

**SOLID AND VEGETATIVE WASTE DISPOSAL AND PROCESSING
AGREEMENT BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF MESA**

THIS SOLID AND VEGETATIVE WASTE DISPOSAL AND PROCESSING AGREEMENT ("Agreement") is made as of _____, 2014, ("Execution Date"), by and between the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, a federally recognized Indian Tribe ("SRPMIC"), its division, the SALT RIVER COMMERCIAL LANDFILL COMPANY ("SRCLC"), and the CITY OF MESA, an Arizona municipal corporation ("Mesa") (individually, a "Party;" collectively, the "Parties"). For purposes of this Agreement, the Salt River Pima-Maricopa Indian Community and the Salt River Commercial Landfill Company shall be referred to collectively as "SRPMIC/SRCLC."

RECITALS

A. SRPMIC/SRCLC and Mesa have a long history of a mutually beneficial contractual relationship concerning the disposal of municipal solid waste, starting with that Solid Waste Disposal Facilities Agreement, dated October 7, 1993 ("Original Agreement"), which was superseded by various amendments and modifications. The Original Agreement, as previously superseded, amended and modified, will remain in effect until December 31, 2015. It is the Parties' intent that the Original Agreement and this Agreement provide for a continuous solid waste and vegetative waste disposal arrangement between the SRPMIC and Mesa through September 30, 2024.

B. Mesa, in conjunction with the Town of Gilbert and City of Tempe, issued a multi-agency request for proposals dated June 10, 2013 (the "RFP") for solid waste, vegetative waste, and recycling services, and SRPMIC/SRCLC provided an advantageous proposal to Mesa regarding solid and vegetative waste.

C. The SRPMIC, SRCLC and Mesa now desire to enter into this Agreement, to establish their commitments for the delivery and disposal and processing of solid waste and vegetative waste collected by Mesa for the period of time beginning on January 1, 2016, and extending through the Term.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the SRPMIC/SRCLC and Mesa hereby agree as follows:

ARTICLE 1 – DEFINITIONS

In addition to the terms defined above or elsewhere in this Agreement, the Parties agree that the following terms shall have the meanings noted, except where the context clearly indicates otherwise:

1.1 “Agreement” means the understanding of the Parties as set forth in the following documents, which collectively set forth the terms of the contract between the Parties in their entirety.

- A. This Solid and Vegetative Waste Disposal Agreement.
- B. Exhibit A the Location Maps (Disposal Facility).
- C. Exhibit B the Tipping and Processing Fee Schedules.
- D. Exhibit C the Insurance Requirements.

1.2 “Billing Month” means each calendar month.

1.3 “CPI” means the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, West Urban, All Items not seasonally adjusted [Series ID CUUR0400SA0]) from October of the previous year to October of the current year. If the October Index is not available, then the most recent Index will be used. If, on a relevant date, the CPI does not exist in the above format, SRPMIC/SRCLC, in conjunction with Mesa, will substitute any official index published by the Bureau of Labor Statistics, any successor agency, or similar governmental agency, which is then in existence and which is then most nearly comparable to the CPI.

1.4 “Contract Year” means the period beginning January 1st of each year and ending on December 31st of each year during the Term of this Agreement.

1.5 “Customer” means a resident of Mesa who delivers Solid Waste, or Vegetative Waste to the Facility.

1.6 “Disposal” shall mean the deposit of accepted Solid Waste or other material at a Disposal Facility.

1.7 “Effective Date” means the date performance shall commence under this Agreement, January 1, 2016.

1.8 “Environmental Laws” means any federal law, regulation, rule, code, governmental order, requirement or rule of common law, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, relating to the environment, health, safety or Hazardous Waste, including CERCLA; the Resource Conservation and Recovery Act; the Hazardous Materials Transportation Act; the

Clean Water Act; the Toxic Substances Control Act; the Clean Air Act; the Safe Drinking Water Act; the Atomic Energy Act; the Federal Insecticide, Fungicide and Rodenticide Act; and the Federal Food, Drug and the Cosmetic Act, to the extent applicable to the SRPMIC/SRCLC's operations or to the Facility.

1.9 "Exempt Material" means materials identified in or by A.R.S. §§ 49-701.01(B) or 49-701.02 (i.e. inert materials, landscaping rubble, etc.).

1.10 "Facility" or "Disposal Facility" means the municipal solid waste landfill unit, as defined by 40 C.F.R. § 258.2, owned, operated and maintained by SRPMIC/SRCLC, located between the Arizona Canal and the Beeline Highway just east of the Gilbert Road alignment. The Facility is shown on the map attached hereto as Exhibit A.

1.11 "Facility Solid Waste Capacity" is defined in Article 2.

1.12 "Hazardous Waste" means any hazardous waste, substance, object or material as defined in 42 U.S.C. § 6903(5) and other applicable Environmental Laws, as the same may be amended or superseded.

1.13 "Hot Load" means any loads that are on fire or smoldering. Hot loads include wood ashes, cigarette tray residue, coal ash and clinkers, residue from a fire, etc.

1.14 "Inspecting Entity" is defined in Article 9.

1.15 "Medical Waste" means any medical waste as defined in A.R.S. § 49-701 (19), as the same may be amended or superseded.

1.16 "Mesa Collection Vehicle" means a vehicle used by or on behalf of Mesa in making a Mesa Delivery.

1.17 "Mesa Customer" means any Mesa residential solid waste utility customer, whose name is on the solid waste utility account, or who resides at the address of the residence for which Mesa residential solid waste management services are provided.

1.18 "Mesa Customer Delivery" means a delivery of Solid Waste and/or Vegetative Waste by a Mesa Customer under the terms of this Agreement.

1.19 "Mesa Delivery" means a delivery of one of the following: (i) Solid Waste, or (ii) Vegetative Waste by or on behalf of Mesa under the terms of this Agreement.

1.20 "Mesa Driver" shall mean an operator of a Mesa Collection Vehicle.

1.21 "Process", "Processed", or "Processing" means an operation or series of operations, whether involving equipment, manual labor, or mechanical or biological processes, that sorts, enhances, upgrades, concentrates, decontaminates, packages or otherwise prepares Vegetative Waste for the purpose of returning it to the economic mainstream in the form of raw

material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Processing begins at the time the Vegetative Waste is delivered to the Facility and ends when the Processed materials are prepared for transportation off-site.

1.22 “Solid Waste” means garbage, trash, rubbish, refuse, sludge from: (i) a wastewater treatment plant; or (ii) a water supply treatment plant; or (iii) a pollution control facility, and other discarded material, including without limitation, solid, contained liquid, semisolid, or contained gaseous material (as generally set forth in 40 CFR § 258.2), but excluding Exempt Material, untreated sewage, Hazardous Waste, Special Waste, and Medical Waste.

1.23 “Special Waste” means any special waste as defined in A.R.S. § 49-851(5), as the same may be amended or superseded.

1.24 “Tare Weight” means the recorded weight of an unloaded Mesa Collection Vehicle.

1.25 “Ton” or “Tonnage” means a short ton of 2,000 U.S. pounds.

1.26 “Uncontained Waste” means residential waste that cannot be placed in a standard waste container, generally consisting of solid waste, Vegetative Waste, and large appliances.

1.27 “Vegetative Waste” means waste derived from plants, including tree limbs and branches, stumps, grass clippings and other waste plant material that is source separated and collected separately from other Solid Waste. Vegetative Waste does not include processed lumber, paper, cardboard and other manufactured products that are derived from plant material.

ARTICLE 2 – SOLID WASTE AND VEGETATIVE WASTE DELIVERY

2.1 Delivery of Solid Waste. During each Contract Year during the Term, Mesa shall deliver or cause to be delivered to the Facility not less than 72,012 Tons of Solid Waste (the “Minimum Solid Waste Tonnage”). The Minimum Solid Waste tonnage shall be prorated on a monthly basis during any partial Contract Year. SRPMIC/SRCLC represents that the Facility has the capacity to take and dispose of the Minimum Solid Waste Tonnage for each year during the Term of this Agreement (the “Facility Solid Waste Capacity”). SRPMIC/SRCLC will maintain the Facility Solid Waste Capacity throughout the Term of this Agreement.

2.2 Delivery of Vegetative Waste. During each Contract Year during the Term, Mesa shall deliver or cause to be delivered to the Facility not less than 6,012 Tons of Vegetative Waste (the “Minimum Vegetative Waste Tonnage”). The Minimum Vegetative Waste tonnage shall be prorated on a monthly basis during any partial Contract Year. Uncontained Vegetative Waste loads shall contain at least 90% (by load volume) recoverable Vegetative Waste to be deposited at the Facility. SRPMIC/SRCLC represents that the Facility has the capacity to process the Minimum Vegetative Waste Tonnage for each year during the Term of this Agreement.

2.3 Delivery to Other Solid Waste Facilities. Mesa does not guarantee any quantity of Solid Waste, or Vegetative Waste, to be delivered to SRPMIC/SCLC except for the Minimum Solid Waste Tonnage and the Minimum Vegetative Waste Tonnage. All or any part of the Solid Waste and Vegetative Waste Tonnage not required by this Agreement to be delivered to the Facility may be delivered to other waste disposal and processing facilities chosen by Mesa in its sole discretion.

2.4 Mesa Waste Contracts. Mesa shall require any contractors or subcontractors providing residential Solid Waste or Vegetative Waste collection and delivery services on behalf of Mesa to conform to the terms of this Agreement.

ARTICLE 3 – FACILITY ACCEPTANCE OF SOLID AND VEGETATIVE WASTE, HANDLING OF HAZARDOUS WASTE

3.1 Solid Waste Accepted. SRPMIC/SRCLC shall accept for disposal at the Facility:

- A. Solid Waste delivered to the Facility by or on behalf of Mesa.
- B. Solid Waste delivered to the Facility by Mesa Customers pursuant to the provisions of this Agreement.

3.2 Vegetative Waste Accepted. SRPMIC/SRCLC shall accept for processing at the Facility:

- A. Vegetative Waste delivered to the Facility by or on behalf of Mesa.
- B. Vegetative Waste delivered to the Facility by Mesa Customers pursuant to the provisions of this Agreement.
- C. Vegetative Waste Loads containing in excess of 10% contamination shall be (1) deemed Solid Waste, (2) charged at the Solid Waste Tipping Fee per ton and (3) counted as Minimum Solid Waste Tonnage. SRPMIC/SRCLC shall notify Mesa of any such loads within 24 hours of delivery to allow for inspection by both Parties.

3.3 Acceptance and Rejection of Loads. Mesa shall retain responsibility for Loads until delivered to the Facility. Loads not rejected by SRPMIC/SRCLC in accordance with this Section are deemed accepted.

- A. SRPMIC/SRCLC may reject a Mesa Delivery within 24 hours of delivery and before material has been commingled with non-Mesa waste, if the load:
 - (1) Contains greater than 15% of Exempt Materials.
 - (2) Is a Hot Load.
 - (3) Contains any Hazardous Waste, Special Waste or Medical Waste.

- (4) Contains or includes: (i) bulk or noncontainerized liquid waste unless the waste is household waste (other than septic waste); or (ii) containers holding liquid waste unless (a) small and similar in size to that normally found in household waste, (b) designed to hold liquids for use other than storage, or (c) the waste is household waste. For the purposes of this Subsection 3.3(A)(4) “liquid waste” shall have the meaning as defined in 40 CFR § 258.28, and “household waste” shall have the meaning as defined in 40 CFR § 258.2.

B. SRPMIC/SRCLC may not reject a load for any reason other than those listed in Subsection 3.3(A) above. Further, in order to reject a load, SRPMIC/SRCLC must provide notice to Mesa within 24 hours of delivery and before material has been commingled with non-Mesa waste. Notification must be timely provided verbally to the Mesa Driver (if prior to departure) and by telephone to Mesa’s designated contact. Notification must also be timely provided electronically in writing to Mesa’s designated contact. In the notification, SRPMIC/SRCLC shall state the reason the load was rejected. In addition, SRPMIC/SRCLC shall maintain the load separately from other material to afford Mesa the right to inspect the load. Except as provided in Section 3.4 below, Mesa shall have 24 hours from receipt of notification to inspect the rejected load. If SRPMIC/SRCLC fails to provide timely and proper notice in accordance with this Section, the load shall be deemed accepted. Mesa shall retain title and responsibility for the Solid Waste and Vegetative Waste until it is delivered to the Facility. Upon delivery, title to all Solid and Vegetative Waste shall pass to the SRPMIC/SRCLC, and shall be the responsibility of the SRPMIC/SRCLC(s), subject to the provisions of this Section.

3.4 Waste Rejection and Handling. The Parties shall train their employees to recognize Medical and Hazardous Waste. Mesa shall retain responsibility for Medical Waste, Special Waste, Exempt Material and Hazardous Waste delivered to the Facility that has been rejected and reported to Mesa in accordance with Section 3.3. Upon notification to Mesa by the SRPMIC/SRCLC, Mesa shall either cause a qualified, permitted Hazardous Materials Contractor to perform the transportation, cleanup, removal and disposal of all Medical Waste, Special Waste and Hazardous Waste proven to be delivered to the Facility by Mesa, or shall itself undertake such transportation, cleanup, removal and disposal or other handling and disposition no later than close of business of the day on which they were delivered, except where such wastes are delivered after 2:00 p.m. in which case they shall be removed by 12:00 noon of the following day (including Sunday as needed). To the extent permitted by the Environmental Laws, so long as the Medical Waste, Special Waste or Hazardous Waste is of a type and scope that can be segregated and temporarily put aside so that the Facility’s operations are not impeded, disrupted, or shut down, and so long as the health and safety of employees of the Facility are not at risk, the deadline for Mesa’s removal of such wastes shall be extended up to 48 hours from the time Mesa is notified. If the SRPMIC/SRCLC does not timely reject and report the Mesa Delivery in accordance with Section 3.3 (prior to departure of the Mesa Collection Vehicle from the Facility, or within the 24-hour time period and prior to commingling with other waste), the load shall be deemed accepted, and all responsibility for such waste shall pass to the SRPMIC/SRCLC upon expiration of such period.

3.5 Disposal of Accepted Waste. SRPMIC/SRCLC shall be responsible for all costs and expenses associated with handling and Disposal or other disposition of Solid Waste, Exempt Material, Vegetative Waste, Medical Waste, Special Waste, and Hazardous Waste once responsibility has transferred pursuant to this Agreement. SRPMIC/SRCLC shall follow the course of action it deems appropriate in accordance with the applicable Environmental Laws regarding all such waste.

ARTICLE 4 – FACILITY OPERATING STANDARDS, HOURS AND ACCESS

4.1 Operation, Security. SRPMIC/SRCLC shall be responsible for the operation of the Facility. The SRPMIC/SRCLC shall operate the Facility in compliance with (A) all normal and customary operating and safety procedures typical of a municipal Facility, and (B) all necessary and required permits, licenses, and other approvals. The SRPMIC/SRCLC shall provide security for the Facility at a level comparable to the level of security provided at similar types of facilities within the United States. The SRPMIC/SRCLC shall comply with the applicable Environmental Laws related to the maintenance and operation of Facilities.

4.2 Floodplains. SRPMIC/SRCLC represents that every part of the Facility is located more than one-half mile from a one hundred year flood plain that has one hundred year flows in excess of twenty-five thousand cubic feet per second, as determined by the Maricopa County Flood Control District and concurred in by the Federal Emergency Management Agency.

4.3 Paved Roadway. SRPMIC/SRCLC shall provide a paved road from the nearest paved public right-of-way to the Facility weight scales. All other roads within the Facility shall be maintained in a reasonably smooth and dust free condition.

4.4 Hours of Operation. SRPMIC/SRCLC shall have the Facility open, staffed and available for delivery of Solid Waste and Vegetative Waste, Monday through Saturday (including holidays), during the hours of 6:00 a.m. to 5:00 p.m. SRPMIC/SRCLC shall extend the Facility's operating time as necessary to accommodate extended collection operations by Mesa due to increased workload and/or holiday collections; provided, no such extension shall exceed two hours. Mesa will notify the Facility manager four hours in advance of any need for an extension of operating time, unless other prior arrangements have been made. Any such extension of operating time pursuant to this Section shall be at no cost to Mesa.

4.5 Unloading Times. SRPMIC/SRCLC will use reasonable efforts to ensure an average weekly unloading time of all Mesa Collection Vehicles of no more than 15 minutes, and at no time more than 30 minutes unloading time for any one Mesa Collection Vehicle, provided the Mesa Deliveries occur within the hours set forth in this Section. As used in this Section, "unloading time" shall begin when the Mesa Collection Vehicle enters the paved road from the nearest paved public right-of-way to the Facility weight scales and shall end when the Mesa Collection Vehicle exits the paved road leaving the Facility and enters the public right-of-way; provided, "unloading time" specifically excludes any (A) time spent at the Facility by Mesa Drivers not actively proceeding from the Facility entrance, to the dumping area and back to the Facility entrance or (B) time delays caused by unforeseeable circumstances beyond the SRCLC's

control. SRPMIC/SRCLC shall operate the Facility so as to minimize adverse collection operations impacts to Mesa.

4.6 Facility Accessibility. The SRPMIC/SRCLC shall ensure that the Facility is designed and operated to allow standard refuse-hauling compactor trucks and transfer trailers hauling on behalf of Mesa to access the Facility easily and to exit the Facility with minimal maneuvering, backing up, or other safety risks. SRPMIC/SRCLC shall ensure a vehicle clearance of a minimum of 25 feet (lower for residential drop off areas) as required for entry, tipping, and exiting from the Facility. All other roads within the Facility shall be maintained in a reasonably smooth and dust free condition.

4.7 Designated Tipping Area. SRPMIC/SRCLC shall provide a tipping area for the Mesa Collection Vehicles. The tipping area shall: (A) provide sufficient area for a minimum of three Mesa Collection Vehicles to safely tip at the same time; and (B) be open and accessible during the hours of operation set forth in this Agreement.

4.8 Disposal of Material Delivered. The SRPMIC/SRCLC shall receive, weigh, and then dispose and/or Process the Solid and Vegetative Waste delivered to the Facility in accordance with applicable industry standards and in conformance with this Agreement. The SRPMIC/SRCLC shall comply with all applicable Environmental Laws that pertain to the disposal of Solid Waste and Vegetative Waste.

4.9 Lighting. The SRPMIC/SRCLC shall ensure that adequate artificial light (to minimize safety risks in the delivery and operation of the Facility) is provided as follows: (A) at the location the Mesa Driver discharges the loads from the Collection Vehicle, at all times when the Facility accepts Solid Waste/Vegetative Waste, and (B) in the exterior and peripheral areas of the Facility during the early morning and late afternoon periods of diminished natural light, provided the Facility is open.

4.10 Truck Cleaning. The SRPMIC/SRCLC shall be responsible for ensuring that the Facility has an identifiable leveled, safe area for the removal of excess debris from Mesa Collection Vehicles by Mesa Drivers before leaving the Facility, including providing debris bins for the driver's use.

4.11 Independent Consultant Reviews. SRPMIC/SRCLC shall, at its sole cost and expense, annually cause a review to be made of the Facility to confirm that the Facility Solid Waste Capacity will exist throughout the Term. A qualified engineering consultant shall conduct the review and the SRPMIC/SRCLC shall provide Mesa a copy of the review within 30 days of receipt.

ARTICLE 5 – MESA CUSTOMERS' SOLID WASTE AND VEGETATIVE WASTE

5.1 Mesa Customer's Waste Disposal and Processing. Subject to Mesa's continuing authorization, Mesa Customers may, during the Term, deliver Solid Waste and Vegetative Waste to the Facility for disposal and processing in accordance with this Article 5. Mesa may, from time to time, suspend SRPMIC/SRCLC's acceptance of Solid Waste and Vegetative Waste from

Mesa Customers under this Article 5 by providing SRPMIC/SRCLC with written notice at least three business days prior to the suspension.

5.2 Acceptance of Solid Waste from Mesa Customers. During any time that Mesa has authorized the disposal of Solid Waste from Mesa Customers, SRPMIC/SRCLC shall receive for disposal at the Facility one load of up to one Ton of Solid Waste per month per Mesa Customer, provided, the Solid Waste must be delivered in a non-commercial vehicle or trailer. If the Solid Waste is delivered in a non-commercial vehicle that is a pick-up truck, the pick-up truck must be no larger than one ton. SRPMIC/SRCLC shall accept the Solid Waste from each Mesa Customer, once per month, upon the presentation of a Mesa original or electronic copy of the utility bill for the current or previous month, and a picture identification card showing that the individual resides at the address that is listed on the utility bill as the residence to which solid waste management services are provided.

5.3 Acceptance of Vegetative Waste from Mesa Customers. During any time that Mesa has authorized the processing of Vegetative Waste from Mesa Customers, SRPMIC/SRCLC shall receive for Processing at the Facility one load of up to one Ton of Vegetative Waste per month per Mesa Customer, provided, the Vegetative Waste is delivered in a non-commercial vehicle or trailer. If the Vegetative Waste is delivered in a non-commercial vehicle that is a pick-up truck, the pick-up truck must be no larger than one ton. SRPMIC/SRCLC shall accept the Vegetative Waste from each Mesa Customer, once per month, upon the presentation of a Mesa original or electronic copy of the utility bill for the current or previous month, and a picture identification card showing that the individual resides at the address that is listed on the utility bill as the residence to which solid waste management services are provided.

5.4 Non-Acceptance of Solid Waste and/or Vegetative Waste. SRPMIC/SRCLC expressly reserves the right for good cause to deny receipt of disposal of Solid Waste or Vegetative Waste from Mesa Customers. Mesa Customers may take only one (1) Ton of either Solid Waste or Vegetative Waste to the Facility per month.

5.5 Weighing Mesa Customer Deliveries. SRPMIC/SRCLC may either actually weigh or estimate the weight of Solid Waste and/or Vegetative Waste loads delivered by Mesa Customers. SRPMIC/SRCLC shall record the load's net weight or estimated weight referencing the Mesa utility account number for each disposal transaction. Estimates shall be used only in the event of a scale malfunction or wait times in excess of 30 minutes, and estimated weights shall be based on the average scaled weight of either Solid Waste or Vegetative Waste loads delivered in the preceding month. In no event shall any estimate used for load weights exceed the amount of one Ton.

5.6 Recording Mesa Customer Deliveries. SRPMIC/SRCLC shall record each disposal made at the Facility by a Mesa Customer using the Mesa Customer's name and utility account number through Mesa's website. SRPMIC/SRCLC will provide a copy of all records reflecting all such disposals to Mesa on a monthly basis. Except as specifically authorized by this Agreement, SRPMIC/SRCLC shall not disclose any information regarding Mesa utility accounts to any third parties.

5.7 Charges for Customer Solid Waste and Vegetative Waste. SRPMIC/SRCLC shall apply Solid Waste and Vegetative Waste Tonnage delivered to the Facility by Mesa Customers to the Minimum Solid Waste Tonnage or the Minimum Vegetative Waste Tonnage, as applicable. Except for loads exceeding one ton as provided below, SRPMIC/SRCLC shall not charge Mesa Customers for the delivery of Solid Waste and Vegetative Waste provided such Mesa Customer Delivery meets the requirements of this Article 5. Mesa may, in its discretion, charge Mesa Customers a fee for the Mesa Customer's Delivery, which fee shall be retained in its entirety by Mesa. Mesa further reserves the right to charge additional landfill fees and penalties for any additional loads brought to the Facility by Mesa Customers during the period of a failed Internet connection, which fees and penalties shall also be retained in their entirety by Mesa.

5.8 Loads in Excess of One Ton. Loads exceeding one ton will be the responsibility of the Mesa Customer for the entire disposal or processing cost of the load at the posted rate. Failure by SRPMIC/SRCLC to charge the Customer the posted fee for loads in excess of one ton shall be the sole responsibility of SRPMIC/SRCLC, and Mesa shall not reimburse SRPMIC/SRCLC for any such amounts.

5.9 Untarped Loads. In the event a Mesa Customer delivers Solid Waste or Vegetative Waste in a vehicle where the waste is not tarped or otherwise enclosed to prevent spillage, SRPMIC/SRCLC reserves the right to charge the Mesa Customer directly for additional fees for the delivery of waste provided that such fees are reasonable and publicly posted at the entrance to the Facility.

5.10 Freon Recovery or Other Hazardous or Medical Waste. In the event a Mesa Customer delivers Freon or appliances containing Freon, Hazardous Waste or Medical Waste to the Facility, SRPMIC/SRCLC reserves the right to either refuse delivery (if not allowed at the Facility) or charge the Mesa Customer directly for additional fees for the recovery of Freon, or other disposal of Hazardous Waste or Medical Waste, provided that such fees are reasonable and publicly posted at the entrance to the Facility.

ARTICLE 6 – WEIGHING SOLID WASTE, GREEN WASTE

6.1 Accurate Scales. SRPMIC/SRCLC shall provide, operate, and maintain adequately sized truck scales and computerized record-keeping systems for weighing and recording all incoming and outgoing Mesa Collection Vehicles at all Facilities. The computerized record-keeping systems shall at a minimum record the gross weight, Tare weight, net weight (gross weight minus Tare weight), date, time, and the Mesa Collection Vehicle truck number for each Mesa Delivery entering and exiting the Facility. SRPMIC/SRCLC shall record and tabulate records from Mesa and other haulers' vehicles separately. At a minimum, SRPMIC/SRCLC shall test each scale every six months. The SRPMIC/SRCLC shall have the scales certified semi-annually, by an independent testing firm, qualified to perform such tests within the State of Arizona, or an appropriate Arizona governmental agency by contract with the SRPMIC/SRCLC. The SRPMIC/SRCLC shall provide Mesa with copies of all test results for the scales within 10 business days after the SRPMIC/SRCLC's receipt of such test results. If

testing of any scale indicates that such scale is inaccurate by an amount greater than 1.0% to the financial disadvantage of Mesa, then SRPMIC/SRCLC shall adjust the scale records for the preceding 90 calendar days for Mesa by the percentage the scale is inaccurate. If the scales are unavailable during hours of operation, SRPMIC/SRCLC shall use the average weight for the route and load of the day from the previous calendar month. Mesa may conduct random and periodic weight checks of facilities' scales. All testing shall be conducted only after at least 24 hours prior notice to the SRPMIC/SRCLC and shall be carried out in a manner that does not unnecessarily disrupt the Facility operations.

ARTICLE 7 – ACCOUNTING

7.1 Delivery Statements. SRPMIC/SRCLC shall furnish a delivery statement to Mesa each Billing Month, which provides a daily accounting list of each delivery of Solid Waste and each delivery of Vegetative Waste no later than the tenth working day of the following Billing Month. The accounting statement shall identify whether the delivery is a Mesa Delivery or a Mesa Customer Delivery and shall contain the information required in Subsection 7.1.1 or Subsection 7.1.2, as applicable. Upon request, SRPMIC/SRCLC shall have available daily reports for Mesa of items A, B, C, and D in Subsections 7.1.1 and 7.1.2 below in a format approved by Mesa. Daily reports shall be available by 10:00 AM, local time, Phoenix, Arizona, the next business day.

A. SRPMIC/SRCLC shall provide all of the following information for each Mesa Delivery to the Facility:

- (1) The date and time of the delivery.
- (2) Whether the delivery is Solid Waste or Vegetative Waste.
- (3) The Mesa Collection Vehicle truck identification number.
- (4) The gross weight of the Mesa Collection Vehicle.
- (5) The Tare Weight of the Mesa Collection Vehicle.
- (6) The net weight of the load of Solid Waste or Vegetative Waste delivered.
- (7) The calculation of the charge for the load of Solid Waste or Vegetative Waste delivered.

B. SRPMIC/SRCLC shall provide all of the following information for each Mesa Customer Delivery to the Facility:

- (1) The date and time of the delivery.
- (2) Whether the delivery is Solid Waste or Vegetative Waste.

(3) The Mesa Customer account number.

(4) Either:

(i) The estimated weight of the load of Solid Waste and/or Vegetative Waste delivered; or

(ii) The gross weight of the delivery vehicle, the empty weight of the delivery vehicle, and the net weight of the load of Solid Waste and/or Vegetative Waste delivered.

(5) The calculation of the charge for the load of Solid Waste and/or Vegetative Waste delivered.

7.2 Billing Records and Summary Information. The SRPMIC/SRCLC shall furnish a Billing Statement to Mesa no later than the tenth working day of the following Billing Month. Such Statement shall contain all of the following information summarizing Mesa's Delivery of Solid Waste and Vegetative Waste for the subject Billing Month:

A. The total weight of Solid and Vegetative Waste delivered by Mesa during the Billing Month and the dates of each delivery.

B. The amount owed by Mesa to the SRPMIC/SRCLC based on the total weights and applicable rates in accordance with Article 8 of this Agreement.

7.3. Other Records. SRPMIC/SRCLC shall create, maintain, and make available records as set forth below which pertain to SRPMIC/SRCLC's services under this Agreement:

A. Documents relating to all rejected deliveries by Facility, by date of delivery to Facility, time delivered to Facility, tonnage of material delivered, source (i.e. truck number), reason for rejection, handling of rejected delivery, and other information as reasonably requested by Mesa. Such information will be provided within seven days after request.

B. Documents relating to any license and/or permit violations by Facility, if requested by Mesa.

C. Summary of Facility construction or renovation plans, if requested by Mesa.

D. Documents, records and reports summarizing Facility operations, as needed to track Mesa Deliveries, tonnage and location of all material disposed of should this ever be needed for an investigation.

7.4 Preservation and Inspection of Records, Facilities and Equipment. All records shall be available to Mesa at reasonable times and places throughout the Term of this Agreement and for a period of five years after last or final payment. For record keeping and reporting, SRPMIC/SRCLC shall utilize software reasonably approved by Mesa. Mesa reserves the right to inspect any records, facilities and equipment used or proposed to be used by the SRPMIC/SRCLC for the performance of work specified herein. In addition, Mesa may inspect any and all billing or other relevant records kept by the SRPMIC/SRCLC in relation to this Agreement. The SRPMIC/SRCLC shall permit such inspections and audits during normal business hours and upon notice by Mesa. SRPMIC/SRCLC acknowledges that Mesa is a public entity, subject to Arizona's public records laws (A.R.S. § 39-121 *et seq.*) and that any documents related to this Agreement may be subject to disclosure pursuant to state law in response to a public records request or to subpoena or other judicial process.

ARTICLE 8 – PAYMENT FOR SOLID WASTE DISPOSAL AND VEGETATIVE WASTE PROCESSING

8.1 Solid Waste Tipping Fee. Mesa shall pay the per Ton Tipping Fees set forth in the Schedule attached as Exhibit B and incorporated herein by this reference, adjusted as set forth in this Section 8.1, for the Solid Waste Tonnage collected by or on behalf of Mesa and delivered to the Facility for disposal in accordance with this Agreement. The Tipping Fees set forth in Exhibit B were calculated presuming a start date of January 1, 2014, as required by the RFP. The Parties agree that the Tipping Fees on the Effective Date shall be calculated, including the CPI adjustment set forth in Section 8.6 below, as if Mesa Deliveries began January 1, 2014.

8.2 Vegetative Waste Processing Fee. Mesa shall pay the Vegetative Waste Processing Fee per Ton set forth in Exhibit B, adjusted as set forth in this Section 8.2, for the Vegetative Waste Tonnage collected by or on behalf of Mesa and delivered to the Facility for disposal in accordance with this Agreement. The Vegetative Waste Processing Fees set forth in Exhibit B were calculated presuming a start date of January 1, 2014, as required by the RFP. The Parties agree that the Vegetative Waste Processing Fees on the Effective Date shall be calculated, including the CPI adjustment set forth in Section 8.6 below, as if Mesa Deliveries began January 1, 2014.

8.3 Mesa Payments. Mesa shall make payments for the disposal of Solid Waste and processing of Vegetative Waste based on the Tipping Fee and Vegetative Waste Processing Fee, along with any other fees and payments required pursuant to this Agreement, to SRPMIC/SRCLC within 30 days after Mesa's receipt of a statement from SRPMIC/SRCLC meeting the requirements of Section 7.2 above.

8.4 Total Fees. The fees required under this Agreement and paid by Mesa are intended to be Mesa's total obligation with respect to the Facility. SRPMIC/SRCLC shall impose no other charge on Mesa for inspection, operation, maintenance, closure, and post-closure procedures except as may be specified in this Agreement.

8.5 Special Charges. Upon mutual agreement of the Parties, special charges may be established by SRPMIC/SRCLC for materials that require special handling, and, if such special

fees are agreed to by Mesa, SRPMIC/SRCLC shall accept such materials for disposal. Examples might include material sorting, white goods, bulk items, or other like programs or materials.

8.6 CPI Adjustments. An increase/decrease adjustment may be applied to all Solid Waste Tipping Fees and Vegetative Waste Processing Fees per Ton as set forth in Exhibit B effective on January 1st of each Contract Year, beginning with January 1, 2017. The annual adjustments will be based on the percentage change in the Consumer Price Index (CPI-All Urban Consumers, West Urban, All Items [Series ID CUUR0400SA0]) from October of the previous year to October of the current year. If the October Index is not available, then the most recent Index will be used. SRPMIC/SRCLC must submit rate change requests prior to December 15th of each year; failure to request an inflation adjustment by December 15th of each year will result in no changes in rates for the following Contract Year. Should the Index decline for any year, Mesa must submit a rate change request to the SRPMIC/SRCLC prior to December 15th of that year; failure to request an inflation adjustment by December 15th of that year will result in no changes in rates for the following Contract Year. Forfeited rate adjustments will not carry over to future years.

8.7 Other Adjustments. SRPMIC/SRCLC's Tipping and Processing Fees and Mesa's Guaranteed Tonnage as set forth in this Agreement may, upon written request, be further adjusted on an interim basis due to any one or more of the following causes:

- A. Material changes in costs resulting from a Force Majeure event.
- B. Changes in the scope or method of services provided by SRPMIC/SRCLC or other changes or fees required, initiated, or approved by Mesa.
- C. Any change in Federal law that is effective after the Effective Date of this Agreement, including but not limited to any increase in surcharges, fees, assessments or taxes levied by federal regulatory authorities or other governmental entities (other than Mesa or the SRPMIC/SRCLC) upon the Disposal of Solid Waste or the Processing of Vegetative Waste.

If SRPMIC/SRCLC or Mesa requests an adjustment due to the circumstances set forth above, the non-requesting Party shall prepare an adjustment request setting forth its calculation of the increased costs and accompanying rate adjustment or Guaranteed Tonnage reduction necessary to offset such increased costs or investments consistent with generally-accepted accounting principles and the reasonable recovery of any increased investment over the life of the investment. Either Party may request any and all other documentation and data reasonably necessary to evaluate a request, and shall act within 60 days of receipt of the request to either approve or disapprove the request. If the SRPMIC/SRCLC(s) and Mesa fail to agree on a modified Tipping or Processing Fee or reduction in the Guaranteed Tonnage, then the Parties shall utilize the dispute resolution process set forth in Article 11 below.

ARTICLE 9 – ENVIRONMENTAL PROTECTION STANDARDS

9.1 Compliance with Law. SRPMIC/SRCLC shall develop, design, operate, close, and maintain during post-closure, the Facility in compliance with all SRPMIC laws and regulations, and all applicable Federal laws and regulations.

9.2 Inspecting Entity. In order to assure the Parties that the requirements contained in this Agreement are being met, SRPMIC/SRCLC shall, once every year between September 1st and November 30th, at its sole cost and expense, cause an inspection of the Facility to be made by an independent party, qualified in the State of Arizona to perform such inspections (the “Inspecting Entity”). The Inspecting Entity and the criteria for inspections, including appropriate sampling and testing, shall be designated and defined by agreement of SRPMIC/SRCLC and Mesa. SRPMIC/SRCLC and Mesa shall cooperate fully with the Inspecting Entity in the performance of its inspection. The report of all such inspections shall be in writing and provided to SRPMIC/SRCLC and SRPMIC/SRCLC shall provide copies to Mesa of the inspection along with any other reports generated within 10 days of submittal to SRPMIC/SRCLC. Mesa may provide a copy of such reports to the Arizona Department of Environmental Quality or other similar State or Federal Agencies.

9.3 Facility Environmental Protection Adjustments. In the event that any agency having jurisdiction over the use or operation of the Facility, other than SRPMIC/SRCLC, determines that the Applicable Law requires the installation of devices, equipment, or material or the imposition of new methods of operation, and the required installation or new methods of operation changes capital investment or operating costs of the Facility, then the Parties shall meet within 30 days after such requirements have been determined and ordered to confer to agree on a new Tipping and Processing Fee Schedule. In the event Mesa is of the opinion that protection of the environment requires the installation of devices, equipment, or material or new methods of operation, and the required installation or new methods of operation changes capital investment or operating costs of the Facility, then the Parties shall meet within 30 days after Mesa has by written notice notified SRPMIC/SRCLC of its opinion in regard to environmental requirements. The Parties shall confer with respect to the appropriateness of the suggestions made by Mesa and any new Tipping and Processing Fee Schedule that will be required as the result of such changes. If SRPMIC/SRCLC and Mesa fail to agree on a new Tipping and Processing Fee Schedule whether the issue has arisen from a change in law or the suggestion of Mesa, then the Parties shall engage in informal mediation of the controversy with an independent engineer. The Parties shall select the independent engineer by the following process: Not later than 15 days following a written request from either Party to the other, each Party shall select and submit to the other Party the name of an engineer qualified to evaluate solid waste management matters, which two such engineers shall select a third, who shall be the independent engineer for the purposes of informal mediation pursuant to this Section 9.3. If either Party fails to submit the name of a qualified engineer as set forth in the Section 9.3, then the engineer selected by the Party meeting the submission deadline shall be the independent engineer required to conduct the informal mediation. If either Party disagrees with the findings of the engineer conducting the informal mediation, such continued disagreement shall be resolved under the formal mediation and arbitration provisions of Article 11 of this Agreement.

ARTICLE 10 – DEFAULT

10.1 Event Of Default. An Event of Default shall occur upon the occurrence of any one of the following:

A. If either Party fails to pay when due any sum of money owed to the other Party under this Agreement, and such failure continues for a period of 30 days after the non-defaulting Party has given the defaulting Party notice specifying the amount due.

B. If either Party fails to perform any other of its obligations or breaches any other of its covenants contained in this Agreement and, unless another time limit is elsewhere in this Agreement specifically provided, the default continues for a period of 90 days after written demand for performance is given by the non-defaulting Party, or, if the default is of such a character as to require more than 90 days to cure (a “Cure Period”) and the defaulting Party shall fail to use reasonable diligence in curing such default; provided, however, that no such Cure Period shall exceed 120 days.

10.2 Remedies For Default. Upon the occurrence of an Event of Default, the non-defaulting Party may exercise any remedies available to it at law or in equity and shall proceed in accordance with Article 11, Dispute Resolution, to exercise or enforce its remedies.

ARTICLE 11 – DISPUTE RESOLUTION

11.1 Methods and Priorities. All disputes arising out of this Agreement must be addressed as set forth in this Article 11. The Parties agree to try and resolve any dispute arising out of this Agreement first by informal meetings. If informal meetings fail to resolve the dispute, then the Parties agree to try and resolve the dispute through mediation. If mediation is unsuccessful, then the Parties agree that they shall resolve the dispute through arbitration in accordance with the then current Rules of Commercial Arbitration of the American Arbitration Association or any successor organization (the “AAA”). In the event of a conflict between this Agreement and the AAA Rules, this Agreement shall govern.

11.2 Mediation. The Party desiring to initiate the mediation process shall give written notice to that effect to the other Party and, in such written notice, include a brief statement of its claims. Within 10 days of the notice of intent to mediate, the Parties shall meet for the purpose of attempting to jointly select a single mediator to serve in the matter. If the Parties cannot agree on a single mediator, within five days of said meeting, the Party initiating the mediation process shall provide the other Party with notice of the name of one mediator. Within five days of receiving this notice, the other Party to the dispute shall name one mediator and give written notice to the other Party of its selection. The two selected mediators shall, within five days of selection of the second mediator, jointly select a third mediator who shall be the mediator. The mediation proceeding shall be held within 60 days of the appointment of the mediator and the mediator shall render his or her decision within 30 days after the conclusion of the mediation proceeding. If agreed to by the Parties, any mediation conducted pursuant to this Section shall be final and binding upon the Parties. The Parties shall bear the cost of such mediation equally between them.

11.3 Arbitration. In the event of failure of mediation or the Parties do not consent to the mediation being final and binding, the Parties shall proceed to arbitration using the same selection process for the selection of an arbitrator as was used in selecting a mediator. The arbitration proceeding shall be held within 60 days of the selection of the arbitrator. The arbitrator shall render his or her decision within 30 days after the conclusion of the arbitration proceeding. Any arbitration conducted pursuant to this Section shall be final and binding upon the Parties. The prevailing Party in such arbitration shall be entitled to file the decision and award with the United States District Court in Phoenix, or if the United States District Court lacks jurisdiction, then in the Maricopa County Superior Court and have judgment rendered thereon in accordance with applicable law. The prevailing Party shall be entitled to all costs incurred in connection with the arbitration proceeding, including its reasonable attorneys' fees, the arbitrator's fees, witness fees and other costs as determined by the arbitrator.

11.4 General Considerations. The Parties may stipulate in writing to extend or to shorten the time periods prescribed in this Article 11. All provisions of this Agreement not in dispute shall be observed and performed without interruption during the pendency of the procedures specified in this Article 11. By this Agreement, the SRPMIC/SRCLC does not waive, limit or modify its sovereign immunity from unconsented suit, except as specifically provided in this Agreement. SRPMIC/SRCLC hereby grants a limited waiver of sovereign immunity for the sole purpose of authorizing an arbitration proceeding as described above and to bring a judicial action in the United States District Court in Phoenix or, if the United States District Court lacks jurisdiction, in the Superior Court of Maricopa County, Arizona, for the enforcement of an arbitration decision (or failure to submit to arbitration, if applicable) authorized under and related to this Agreement. This limited waiver of sovereign immunity does not consent to or authorize a judicial action for damages against the SRPMIC/SRCLC other than the enforcement of arbitration decisions (which includes specific performance of the provisions of an arbitration decision).

ARTICLE 12 – ASSIGNMENT

12.1 Assignment to SRCLC. SRPMIC hereby assigns its rights and obligations under this Agreement to the SRCLC. SRCLC hereby consents to the Assignment herein set forth and agrees to perform SRPMIC's obligations under this Agreement. Notwithstanding the foregoing, SRPMIC is and shall remain obligated under the terms of this Agreement as if there had been no assignment to the SRCLC.

12.2 Other Assignments. Except as provided in Section 12.3 below, all other assignments of this Agreement shall require the prior written consent of the non-assigning Party, given in its sole and absolute discretion. Assignments of this Agreement shall not relieve the assigning Party from any of the obligations undertaken herein, including without limitation the payment of any sums hereunder.

12.3 Approval Of Specific Assignments. Mesa hereby grants its consent to an assignment of all the rights and obligations under this Agreement to SRPMIC, or to any division of SRPMIC which is wholly owned by SRPMIC; provided, however, that both of the following

conditions are met prior to the effective date of the assignment: (A) SRPMIC delivers to Mesa written notice of the assignment; and (B) SRPMIC delivers to Mesa a written agreement by SRPMIC to remain obligated under the terms of this Agreement as if there had been no assignment.

ARTICLE 13 – TERM AND EXTENSION

13.1 Term. This Agreement shall become binding on the Parties on the Execution Date. Performance under this Agreement shall commence on the Effective Date and continue for a period through and including September 30, 2024 (the “Term”), unless sooner terminated, cancelled or extended as set forth in this Agreement.

13.2 Extension. Mesa and SRPMIC/SRCLC may agree to extend this Agreement for one additional period of five years (“Extension”). No later than 180 days prior to the expiration of the Term, Mesa shall notify SRPMIC/SRCLC in writing whether Mesa is electing to exercise the Extension option. The SRPMIC/SRCLC is not required to accept the Extension. However, SRPMIC/SRCLC shall provide City with notice of its decision within 60 days of notification.

ARTICLE 14 – INDEMNIFICATION

14.1 SRPMIC/SRCLC. SRPMIC/SRCLC agrees to indemnify, defend and hold Mesa, its agents, elected officials, representatives, officers, officials, directors and employees, harmless for, from and against any and all third party liability, suits, obligations, fines, damages, penalties, claims, costs, charges, and expenses (including reasonable attorney fees) of any character or nature resulting from the negligent acts or omissions or willful misconduct of SRPMIC/SRCLC, its agents, elected officials, representatives, officers, officials, directors, employees, or anyone acting under its direction or control, arising out of or relating to this Agreement.

14.2 Mesa. Mesa agrees to indemnify, defend and hold SRPMIC/SRCLC, its agents, representatives, officers, officials, directors, and employees, harmless for, from and against any and all third party liability, suits, obligations, fines, damages, penalties, claims, costs charges, expenses (including reasonable attorney fees) of any character or nature resulting from the negligent acts or omissions or willful misconduct of Mesa, its agents, elected officials, representatives, officers, officials, directors, employees, or anyone acting under its direction or control, arising out of or relating to this Agreement.

ARTICLE 15 – INSURANCE REQUIREMENTS

15.1 Required Coverage. SRPMIC/SRCLC, at its own expense, shall purchase and maintain, until all work required under this Agreement is satisfactorily completed, the minimum insurance specified below, with companies duly licensed, with a current A.M. Best, Inc. rating of A-, or approved and licensed by the State of Arizona Department of Insurance. Any alternative insurer must be approved by Mesa’s City Attorney’s Office. SRPMIC/SRCLC shall provide not less than 30 days advance Notice of Termination or Material Alteration to City.

A. Additional insured: The insurance coverage, except Worker's Compensation, required by this Agreement shall name Mesa, its agents, representatives, officers, directors, elected officials and employees as additional insured and shall specify that insurance afforded the SRPMIC/SRCLC shall be primary insurance, and that any insurance coverage carried by Mesa or its employees shall be excess coverage, and not contributory coverage to that provided by the SRPMIC/SRCLC.

B. Primary coverage: SRPMIC/SRCLC's insurance shall be primary insurance as respects Mesa, and any insurance or self-insurance maintained by Mesa shall not contribute to it.

C. Waiver: The policies, except Worker's Compensation, shall contain a waiver of transfer rights of recovery (subrogation) against Mesa, its agents, representatives, directors, elected officials, officers, and employees for any claims arising out of the work of the SRPMIC/SRCLC.

D. Commercial General Liability: SRPMIC/SRCLC shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$3,000,000 for each occurrence, \$3,000,000 Products and Completed Operations Annual Aggregate, and a \$3,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 07 98 or equivalent thereof, including but not limited to, separation of insured clause.

E. Vehicle Liability: SRPMIC/SRCLC shall maintain Business Automobile Liability insurance with a limit of \$2,000,000 each accident with respect to any owned, hired, and non-owned vehicles assigned to or used in the performance of the SRPMIC/SRCLC work or services. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" "any auto" policy form CA 00 01 07 97 or equivalent thereof. Insurance shall include coverage for loading and off-loading hazards.

F. Workers Compensation Insurance: SRPMIC/SRCLC shall carry Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of SRPMIC/SRCLC's employees engaged in the performance of the services; and employers' liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit. In case any work is subcontracted, SRPMIC/SRCLC shall require the subcontractor to provide workers' compensation and employer's liability to at least the same extent as required of SRPMIC/SRCLC.

15.2 Certificates of Insurance. Prior to commencing services under this Agreement, SRPMIC/SRCLC shall furnish Mesa with Certificates of Insurance, or formal endorsements as required by the Agreement, issued by SRPMIC/SRCLC's insurer(s) as evidence that policies providing the required coverage's, conditions and limits required by this Agreement are in full force and effect. Such certificates shall identify this Agreement and shall provide for not less

than 30 days advance Notice of Cancellation, Termination, or Material Alteration. In the event any insurance policy(ies) required by this Agreement is (are) written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the work or services and/or the termination of this Agreement and as evidenced by annual Certificates of Insurance.

ARTICLE 16 – NOTICE

Except as otherwise indicated, all notices, waivers, demands, requests and other communications required or permitted by this Agreement (collectively, “Notices”) shall be in writing and shall be effective only if sent by one or more of the following methods: (i) personal delivery; (ii) generally-recognized overnight commercial courier regularly providing proof of delivery, with delivery charges prepaid or duly charged; or (iii) United States registered or certified mail, return-receipt requested, postage prepaid, addressed to the Parties at the respective addresses set forth opposite their names below, or to any other address or addresses as either Party shall designate from time to time by notice given to the other in the manner provided in this Section:

<i>If to SRPMIC:</i>	Salt River Landfill Chief Operating Officer 13602 E. Beeline Hwy Scottsdale, AZ 85256
<i>Copies to:</i>	Salt River Pima-Maricopa Indian Community Office of the General Counsel 10005 East Osborn Road. Scottsdale, AZ 85256
<i>If to Mesa:</i>	City of Mesa Solid Waste Management Department 730 North Mesa Drive Mesa, AZ 85210 Attention: Solid Waste Management Director
<i>Copies to:</i>	City of Mesa Office of the City Manager 20 East Main Street P.O. Box 1466 Mesa, AZ 85211-1466 City of Mesa Mesa City Attorney’s Office 20 East Main Street P.O. Box 1466 Mesa, AZ 85211-1466

Notices given or served by personal delivery shall be deemed to have been received upon tender to the respective Party. Notices given or served by mail or commercial courier shall be deemed to

have been given or served as of the date of delivery (whether accepted or refused) established by the United States Postal Service return-receipt or the overnight courier's proof of delivery, as the case may be.

ARTICLE 17 – LIQUIDATED DAMAGES, PERFORMANCE GUARANTEES AND ASSOCIATED ADMINISTRATIVE CHARGES

If the SRPMIC/SRCLC(s) fails to provide services within the requirements of this Agreement, SRPMIC/SRCLC understands that Mesa will suffer damages which are difficult to determine and adequately specify. The Parties, therefore, agree that in such event in addition to all other remedies available to Mesa, Mesa may withhold payment in the amounts set forth below as Administrative Charges for failure of the SRPMIC/SRCLC to satisfactorily perform the following contractual obligations. Mesa must notify SRPMIC/SRCLC of its failure to comply with one of the following contractual obligations within 60 days of the event, otherwise it may not pursue the corresponding Administrative Charge. The Parties agree that Mesa's actual damage in the circumstances described in this Section would be difficult or impossible to ascertain and that the liquidated damages provided for herein with respect to each such circumstance are intended to place Mesa in the same economic position as it would have been in had the failure not occurred.

17.1 Failure to accept materials during hours of operation; provided, this shall not apply to hours of operation that have been extended pursuant to Section 4.4 above:

\$100 per hour.

17.2 Failure to maintain and timely deliver satisfactorily detailed reports and records as required by law or this Agreement:

\$100 per day until satisfactorily detailed reports and records are provided.

17.3 Failure to achieve vehicle turnaround time as required by Section 4.5 above:

\$25 per each instance of vehicle turnaround time exceeding the stated time requirement.

17.4 Failure to operate scale house:

\$250 per day an operable scale house is not available.

17.5 Disposal of Vegetative Waste loads, unless such loads delivered by Mesa are not in compliance with Section 2.2 above:

\$5,000 per occurrence plus cost for subsequent proper processing of materials.

ARTICLE 18 – GENERAL PROVISIONS

18.1 Applicability Of Other Legal Requirements. Nothing set forth in this Agreement diminishes the responsibility of each Party to comply with all applicable laws and regulations affecting the transactions that are the subject matter of this Agreement. The Parties shall comply with any changes in applicable laws and regulations and, if such applicable laws and regulations require, modify this Agreement to comply.

18.2 Attorneys' Fees And Court Costs. In any action, at law or in equity, brought to interpret or enforce any of the terms and conditions of this Agreement or to obtain damages arising from any default under or violation of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees and expenses, expert witness and consultant fees and expenses, court costs, arbitration fees and expenses, and the cost of appellate proceedings, in addition to any other relief to which said Party may be entitled.

18.3 Waiver. No waiver is valid except when signed by the Party giving the waiver. The waiver of any provision of this Agreement shall not be construed as a waiver of: (A) any claims arising from a subsequent breach of that or any other provision of this Agreement; or (B) the obligations under any other provision of this Agreement. The failure of a Party to object to or to take affirmative action with respect to, any conduct of any other Party shall not be construed as a waiver of any objection to such conduct, or as a waiver of any claim arising from a future breach or subsequent wrongful conduct. Neither any failure nor any delay on the part of any Party hereto in exercising any right hereunder shall operate as a waiver, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

18.4 Joint Participation In Negotiation Of Agreement. The Parties have participated jointly with the assistance of counsel in the negotiation and drafting of this Agreement. Parties of equal bargaining power have negotiated this Agreement at arm's length. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

18.5 Contract Administrator. The Contract Administrator for Mesa shall be the Solid Waste Management Director or the Director's designee. The Contract Administrator shall be authorized to represent Mesa on all matters relating to the performance and enforcement of this Agreement.

18.6 References To Law. Any reference to any federal, state, local or foreign statute, law or ordinance shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" shall mean including without limitation.

18.7 Calendar Days. Unless otherwise indicated, any reference to a period of days shall mean calendar days (e.g., "10 days" shall mean 10 calendar days).

18.8 Obligations Of SRPMIC And SRCLC. SRCLC is a Division of the SRPMIC charged with the responsibility under the laws of the SRPMIC to operate and maintain the landfill, Vegetative waste and related transportation business of the SRPMIC under the name of the SRCLC. SRCLC is not a separate entity, but is a Division or Department of the SRPMIC. The obligations undertaken by the SRPMIC and the SRCLC under this Agreement are obligations of both the SRPMIC and its Division, SRCLC, without regard to the fact that the SRCLC will perform those obligations.

18.9 Authority. SRPMIC/SRCLC and Mesa each represent, warrant and covenant to the other that they have the right to enter into and make this Agreement.

18.10 Arizona Constitution Articles 9 and 13, A.R.S. § 41-17106. SRPMIC/SRCLC acknowledges that expenditures, debts, obligations and liabilities of Mesa are limited to budgeted purposes in accordance with the laws of the State of Arizona, including the Arizona State Constitution and A.R.S. § 42-17106.

18.11. Force Majeure. Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, fire or explosion. The party whose performance is so affected will within five (5) calendar days of the unforeseeable circumstance notify the other party of all pertinent facts and identify the force majeure event. The party whose performance is so affected must also take all reasonable steps, promptly and diligently, to prevent such causes if it is feasible to do so, or to minimize or eliminate the effect thereof. The delivery or performance date will be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay, provided however, under no circumstances will delays caused by a force majeure extend beyond one hundred-twenty (120) calendar days from the scheduled delivery or completion date of a task unless agreed upon by the parties.

18.12 Provisions Required By Law. Any provision required by law to be in this Agreement is a part of this Agreement as if fully stated in it.

18.13 Surviving Provisions. Notwithstanding any completion, termination, or other expiration of this Agreement, all provisions which, by the terms of reasonable interpretation thereof, set forth rights and obligations that extend beyond completion, termination, or other expiration of this Agreement, will survive and remain in full force and effect. Except as specifically provided in this Agreement, completion, termination, or other expiration of this Agreement will not release any party from any liability or obligation arising prior to the date of termination.

18.14 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Arizona except to the extent such laws mandate, require or utilize state court jurisdiction not otherwise contemplated or set forth in this Agreement. The Parties agree that in the event any action is commenced consistent with and in connection with this Agreement, venue for such action or proceeding shall be proper only in the United States

District Court in Phoenix, or if the United States District Court lacks jurisdiction, then in the Superior Court of Maricopa County, Arizona, and the Parties hereby waive any right to object to such venue.

18.15 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and except as otherwise specified herein, all prior and contemporaneous agreements, representations, negotiations and understandings of the Parties, oral or written, are superseded hereby and merged herein. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendment or other agreement properly executed by the Parties.

18.16 No Third Party Beneficiaries. This Agreement will be binding upon and inure solely to the benefit of the Parties and their successors and assigns, and nothing herein, express or implied, is intended to or will confer upon any other person or party, including, any legal or equitable right, benefit or remedy of any nature whatsoever.

18.17 Severability. If any term or other provision of this Agreement is deemed invalid, illegal or incapable of being enforced by a court of competent jurisdiction, all other terms and provisions of this Agreement will nevertheless remain in full force and effect. Upon such determination, the Parties will negotiate in good faith to modify this Agreement to give effect to the original intent of the Parties as closely as possible.

18.18 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and will not affect in any way the meaning or interpretation of this Agreement.

18.19 No Partnership. Nothing contained in this Agreement will be construed to establish the Parties as partners, joint venturers, or as agents of any other party, and, except as expressly provided herein, neither of the Parties has any power to obligate or bind the other in any manner whatsoever.

18.20 Time Is Of The Essence. Time is of the essence of this Agreement.

18.21 A.R.S. §§ 41-4401 and 23-214. Notice is hereby given of A.R.S. § 41-4401 and 23-214, to the extent applicable to agreements of this type, which requires compliance with all Federal immigration laws and regulations that relate to employees and verification of employment eligibility through the “E-verify” program.

18.22 A.R.S. § 38-511. Notice is hereby given of the applicability of A.R.S. § 38-511.

18.23 Incorporation Of Exhibits And Recitals. All Exhibits attached hereto are incorporated herein by this reference as though fully set forth herein, unless specifically stated otherwise. The Parties acknowledge and agree that all of the “Recitals” at the beginning of this Agreement are true and correct and are incorporated herein as binding agreements and obligations of this Agreement by this reference.

18.24 Counterparts. This Agreement may be executed in counterparts, and each counterpart executed by any of the undersigned, together with all other counterparts so executed, shall constitute a single instrument and agreement of the undersigned.

18.25 Non-Default. By executing this Agreement, each Party affirmatively asserts that (A) the other Party is not currently in default, nor has been in default at any time prior to this Agreement, under any of the terms or conditions of the Original Agreement and (B) any and all claims, known or unknown, relating to the Original Agreement and existing on or before the date of this Agreement are forever waived.

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

SALT RIVER PIMA-MARICOPA INDIAN
COMMUNITY, a federally recognized
Indian Tribe

By _____
Diane Enos, President

ATTEST:

Secretary

APPROVED AS TO FORM:

SALT RIVER COMMERCIAL LANDFILL
COMPANY, a Division of the Salt River
Pima-Maricopa Indian Community

By _____
Emily Chiago-King, Board Chair

ATTEST:

Secretary

APPROVED AS TO FORM:

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

CITY OF MESA, an Arizona
municipal corporation

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
TO
SOLID AND VEGETATIVE WASTE DISPOSAL AND PROCESSING
AGREEMENT BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF MESA

[Facility Location]

See following pages.





World • United States • AZ • Maricopa Co.

Vegetative
Waste Area

Active area
phase VI

San Joaquin River

San Joaquin River

25/100

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EXHIBIT B
TO
SOLID AND VEGETATIVE WASTE DISPOSAL AND PROCESSING
AGREEMENT BETWEEN
THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY,
THE SALT RIVER COMMERCIAL LANDFILL COMPANY
AND
THE CITY OF MESA

[Tipping and Processing Fee Schedules]

See following pages.

PRICING AND COMPENSATION

PRICING FORM 5 SOLID WASTE DISPOSAL AND VEGETATIVE WASTE PROCESSING

Pursuant to all specifications enumerated and described in this solicitation, proposer agrees to furnish services A, ~~B~~, and C to the Municipal Parties at the following price:

Service A: Solid Waste Disposal

	Tipping Fee by Receiving Facility ¹		
Receiving Facility Location	Salt River Landfill		
Tipping Fee per ton ²			
0 - 2,000 tons per month	\$ <u>38.00</u> per ton	\$ _____ per ton	\$ _____ per ton
2,001 - 4,000 tons per month	\$ <u>36.20</u> per ton	\$ _____ per ton	\$ _____ per ton
4,001 - 6,000 tons per month	\$ <u>32.85</u> per ton	\$ _____ per ton	\$ _____ per ton
6,001 - 8,000 tons per month	\$ <u>28.90</u> per ton	\$ _____ per ton	\$ _____ per ton
8,001 - 10,000 tons per month	\$ <u>28.90</u> per ton	\$ _____ per ton	\$ _____ per ton
10,001 - 15,000 tons per month	\$ <u>28.40</u> per ton	\$ _____ per ton	\$ _____ per ton
15,001 - 20,000 tons per month	\$ <u>27.90</u> per ton	\$ _____ per ton	\$ _____ per ton
20,001 - 25,000 tons per month	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
25,001 - 30,000 tons per month	\$ <u>N/A</u> per ton	\$ _____ per ton	\$ _____ per ton
30,001 tons or more per month	\$ <u>N/A</u> per ton	\$ _____ per ton	\$ _____ per ton
All tons not contractually obligated ³	\$ <u>N/A</u> per ton	\$ _____ per ton	\$ _____ per ton
Other Service A Fees - Optional			
Untarped loads ⁴	\$ <u>10.00</u> per appliance load	\$ _____ per appliance	\$ _____ per load
Freon Removal ⁵	\$ <u>10.00</u> per refrigerated unit	\$ _____ per	\$ _____ per appliance
	\$ _____ per _____	\$ _____ per	\$ _____ per _____
	\$ _____ per _____	\$ _____ per	\$ _____ per _____

1. Based on award of a 5 year initial contract term.
2. Based on combined total tonnage delivered by all Municipal Parties and residents of Municipal Parties.
3. Shall mean the service rate per ton as of January 1, 2014 if all Municipal Parties agree that upon expiration of existing contracts each Department shall deliver solid waste collected by such Department to the selected proposer. (Reserved for further comment)
4. Shall mean the fee that may be charged to a resident for an untarped load. The selected proposer shall not charge an untarped load fee to Municipal Parties.
5. Shall mean the fee that may be charged to a resident of a Municipality per appliance for removal of Freon.

If the Municipal Parties contract for an initial term of 7 years, 10 years, or 20 years proposer agrees the above service A tipping fees shall be reduced by the following:

7 year initial term: decrease of \$ 0.20 per ton

10 year initial term: decrease of \$ 0.40 per ton

Vendor Name Salt River Landfill

Date: 09/09/13

PRICING AND COMPENSATION

PRICING FORM 5 (CONTINUED)

Service C: Vegetative Waste Processing

	Fee by Receiving Facility ¹		
Receiving Facility Location	Salt River Landfill		
Processing Fee ²			
0 - 500 tons per month	\$ <u>38.00</u> per ton	\$ _____ per ton	\$ _____ per ton
501 - 1,000 tons per month	\$ <u>36.20</u> per ton	\$ _____ per ton	\$ _____ per ton
1,000 - 1,500 tons per month	\$ <u>32.85</u> per ton	\$ _____ per ton	\$ _____ per ton
1,501 - 2,000 tons per month	\$ <u>28.90</u> per ton	\$ _____ per ton	\$ _____ per ton
2,001 - 2,500 tons per month	\$ <u>28.90</u> per ton	\$ _____ per ton	\$ _____ per ton
2,501 - 3,000 tons per month	\$ <u>28.40</u> per ton	\$ _____ per ton	\$ _____ per ton
3,001 - 3,500 tons per month	\$ <u>27.90</u> per ton	\$ _____ per ton	\$ _____ per ton
3,501 - 4,000 tons per month	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
4,001 - 4,500 tons per month	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
4,501 - 5,000 tons per month	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
5,001 tons or more per month	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
All tons not contractually obligated ²	\$ <u>26.90</u> per ton	\$ _____ per ton	\$ _____ per ton
Service C Other Fees -Optional			
Untarped loads ³	\$ <u>10.00</u> per load	\$ _____ per load	\$ _____ per load
Purchase of Mulch Product ⁴	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
Purchase of Compost Product ⁴	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
	\$ _____ per _____	\$ _____ per _____	\$ _____ per _____

1. Based on award of a 5 year initial contract term.
2. Based on combined total tonnage delivered by all Municipal Parties and residents of Municipal Parties.
3. Shall be the service rate per ton as of January 1, 2014 if all Municipal Parties agree that upon expiration of existing contracts each Department shall vegetative waste collected by such Department to the selected proposer.
4. Shall mean the fee that may be charged to a resident for an untarped load. The selected proposer shall not charge an untarped load fee to Municipal Parties.
5. Shall mean the fee that may be charged to a Municipality for purchase of mulch or compost.

If the Municipal Parties contract for an initial term of 7 years or 10 years, proposer agrees the above service C processing fees shall be reduced by the following:

7 year initial term: decrease of \$ 0.20 per ton

10 year initial term: decrease of \$ 0.40 per ton

Vendor Name Salt River Landfill

Date: 09/09/13