 and will extend for a period of two (2) years from that date (the "Initial Term"). Two (2), one (1) -year extension periods are available upon mutual agreement of both Parties ("Extension Term" and, together with the Initial Term, the "Term").

2. DISPOSAL OBLIGATION

Port is committed to a mutually beneficial arrangement established with Contractor by means of this Contract. Port agrees that all Port Acceptable Waste (as defined in Paragraph 7 herein and identified in Exhibit A) that Port generates, controls, or processes and identifies for disposal, and which is actually disposed of at a solid waste facility, shall be disposed of at Contractor's Facility, per Port's Purchase Order process or Construction Contractor Process as described herein. Notwithstanding the foregoing and subject to the requirements of Paragraph 6 herein, in the event that any volumes of Acceptable Waste exceed Contractor's daily disposal capacity and expressly subject to LRI timely providing the Port advance written notice of the exceedance as provided in Paragraph 6 herein, Port shall have the right to utilize alternative resources for the disposal of only that amount of Acceptable Waste that Contractor is unable to dispose of, but, in all cases, only after Port has engaged in a purposeful and good faith discussion with Contractor regarding Port's requirements and Port has received a timely written affirmation from Contractor no later than 14 days after the Port's Project

Manager's coordination with Contractor that Contractor is unable to dispose of the volume of Acceptable Waste for the reasons described above.

3. APPLICABLE RATES

As used in this Contract, the term "applicable rates" will mean the rates cited in **Exhibit A** attached hereto as adjusted in accordance with Paragraph 4. The applicable rates established by this Contract will apply to all Purchase Orders issued from this Contract and contracts for the services described herein between LRI and the Port's Construction Contractors.

4. RATE ADJUSTMENT CALCULATIONS

The rates set forth in Exhibit A shall be adjusted annually as follows. Contractor will submit its requested applicable rates to the Port Contract and Purchasing Office no later than ninety (90) days prior to November 1st of each subsequent year throughout the term hereof (the "annual adjustment date" on which date the adjusted rates shall become effective) with the first such adjustment effective November 1, 2017. Rate adjustments are limited to and shall be calculated based on the CPI-U, A423 Seattle-Tacoma-Bremerton, WA area, calculated on annual change December to December, "All Items" series title (not seasonally adjusted), index base period 1982-84=100 plus any changes to applicable taxes.

5. ADDITIONAL CONSIDERATIONS

For Purchase Orders issued under this contract, Contractor shall:

- Coordinate with Port's Project Manager to discuss project details and establish project plan/schedule/requirements/invoicing.
- Within 14 days of the Port's Project Manager coordination described above, provide the Port written notice of Contractor's inability to accept the Port's expected volume of Acceptable Waste for that Project; if such notice is not timely given to the Port, Contractor shall be obligated to accept the Port's volume of Acceptable Waste for that Project, notwithstanding the language of Paragraph 2 herein.
- Coordinate billing efforts so invoice submittals to Port are complete, including all documentation as required. Invoicing requirements will be on a project specific basis.

Port shall:

- After providing at least fourteen days advance written notice to LRI, the Port Project Manager shall coordinate with Contractor to review the major aspects and requirements of each Project. The Port's Project Manager will manage project plan/schedule/requirements/invoicing.

- Provide notification if special funds (i.e., grants, etc.) will be utilized by Port and communicate unique reporting requirements during the Project Manager' coordination.

For contracts entered between the Port's Construction Contractor and the Contractor, the Contractor shall:

- Coordinate with Port's Project Manager prior to Project bid to discuss project details and establish project plan/schedule/requirements.
- Provide Port's Construction Contractor the applicable rates defined in this agreement for all Port Acceptable Waste.
- Provide Port's Construction Contractor with Contractor's standard Special Waste Disposal Agreement for execution by Contractor and the Port's Construction Contractor at the applicable rates set forth herein.
- Within 14 days of the Port's Project Manager coordination described above, provide the Port written notice of Contractor's inability to accept the Port's expected volume of Acceptable Waste for that Project; if such notice is not timely given to the Port, Contractor shall be obligated to accept the Port's volume of Acceptable Waste for that Project.

Port shall:

- After providing at least fourteen days advance written notice to LRI, the Port Project Manager shall coordinate with Contractor prior to bid to review the major aspects and requirements of each Project.
- Require that its Construction Contractors post a payment bond and/or use retainage in amounts sufficient to ensure that Contractor's service fees as set forth herein are paid.

6. WASTE ACCEPTED AT FACILITY

During the Term, Port may, from time to time, provide to Contractor Acceptable Waste for disposal, and Contractor shall accept such Acceptable Waste, provided the Port has received a Waste Disposal Authorization ("WDA") from the Tacoma-Pierce County Health Department (TPCHD) where applicable to such Acceptable Waste. Prior to providing Contractor with Acceptable Waste, Port shall provide Contractor with the WDA where applicable describing the waste materials to be disposed. Only that waste material described in the WDA or the disposal of which is otherwise in accordance with all laws, regulations, and permits, shall be acceptable for disposal at its Facility ("Acceptable Waste"). Contractor will also review the WDA and approve acceptance of the waste.

The Port represents that the Waste delivered to Contractor at its Facility hereunder will

be Acceptable Waste and will not contain any unacceptable quantity of liquid wastes (as determined by Method 9095B (Paint Filter Liquids Test)), hazardous materials or substances, radioactive materials or substances, or toxic waste or substances, as defined by applicable federal, state, local or provincial laws or regulations. Any Waste which does not meet these requirements shall hereinafter be referred to as "Unacceptable Waste".

The Port and Contractor affirm that "Acceptable Waste" as defined herein expressly:

- (1) Excludes clean (non-regulated) waste and
- (2) Is specific to regulated waste ("Acceptable Waste"), and
- (3) Does not include either "Unacceptable Waste" or waste that the Port actually reuses or recycles
- (4) Includes regulated waste ("Acceptable Waste") from Port waterway dredging projects, so long as the distance between the dredge project and de-watering site is not greater than forty (40) roadway miles, and
- (5) Includes any waste that is required to go offsite to a regulated landfill, except and only as expressly excluded in (1), (3) and (4) of this Section 7.

7. RIGHTS OF REFUSAL/REJECTION

The Port and or the Port's Construction Contractor shall inspect all Waste at the place(s) of origin and shall remove any and all Unacceptable Waste. Contractor has the right to refuse, or to reject after acceptance, any load(s) of Waste(s) delivered to its Facility that constitutes Unacceptable Waste. Contractor shall have the right to inspect all waste in order to determine whether the Waste is Acceptable Waste or Unacceptable Waste pursuant to this Contract and all applicable federal, state and local laws, rules and regulations. The word "Facility" shall mean the 304th Street Landfill (a/k/a the LRI Landfill and the PCRCD Landfill), located at 30919 Meridian Street East Graham, WA 98338. Conditioned specifically upon the Port's advance written approval, "Facility" may also mean any other properly licensed and permitted solid waste facility or facilities arranged by Contractor for the ultimate disposal of the Acceptable Waste.

8. PURCHASE ORDER MODIFICATION OR EXPANSION

Any Purchase Order may be expanded as allowed below:

A one-time Purchase Order may be modified if the Port's bid upon which the Purchase Order was based reserved the right for additional orders to be placed within a specified period of time, or if the Project or body of work associated with a Purchase Order is still active. Such modifications must be mutually agreed upon by the Parties in writing, and shall be approved by the Port Contract and Purchasing Director or the Port's Purchasing Manager on behalf of Port. No other Port employee is authorized to make such modifications.

Expansions must be issued in writing from the Port Contract and Purchasing Office in a formal notice. The Port Contract and Purchasing Office will ensure the expansion

meets the following criteria collectively: (a) it could not be separately bid, (b) the change is for a reasonable purpose, (c) the change was not reasonably known to either Port or Contractor at time of project initiation or else was called out as a possibility in the bid (such as a change in environmental regulation or other law) to which the Purchase Order is based; (d) the change is not significant enough to be reasonably regarded as an independent body of work; (e) the change could not have attracted a different field of competition; and (f) the change does not vary the essential identity or main purpose of the contract, all as determined by the Port Contract and Purchasing Office in their sole determination, provided however, the Port may make exceptions for immaterial changes, emergency or sole source conditions, or for other situations as required in the opinion of the Port Contract and Purchasing Office.

The following changes are not considered an expansion of scope, including an increase or decrease in quantities ordered, the exercise of options and alternates in the bid, or ordering of work originally identified within the originating solicitation. Such changes shall be approved via a written order issued by the Port Contract and Purchasing Office to Contractor, and shall take effect upon written confirmation by Contractor acknowledging receipt of such written order.

9. INSURANCE REQUIREMENTS

1. The Contractor shall procure and maintain during the life of this contract such insurance as shall protect it from claims or damages for bodily injury, including death resulting therefrom as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by itself, its agents, or by anyone directly or indirectly employed by either of them.
2. Certificates of all insurance shall be filed with the Port of Tacoma naming the Port of Tacoma as additional insured.
3. The policies shall not be canceled or the amount thereof reduced, without the Contractor providing thirty (30) days prior written notice to the Port of Tacoma and
4. The Contractor shall also provide the Port prior written notice if the policy is not to be renewed at the scheduled expiration date.
5. The amount of such insurance shall not be less than:
 - a. Commercial General Liability Insurance, on an occurrence basis, including contractual liability and completed operations, in an amount of not less than One Million Dollars (\$1,000,000.00) for bodily injury, including sickness, disease, and death at any time resulting therefrom, sustained by any person and for property damage.
6. The Contractor shall procure and maintain insurance in accordance with the requirements of all applicable State and Federal Worker's Compensation Laws. Contractor shall furnish to the Port of Tacoma evidence of such insurance, including Employers Contingent Liability (Stop Gap) Insurance.

7. For contracts entered between the Port's Construction Contractor and the Contractor, the Contractor shall fulfill such insurance requirements as provided in Section 10 of the Contract.

10. MISCELLANEOUS PROVISIONS

- A. Amendments: No modification of this Contract shall be effective unless in writing and signed by an authorized representative of each of Port and Contractor. Port shall issue change notices to Contractor, and such notices shall take effect under the signature of Port and upon written confirmation by Contractor acknowledging agreement to and receipt of the change notice.
- B. Conflict: In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford Port the maximum benefits.
- C. Liens, Claims and Encumbrances: All materials, equipment, or services shall be free of all liens, claims or encumbrances of any kind and if Port requests a formal release of same shall be delivered to Port.
- D. Binding Contract: This Contract shall not be binding until signed by both Parties. The provisions, covenants and conditions in this Contract shall bind the Parties, their legal heirs, representatives, successors, and assigns.
- E. Applicable Law/Venue: This Contract shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought hereunder shall be in the Superior Court for Pierce County, Washington
- F. Remedies Cumulative: Rights under this Contract are cumulative and nonexclusive of any other remedy at law or in equity.
- G. Captions: All titles, including sections or subsections, are for convenience only and do not define or limit the contents.
- H. Severability: Any term or provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.
- I. Waiver: No covenant, term, or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition. Neither the acceptance by Port of any performance by Contractor after the time the same shall have become due nor payment to Contractor for any portion of the Work shall constitute a waiver by Port of the breach or default of any covenant, term or condition unless otherwise this is expressly agreed to by Port, in writing. Port's failure to insist on performance of any of the terms or conditions herein or to exercise any right

or privilege or Port's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

J. Entire Contract: This Contract, along with its Exhibits, attachments, work orders, subsequently issued change notices, and amendments constitutes the entire agreement between the Parties with respect to the Work. No verbal agreement or conversation between any officer, agent, associate or employee of Port and any officer, agency, employee or associate of Contractor prior to or following the execution of this Contract shall affect or modify any of the terms or obligations contained in this Contract.

K. Negotiated Contract: The Parties acknowledge that this is a negotiated Contract, that they have had the opportunity to have this Contract reviewed by respective legal counsel, and that terms and conditions are not construed against any Party on the basis of such Party's draftsmanship thereof.

L. No Personal Liability: No officer, agent or authorized employee of either Port or Contractor shall be personally responsible for any liability arising under this Contract, whether expressed or implied, nor for any statement or representation made herein or in any connection with this Contract.

M. Default: The Parties agree that in the event a suit is instituted for any default, the prevailing party shall recover its costs, expenses expended or incurred in connection therewith, and reasonable attorney's fees.

N. Independent Contractor: An independent contractor relationship is created by this contract. The Contractor or its employees or agents performing under this contract are not employees or agents of the Port of Tacoma. Conduct and control of the work will be solely with the Contractor.

O. Nondiscrimination: The Seller agrees not to discriminate against any client, employee or applicant for employment or services because of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap with regard to, but not limited to the employment upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, selection for training, or rendition of services. It is further understood and agreed that any Seller who is in violation of this clause or an applicable affirmative action program shall be barred forthwith from receiving awards of any purchase order from the Port of Tacoma unless a satisfactory showing is made that discriminatory practices or noncompliance has terminated and that a recurrence of such acts is unlikely.

11. ASSIGNABILITY

The rights, obligations, and duties of the Parties as specified in this Contract may not be transferred or assigned without written approval of the Parties, which approval may not be unreasonably withheld.

12. INDEMNITY / HOLD HARMLESS CLAUSE

A. The Contractor shall indemnify, defend and hold harmless the Port of Tacoma and its officers, employees and agents from and against any liability, claims, damages, losses, expenses or actions, including reasonable attorney's fees and costs, to the extent caused by or arising out of the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract; or arising from the Contractor's, its' officer's, employee's, subcontractor's, or agent's failure to comply with the provisions of this Agreement or any applicable state, federal, local, law, statute, rule, regulation or act. This duty to indemnify, defend and hold harmless shall encompass, but not be limited to, any claims which include or allege negligence or willful misconduct of Contractor, its agents, officers or employees, except to the extent such claims arise out of the negligence or willful misconduct on the part of the Port of Tacoma, and this duty shall survive the termination or expiration of this Contract.

B. The Port of Tacoma shall indemnify, defend and hold harmless the Contractor and its officers, employees and agents from and against any liability, claims, damages, losses, expenses or actions, including reasonable attorney's fees or costs to the extent caused by or arising out of the activities of Port or its officers, employees, subcontractors, or agents under this Contract; or arising from the Port's, its' officer's, employee's, subcontractor's, or agent's failure to comply with the provisions of this Agreement or any applicable state, federal, local, law, statute, rule, regulation or act. This duty to indemnify, defend and hold harmless shall encompass, but not be limited to, any claims which include or allege negligence or willful misconduct of Port, its agents, officers or employees, except to the extent such claims arise out of the negligence or willful misconduct on the part of the Contractor, and this duty shall survive the termination or expiration of this Contract.

[Remainder of Page Left Intentionally Blank; Signature Page Immediately Follows]

IN WITNESS WHEREOF, in consideration of the terms, conditions, and covenants contained herein, or attached and incorporated and made a part hereof, the Parties have executed this Contract by having their authorized representatives affix their signatures below.

EFFECTIVE DATE

The Parties have executed this Contract this 23 October, 2015.

**Pierce County Recycling
Composting and Disposal, LLC
d/b/a LRI**

Port of Tacoma

John Rogers
Signature
John Rogers
Print
Division Vice President
Title

Sharon Rothwell 10/23/15
Signature
Sharon Rothwell
Manager, Purchasing and Supplier Diversity

All communications in respects to this Contract shall include original or copy of information to the individuals above, at the following addresses:

PCRCD LLC d/b/a LRI
17925 Meridian St E
Puyallup WA 98375
P) 253-847-7555
F) 253-847-7713

Port of Tacoma
attention:
PO Box 1837
Tacoma WA 98401-1837
P) 253-592-6758
F) 253-593-4570

EXHIBIT A

ACCEPTABLE WASTE AND APPLICABLE RATES

Rates effective October 23, 2015, subject to adjustment as stated herein.

1. Regulated Soil, Unsuitable Soil or Vector Waste (street/road sweepings, storm drain clean-out residue, etc.):
 - a. Baseline disposal pricing year 1 – \$20.67/ton +3.6% WA State Refuse Tax and any other applicable taxes.
2. Construction/Demolition Waste (non-recyclable or reusable waste associated with construction, demolition, and/or remodeling of Port buildings and structures):
 - a. Baseline disposal pricing year 1 – \$59.25/ton +3.6% WA State Refuse Tax and any other applicable taxes.
3. Asbestos Containing Material:
 - a. Baseline disposal pricing year 1 – \$131.56/ton +3.6% WA State Refuse Tax and any other applicable taxes.
4. Oversize Objects:
 - a. Subject to quote from Contractor based on size of objects and necessary mode of transportation.

Pricing conditions:

- The above pricing is subject to an annual adjustment on the annual adjustment date as explained in the Rate Escalation Calculations sections of the Contract.

**SOLID WASTE
DISPOSAL AGREEMENT**

(Port of Tacoma Construction Contractor Use Only)

THIS SOLID WASTE DISPOSAL AGREEMENT (this "Agreement") is made this ____ day of _____, 20__ (the "Effective Date"), by and between _____ ("Customer"), and PIERCE COUNTY RECYCLING, COMPOSTING AND DISPOSAL, LLC doing business as LRI ("Owner").

WITNESSETH:

WHEREAS, Customer desires to obtain environmentally sound solid waste disposal services; and

WHEREAS, Owner operates a regional sanitary landfill and desires to provide disposal and other solid waste related services.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective covenants herein contained, the parties have agreed as follows:

1. Definitions.

1.1 "Acceptable Waste" or "Waste" means any waste that is solid waste, as defined in Chapter 173-303 WAC, except Unacceptable Waste, as defined below.

1.2 "Customer" means _____.

1.3 "Owner" means Pierce County Recycling, Composting and Disposal, LLC, doing business as LRI.

1.4 "DOE" means Washington Department of Ecology.

1.5 "Delivery Date" means the date that Owner first receives Acceptable Waste for disposal pursuant to this Agreement.

1.6 "Disposal Site" means the LRI 304th Street Sub-title D Landfill or any alternate site chosen by Owner to receive Acceptable Waste.

1.7 "Free Liquid" means liquid in excess of twenty-five (25) gallons per contained load of Waste which readily separates from the solid portions of such Waste on delivery to the Disposal Site under ambient temperature and pressure (*i.e.*, liquid in the Waste load that causes the Waste to fail the "paint filter test" prescribed by the Environmental Protection Agency in its "Method 9095").

1.8 "Hazardous Waste" means any material which:

(a) is required to be accompanied by a written manifest or shipping document describing the material as "hazardous waste" or "dangerous waste", pursuant to the generator's state, Washington or federal law, including, but not limited to, the Resource Conservation and Recovery Act, 40 CFR, Part 260-272, et seq. as amended, and all regulations promulgated thereunder and any such state equivalent or similar law;

(b) contains polychlorinated biphenyl or any other substance the storage, treatment or disposal of which is subject to regulation under the Toxic Substances Control Act, 40 CFR, Part 761, et seq. as amended, and all regulations promulgated thereunder and any such state equivalent or similar law;

(c) contains a radioactive material the storage or disposal of which is subject to state or federal regulation; or

(d) is designated under the generator's state, Washington or federal law or regulation as a "dangerous waste", "toxic waste", "hazardous waste", "extremely hazardous waste" or "acutely hazardous waste".

1.9 "Road Legal" means the total gross weight combined with the axle configuration of the vehicles used by the transporter of Acceptable Waste that conforms to the laws of any state or province applicable to the delivery of Acceptable Waste to the Disposal Site.

1.10 "Special Waste" means any Waste which presents personnel safety hazards, creates odor or vector problems, generates excessive leachate, leads to excessive settlement, punctures or tears the landfill liner, poses a fire hazard or increases the toxicity of landfill leachate. Special Waste includes, without limitation, any Waste which:

(a) requires special handling or management practices;

(b) may be contaminated with Hazardous Waste;

(c) includes large dead animals, sewage sludges and grit, septage, industrial solid wastes and other materials which may be hazardous or difficult to manage by virtue of its character or volume; or

(d) must be managed in accordance with the provisions described in an approved Special Waste Application.

1.11 "Ton" is defined as a unit measurement equaling 2,000 pounds.

1.12 "TPCHD" means Tacoma – Pierce County Health Department.

1.13 "Transportation" means Acceptable Waste transportation services provided by LRI, if applicable.

1.14 "Unacceptable Waste" means any and all waste that is either:

(a) prohibited from disposal at a sanitary landfill by the generator's state, Washington, federal or local law, regulation, rule, code, ordinance, permit or permit condition;

(b) Hazardous Waste;

(c) Special Waste without a Special Waste Application, with related handling and disposal costs, approved in advance by Owner;

(d) waste which in Owner's sole discretion Owner considers to be unacceptable; or

(e) waste containing Free Liquid.

1.14 "WDA" means Waste Disposal Authorization issued by TPCHD

2. Term of Agreement.

2.1 Effective Date. This Agreement will be effective upon execution, as used herein, the "Effective Date."

2.2 Term. The term of this Agreement coincides with the term of the Port of Tacoma's contract with their Construction Contractor for the project identified therein. 2.3

Renewal Terms. Renewal terms for this Agreement shall coincide with the renewal terms specified within the Port of Tacoma's contract with their Construction Contractor for the project identified therein.

3. Scope of Service.

3.1 Operation. Beginning on the Delivery Date and continuing until termination of this Agreement, Customer (Port's Construction Contractor) shall deliver or have delivered, to the Disposal Site, and Owner (LRI) shall receive for disposal, 100% of Customer's Acceptable Waste arising from the contract between the Customer and the Port of Tacoma. Customer will conform to Owner's maximum number of trips per day for the delivery of Acceptable Waste as outlined in Owner's operating permits; insuring deliveries are made during the sites hours of operation.

3.2 Hours of Operation. The Disposal Site will remain open for disposal from 8 a.m. to 4:30 p.m. Monday through Friday. In addition, the Disposal Site will be open Saturdays, on occasion, as needed by Customer when scheduled in advance. These shall be the "hours of operation" for the purpose of this Agreement. The Disposal Site is closed New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

3.3 Waste Type and Source. Customer warrants that it shall deliver only Acceptable Waste to Owner for Disposal at the Disposal Site.

3.4 Permit and Licenses. Customer shall at all times procure and maintain in effect all licenses and permits, and conditions thereto, for the generation of Acceptable Waste covered by this Agreement, required by DOE and any and all agencies that may have jurisdiction over Customer's operation.

3.5 Compliance with Applicable Laws. Owner will comply with all present and future federal, Washington state and local statutes and ordinances regulating the construction and operation of the Disposal Site for the disposal of Acceptable Waste, and with all other rules and regulations and amendments thereto imposed by all federal and state regulatory agencies having jurisdiction over the operation of the Disposal Site. Customer warrants that they are and shall remain in compliance with all State and Federal laws, permits and licenses concerning the generation of Waste covered by this Agreement.

3.6 Equipment to be Supplied by Owner. If Transportation services are to be provided by Owner pursuant to this Agreement,, Owner shall supply a sufficient number of trucks to transport Customer's Acceptable Waste from Customer's location known as _____ to the Disposal Site. It is agreed that Customer's Acceptable Waste deliveries will not exceed Owner's total maximum number of trips per day at the Disposal Site as outlined in Owner's operating permits.

3.7 Care of Equipment. If Transportation services are to be provided by Owner pursuant to this Agreement, Customer warrants that it will provide at all times a safe loading berth, which will be free of hazards. Customer shall exercise due care and diligence in the use and handling and loading of Owner furnished equipment and shall be responsible for all damage to such equipment.

3.8 Special Waste. Customer represents, warrants and covenants that the Waste delivered to Owner hereunder (i) will not contain any Special Waste that is not specifically described on (A) any application which is attached hereto or which is subsequently approved by Owner, and/or (B) any WDA issued by TPCHD (if required by TPCHD), (ii) will meet the material description as set forth in any application and otherwise in all significant respects and (iii) will not contain Unacceptable Waste. The parties may incorporate additional Special Waste as part of this Agreement if prior to delivery of such Waste to Owner, Customer has provided an application for such Waste and Owner has approved disposal of such Waste within the limitations and conditions contained in Owner's written notice of approval of Special Waste Disposal. Title to any and all (1) Special Waste (not specifically described on a Special Waste application submitted in connection herewith), and (2) Unacceptable Waste, handled or disposed of by Owner shall at all times remain with Customer and any agent of Customer (if an agent is involved).

3.9 Right to Refuse Unacceptable Waste. Owner shall only accept Acceptable Waste. Owner may, at its sole expense, sample and analyze any shipment of Customer's waste to determine if it is Acceptable Waste. Customer shall reimburse Owner for the taxes, assessments, costs, fees and charges incurred by Owner in testing, handling, loading, preparing, transporting, storing, dismissing, returning to Customer, disposing or caring for Unacceptable Waste received from Customer. Upon rejection by Owner, Owner will coordinate with Customer

in an effort to expedite proper disposition of all Unacceptable Waste. If Owner and Customer are unable to reach terms for the appropriate handling, transportation and disposal arrangements for all Unacceptable Wastes within forty-eight (48) hours after notice from Owner, Customer will promptly and safely take possession of Unacceptable Waste at the Disposal Site and remove it. If Customer does not remove such Unacceptable Waste within three (3) days after notification by Owner to take possession, then Owner shall have the right and authority, at the expense of Customer, to arrange for the proper handling, transportation and disposal of such Unacceptable Waste. Customer shall be responsible for, and bear all reasonable expenses and damages incurred by Owner, as a result of the Unacceptable Waste and in the reloading and removal of Unacceptable Waste disposed in the Facility.

4. Compensation to Owner.

4.1 Basic Disposal Price. The basic disposal price (the “Basic Disposal Price”) Customer shall pay to Owner for Acceptable Waste delivered to, and disposed of at, the Disposal Site shall be in accordance with The Contract for Waste Disposal between the Port of Tacoma and LRI, executed _____. The Basic Disposal Price does not include sales, use, refuse collection, solid waste taxes, or local program fees, if applicable, all of which shall be billed to and paid by Customer. If Transportation services are provided by Owner, an applicable Transportation rate will be added to and included in the Basic Disposal Price. Any changes in the current fees and taxes will be passed through to, and paid by, Customer.

4.2 Billings. Owner shall provide Customer with an invoice detailing the number of loads and tonnage of Customer’s Waste as received at the Disposal Site. Customer shall pay disposal charges to Owner based on using Owner’s certified scales at the Disposal Site to determine appropriate disposal charges to be billed to Customer. Customer shall pay each invoice within thirty (30) days of the date of the invoice, in legal tender at the time of payment, without further notice by Owner. Finance Charges on all past due accounts will accrue and be paid by Customer at the maximum rate allowed by law on all overdue amounts.

4.3 Books and Records. Owner will keep daily records of the weight or volume of Customer’s Waste received at the Disposal Site and charges therefore, and upon reasonable prior notice, Customer has the right to inspect the same.

4.4 Cost of Living Adjustment for Basic Disposal Price. The per Ton Basic Disposal Price shall be adjusted annually in accordance with the Contract for Waste Disposal between the Port and LRI, executed _____.

5. Insurance.

5.1 Insurance Coverage of Owner. Owner shall provide and maintain during active Disposal Site operations, Workers’ Compensation insurance for the Disposal Site, which shall meet the requirements of the State of Washington. This insurance shall cover all operations under this Agreement. Owner shall provide and maintain during the Term public liability insurance, to protect against claims arising out of Owner operations that may result in bodily injury, death or property damage suffered on or about the Disposal Site. Owner, upon request,

shall furnish Customer evidence that the insurance required is in force. The type and limits of liability of all insurance required herein shall be as set forth in Exhibit A, which is attached hereto and incorporated herein.

5.2 Insurance Coverage of Customer. Customer shall provide and maintain during this Agreement, Workers' Compensation insurance which shall meet the requirements of the State in which work is performed and such insurance shall cover all operations under this Agreement. Customer shall provide and maintain during the Term of this Agreement liability insurance to protect against any claim or demand concerning bodily injury, death or property damage arising out of Customer's operations. The policy or policies in force shall contain a provision that any nonrenewal in the insurance coverage must be preceded with notice in writing to Owner in accordance with the applicable provisions of such policies. Customer, upon request, shall furnish to Owner evidence satisfactory to Owner that the insurance required is in force. The type and limits of liability of all insurance required herein from Customer shall be as set forth in Exhibit A, which is attached hereto and incorporated herein.

5.3 Coverage. Insurance provided pursuant to this section shall be written on a claims made basis. All policies shall name the other party as an additional insured and both parties and their respective insurers shall waive subrogation against the other party.

6. Indemnity.

6.1 Indemnification of Owner. Customer shall fully and forever defend, indemnify and hold harmless Owner and its successors, assigns, officers, directors, members, managers and agents against and in respect of any and all costs, losses, damages, deficiencies, fines, penalties, expenses or liabilities (including court costs and reasonable attorneys' fees and expenses), threatened, suffered or paid, to the extent resulting from or arising out of (A) the breach of any representation or warranty made by Customer in this Agreement or in any certificate, document or instrument given pursuant hereto or in connection herewith; (B) any failure by Customer to perform or otherwise fulfill or comply with any undertaking, agreement or obligation on the part of Customer to be performed, fulfilled or complied with hereunder; (C) any claim by any third party of ownership of or any rights or interests in any Waste accepted by Owner; (D) any bodily injury, personal injury or property damage resulting from the actions of Customer; or (E) any act or omission for which Customer shall be found legally liable.

6.2 Indemnification of Customer. Owner shall fully and forever defend, indemnify and hold harmless Customer and its successors, assigns, officers, directors and agents against and in respect of any and all costs, losses, damages, deficiencies, expenses or liabilities (including court costs and reasonable attorneys' fees and expenses), threatened, suffered or paid, to the extent resulting from or arising out of (A) the breach of any representation or warranty made by Owner in this Agreement or in any certificate, document or instrument given pursuant hereto or in connection herewith; (B) any failure by Owner to perform or otherwise fulfill or comply with any undertaking, agreement or obligation on the part of Owner to be performed, fulfilled or complied with hereunder; (C) any bodily injury, personal injury or property damage resulting from the actions of Owner; or (D) any act or omission for which Owner shall be found legally liable.

7. Default.

7.1. Default; Termination. Customer shall be in default hereof if it fails to pay any invoiced amount in accordance with the terms set forth in Section 4. Either party shall be in default hereof if said party breaches this Agreement or fails to perform any of the covenants or conditions contained herein for thirty (30) days after the other party has given the breaching party written default notice; provided, however, that, if such failure or breach is of such nature as to not be curable within said thirty (30) day period, an event of default shall occur if the breaching or failing party shall have failed to commence curative action within the prescribed thirty (30) day period and prosecuted the same with due diligence to completion thereafter but in no event beyond sixty (60) days after receipt of the default notice. In any such event of default, the non-breaching party may: (i) terminate this Agreement and (ii) have recourse to any other right or remedy to which it may be entitled by law, including, but not limited to, the right to all damages or losses suffered as a result of such breach or default. In the event either party waives default by the other party, such waiver shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default.

7.2 Other Termination. The occurrence of any of the following events shall also constitute an event of default by Customer and shall give Owner the right to immediately terminate this Agreement:

- (a) A petition for reorganization or bankruptcy filed by or against Customer;
- (b) Failure by Customer to pay any amounts due to Owner.
- (c) Any breach by Customer of any of its obligations pursuant to the Agreement.

Customer shall be liable for and shall indemnify, defend and hold harmless Owner from any losses, claims expenses or damages incurred by Owner as a result of termination hereunder.

7.3 Right of Disposal. This Agreement does not grant any rights to dispose of Waste other than in accordance herewith. Owner reserves the right to immediately terminate access to the Disposal Site by Customer and Customer's personnel in the event of breach or violation by Customer of any of the terms of this Agreement, Owner's operating rules or payment policies or any applicable laws or regulations.

7.4 Access to Payment Bond/Retainage. In the event that Customer fails to pay Owner for disposal services as required by Paragraph 4 above, Customer agrees that Owner may be paid through access to the payment bond or retainage required pursuant to Paragraph 5 of the Contract for Waste Disposal between Owner and the Port of Tacoma executed _____.

8. Miscellaneous.

8.1 Continuing Compliance. Customer has a continuing obligation to inform Owner of any new information, or information not previously provided to Owner by Customer which may affect the acceptability of the Waste by Owner. Further, Customer shall comply with all Owner requests for evidence of Customer's continuing compliance with the terms of the Agreement including but not limited to the following: (i) providing new, updated Waste profiles on the Waste(s) offered for disposal or, (ii) providing appropriate certification that the Waste being offered for disposal is accurately reflected by the appropriate application or, (iii) re-sample the Waste at Customer's expense if reasonable cause exists as to its acceptability under the terms of this Agreement or, (iv) allow Owner to re-sample the Waste if reasonable cause exists as to its acceptability under the terms of this Agreement (and Customer shall be responsible for all costs and expenses associated with such sampling if such Waste is determined to be Unacceptable Waste), or (v) all of the above.

8.2 Force Majeure. The performance of this Agreement by either party, other than the obligation to pay any sums of money hereunder, may be suspended and the obligations hereunder excused or extended in the event, and during the period, that such performance is prevented, hindered or delayed by a cause or causes beyond the reasonable control of such party. Matters beyond the reasonable control of either party include, but are not limited to, default of another party, labor disputes, strike or lockout, acts of God, war, fire, explosion, national defense requirement, accident, riot, flood, sabotage, lack of adequate fuel, power, materials, labor, or transportation facilities, power failures, breakage or failure of machinery or apparatus, damage or destruction of the Disposal Site and its facilities, injunctions or restraining orders, and judicial or governmental laws, regulations, requirements, orders, actions, or inaction, including the revocation or suspension of or failure to obtain, for reasons beyond either party's reasonable control, any licenses or permits required for operation of the Disposal Site. In the event of disruption of services under any such circumstances, Customer and Owner shall make every reasonable effort to reopen their respective facilities as soon as practicable after the cessation of the cause of suspension of services, and will take all reasonable steps to overcome the cause of cessation of services.

8.3 Taxes and Changes in Regulations Requiring Expenditures. Customer shall pay any and all taxes, charges, fees, assessments and costs on its or Owner's storage, handling and Transportation of Waste from Customer's facilities, or use thereof which Customer may be required to pay or collect under any federal, state or local law or authority now in effect or hereafter passed. Customer shall not be responsible for the payment of any taxes, charges and assessments required to be paid by Owner under the Internal Revenue Code, as amended, or under any state or local income, gross receipts or property tax, as it relates to Owner operations. Notwithstanding the prior sentence, any taxes, charges, fees, and assessments pertaining to the collection, Transportation or disposal of Acceptable Waste which are not currently in effect as of the Effective date, costs arising from a change in law or regulation after the Effective date affecting Owner's services hereunder and additional costs to Owner from force majeure events shall be billed to and paid by Customer in accordance with Section 4.2.

8.4 Independent Contractor. Owner's service hereunder is rendered to Customer as an independent contractor, and neither Owner nor any of its employees is authorized to represent Customer's interest or to take any action for Customer's account. Customer shall

have no control over the employment, discharge, compensation of or services rendered by Owner's employees. Conversely, Customer shall not represent Owner's interest or take any action for Owner's account. Owner shall have no control over the employment, discharge, compensation of or services rendered by Customer's employees.

8.5 Separability. Should any provision of this Agreement become inoperable because of any change in statute, law, regulation, legal process or decision, or other reasons, the elimination of that provision shall not affect the operation of the balance of this Agreement, which shall continue in force unabated except in accordance with other termination provisions contained herein.

8.6 Assignment. Neither party shall assign its rights or obligations under this Agreement, in whole or in part, without the prior written consent of the other, which shall not be unreasonably withheld. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto.

8.7 Specific Services. This is an Agreement for the performance of specific services described herein. Under no circumstances or conditions shall the operations of Disposal Site by Owner, in accordance with this Agreement, be deemed a public function, nor has Customer acquired an interest, ownership or otherwise in the real or personal property or improvements or fixtures at the Disposal Site by virtue of this Agreement.

8.8 Notices. All notices or other communications to be given hereunder shall be in writing and shall be deemed given when hand delivered or mailed by Registered or Certified United States mail return receipt requested:

To Customer: _____

To Owner: Pierce County Recycling, Composting and Disposal, LLC
dba LRI
Attention: Division Vice President or District Manager
17925 Meridian Street East
Puyallup, WA 98375

Any changes of address by either party shall be by notice given to the other in the same manner as specified above.

8.9 Attorney's Fees. In the event of any litigation or arbitration between the parties hereto with respect to the subject matter hereof, the prevailing party shall recover its costs and expenses including reasonable attorney fees (including those on any appeal or in any bankruptcy action), witness and expert fees, and other costs, all of which shall be included in and as a part of the judgment or award rendered in such litigation or arbitration.

8.10 Arbitration. Any controversy, or claim, arising out of, or relating to, this Agreement, or the breach of this Agreement, shall be resolved in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. All disputes shall be heard and decided by one arbitrator selected by both parties, unless either party makes a claim or claims which exceed \$50,000, in which event each party shall select one arbitrator and the two arbitrators so selected shall then select a third arbitrator. The arbitration result shall be final in accordance with the terms of RCW 7.04 et. Seq.

8.11 Applicable Law. The terms and conditions of this Agreement shall be construed in accordance with the laws of the State of Washington.

8.12 Paragraph Headings. The paragraph headings in this Agreement are inserted for convenience only and are in no way to be construed as part of this Agreement or as a limitation or enlargement of the scope or meaning of the particular sections or paragraphs to which they refer, and shall not affect the interpretation of any provisions of this Agreement.

8.13 Entire Agreement. This instrument embodies the whole Agreement of the parties hereto. There are no promises, terms, conditions or obligations referring to the subject matter other than those contained herein. No modification of this Agreement shall be effective unless made in writing and signed by both parties.

***[Remainder of Page Intentionally Left Blank;
Signature Page Follows.]***

IN WITNESS WHEREOF, the parties have executed this Solid Waste Disposal Agreement by their duly authorized agents, as of the date first above written.

CUSTOMER:

OWNER:

Pierce County Recycling Composting
Disposal LLC, d.b.a. LRI

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

INSURANCE COVERAGE LIMITS

	<u>Coverage</u>	<u>Limits of Liability</u>
A.	Workers' Compensation	Statutory
B.	Employer's Liability	\$1,000,000
C.	Comprehensive General Liability	\$2,000,000 each incident \$2,000,000 aggregate
D.	Automobile Bodily Injury	\$2,000,000 each incident
E.	Automobile Property Damage	\$2,000,000 each incident
F.	Excess Umbrella Liability	\$5,000,000 each occurrence