

AGREEMENT NO. ___ - ___

(Agreement for Household, Load Check and Conditionally Exempt Small Quantity Generator Hazardous Waste Management Collection and Disposal Services)

THIS AGREEMENT (“Agreement”) is made and entered into this 16th day of December 2022, by and between the County of Yolo, a political subdivision of the State of California (“County”) and Clean Earth Environmental Solutions, Inc., (hereinafter “Contractor”).

W I T N E S S E T H

WHEREAS, County has expressed serious concern for the safe collection and disposal of Household Hazardous Wastes (“HHW”) and Small Quantity Generator Business Hazardous Wastes (“SQG”); and

WHEREAS, County further wishes to provide the public with an actual means of safe collection and disposal of HHW and SQG Wastes; and

WHEREAS, counties and cities provide for the collection of HHW and SQG waste as a community service to ensure proper handling and disposal of the material and to prevent the potential contamination of solid waste landfills, pursuant to Health and Safety Code section 25218(b)(1); and

WHEREAS, the County is authorized by Government Code Section 23004 to make contracts as necessary for the exercise of its powers; and

WHEREAS, the County desires to obtain services for household, load check and conditionally exempt small quantity generator hazardous waste management collection and disposal; and

WHEREAS, the County circulated and distributed a request for proposals, an excerpt of which is attached as Exhibit A; and

WHEREAS, the Contractor submitted a proposal to provide services for household, load check and conditionally exempt small quantity generator hazardous waste management collection and disposal, an excerpt of which is attached as Exhibit B; and

WHEREAS, County’s role in the HHW collection program is limited to facilitating the Contractor’s collection, transportation, and disposal of HHW, disseminating information, and providing organizational assistance; and

WHEREAS, County’s role in the SQG collection program would be limited to providing for all publicity and outreach efforts including, but not limited to, assistance with setting up Environmental Protection Agency (EPA) identification numbers and explanation of hazardous waste laws for SQG businesses; and

WHEREAS, Contractor has represented and warrants to the County that it has the necessary training, experience, expertise and competency to provide the services, goods and materials that are described in this Agreement, at a cost to the County as herein specified; that it will be able to perform the herein described services at minimum cost to the County by virtue of its current and specialized knowledge of relevant data, issues, and conditions; and that it will do so in a manner consistent with and furthering of the Values of Yolo County, a copy of which is hereto attached as Exhibit C; and

WHEREAS, Contractor represents and warrants that neither Contractor, nor any of its officers, agents, employees, Contractors, subcontractors, volunteers, or five percent owners, is excluded or debarred from participating in or being paid for participation in any Federal or State program; and

WHEREAS, Contractor further represents and warrants that no conditions or events now exist which give rise to Contractor or any of its officers, agents, employees, Contractors, subcontractors, volunteers, or five percent owners being excluded or debarred from any Federal or State program; and

WHEREAS, Contractor understands that the County is relying upon these representations in entering into this Agreement.

NOW, THEREFORE, the County and the Contractor agree as follows:

I. BASIC SERVICES

A. Contractor shall furnish and perform the following services in accordance with Exhibits A-E, and in a manner satisfactory to the Director of Community Services or his/her written designee (“Director”). Contractor shall have the responsibility for site preparation, furnishing all necessary and appropriate personnel and equipment, and obtaining and maintaining all necessary permits, licenses, and other authorizations, to safely and lawfully collect, transport, and dispose of all HHW and SQG wastes generated from the Permanent Household Hazardous Waste Facility (PHHWF) collection program sponsored by County, including all County load check wastes, Senior and Disabled Door to Door pick up service, and County generated hazardous waste. These services shall include, but are not limited to, the following tasks and subtasks:

1. Collection Program

- i. Contractor shall provide all laboratory services required for properly inventorying, identifying, and cataloging hazardous materials collected at the HHW and SQG events.
- ii. Contractor shall provide personnel who will conduct surveys by obtaining information from every PHHWF participant, each day the facility is open. Completed surveys shall be submitted to County at the end of each day.
- iii. Contractor shall provide personnel who will properly inspect, store, and prepare any hazardous materials before transporting these materials from

the PHHWF.

- iv. Contractor shall provide sufficient federal Department of Transportation (“DOT”) approved 55-gallon steel drums or other suitable containers for transporting and disposing of solids and liquids. Contractor shall provide the necessary shipping containers and packaging supplies of the DOT specification, type, size, and quantity normally used by Contractor during programs of this type in accordance with legal and prudent hazardous materials transportation requirements and the waste acceptance criteria established by interim or final treatment, storage, or disposal facilities.
- v. Contractor shall provide enough fully trained staff as necessary to handle, properly and responsibly, the collection, transportation and disposal of the materials received through the HHW and SQG programs. Contractor staff must complete the following training prior working at the Yolo County PHHWF to be considered “fully-trained”:
 - Minimum 8-hour initial training covering County PHHWF site specifics
 - HAZWOPER, 40-hour training
 - HAZWOPER, 8-hour refresher
 - First Aid/CPR
 - Department of Transportation (DOT) HazMat Training (Site Supervisor and Drivers Only)
- vi. Contractor shall be responsible to properly remove all acceptable materials (unacceptable materials are defined as radioactive waste, biohazard waste (excluding sharps), ammunition/explosives, and any other unknown material which is unidentifiable using the various common testing methods including but not limited to, HazCat kit pH test strips, oxidizing strips, etc. received on the collection site premises during the HHW and SQG events to an authorized disposal site. Collected materials may be kept onsite at the Yolo County Central Landfill PHHWF, in accordance with local, state, and federal law, for up to one year from the date of collection. It is the expectation of the County that all containers shipped shall be full, and all space in containers should be fully utilized. The exception would be, if a container was near its storage deadline and needed to be shipped for final disposal to avoid any local, state, or federal storage regulatory violations.
- vii. Contractor shall secure and maintain throughout the term of this Agreement all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for Contractor to operate or to perform the services required in this Agreement.
- viii. Contractor, its employees, agents, and subcontractors shall comply with County’s safety procedures while on the collection site premises. Contractor shall also comply with all safety standards set by County regarding operating County-owned equipment when and if instructed to do so. If County-owned equipment is damaged during the course of use by Contractor and Contractor and/or Contractor staff is found to be at fault, Contractor shall be liable for all expenses associated with the restoration of

equipment to its original condition.

- ix. Unless otherwise specified by the County, the HHW collection program shall take place every Thursday, Friday, and Saturday between the hours of 6:30 am to 4:30 pm. with collection to the public open from 7:30 am – 3:30 pm. Contractor shall utilize the hour before the program opens to the public to conduct a safety meeting, with all parties involved, and prepare site (set-up), and shall utilize the hour after for clean-up and staging of hazardous wastes per proper storage guidelines. The County and Contractor shall observe the Friday after Thanksgiving annually and any other mutually agreed upon holiday where the holiday falls on a Friday or Saturday.
- x. Contractor shall reject unacceptable wastes. Acceptable shall mean only the materials previously agreed upon and for which cost proposals have been provided, as set forth in **Exhibit C** of this Agreement, or as otherwise designated in writing by the County. Unacceptable wastes include any wastes for which the County does not have a Safety Data Sheet (SDS) on file, and/or for which Contractor does not have readily accessible waste classification forms. If Contractor must reject waste, Contractor shall provide information to the resident or business notifying them of proper disposal options.
- xi. All unacceptable wastes not expressly rejected by Contractor shall be conclusively considered accepted by Contractor and shall be the sole responsibility of Contractor to transport and dispose of, at no cost to the County safely and lawfully.
- xii. Contractor shall also reject any hazardous materials when instructed to do so by County representative (site supervisor) at the events. Contractor shall inform the customer or business that the materials will not be accepted and that the rejected materials must be taken from the collection site by the owner (or transporter) of such materials and shall not be handled by Contractor as part of this Agreement.
- xiii. Contractor shall manifest, in accordance with federal; state and local law, all waste collected onsite, and recycle and/or dispose of these wastes in a lawful manner. Prior to conducting the HHW collection, Contractor shall obtain all necessary permits and variances to lawfully treat, store, and transport hazardous wastes.
- xiv. Contractor shall be expected to bulk and package in a manner that is consistent with the California *Best Practice Management (BMP) Guidelines* as defined in the California Stormwater BMP Handbook, Municipal Section and can be found electronically at www.cabmphandbooks.com. Drums, barrels, bins, and all storage containers shall be packed in a manner that uses all available storage space but is with in safe Department of Transportation (DOT) transporting regulations and guidelines. This includes but is not limited to using the installed oil filter crusher in the PHHWF, for crushing of used oil filters as directed by County. It is also the expectation that the successful PROPOSER shall provide only adequately trained staff to safely

operate crushing equipment. The County reserves rights of ownership of all waste material including but not limited to the containers the material came in.

- xv. Contractor shall crush all used oil filters prior to shipment to ensure filters are segregated by type and size and to the highest extent possible recycled.
- xvi. Certain documents used during the operation of the collection events, including, but not limited to, Uniform Hazardous Material Manifest, Land Disposal Restriction Notifications, and Material Stream Status Reports, require written certification by an authorized representative of the generator stating that certain material descriptions, packaging marking, labeling, analysis, testing, reporting and/or similar activities have been done correctly, accurately, and/or properly. Since the County, as the generator of the material, relies on the PROPOSER to ensure that the descriptions, packing, marking, labeling, analysis, testing, reporting, and/or other similar activities relating to the material have been done correctly, accurately, and/or properly, the PROPOSER's representative, who is actually familiar with such descriptions, packaging, marking, labeling, analysis, testing, reporting, and/or similar activities relating to the material, shall sign the written certificates required in the documents as an authorized representative of the Generator. Only after receiving such an acknowledgment of the certification by the PROPOSER's representative, acting as an authorized representative of the Generator, shall the coordinator jointly sign the document.

2. Reuse Program

- i. Contractor shall be responsible for properly recognizing reusable materials and setting them aside for the County Reuse Program. Reusable materials shall be in original undamaged containers, at least half-full and contain intact labels which identify the product and confirm its correct composition.
- ii. Contractor shall be responsible for providing staff to oversee the Reuse Area during operating hours. Contractor staff will greet customers, transfer materials from PHHWF over to Reuse Facility onsite, stock shelves, organize and sort materials, assist customers in filling out Reuse Forms, and tracking all paint for PaintCare program.

3. SQG Program

- i. Contractor shall pre-register all interested businesses within Yolo County to determine their qualifications for the SQG program, their waste volumes and types slated for disposal; calculating fees associated with each waste when able; collecting a processing fee and referring businesses to appropriate State and local agencies if it is determined that the business does not qualify for the SQG program.
- ii. Contractor shall aid the County in answering technical questions or quoting

fees for waste streams that need further analysis and shall service up to ten (10) SQG customers each Friday between the hours of 9:00 am and 2:00 pm.

- iii. Contractor shall also credit County for all fees paid by SQG. Credit shall be shown on the Preliminary and Final Invoices as a separate line item and credited to County disposal cost.
- iv. Contractor shall provide County signed documentation from the SQG customers, which accurately records waste and payment information, at the close of business each Friday.
- v. All SQG hazardous waste collection by pickup appointment shall be hauled directly to the County PHHWF for disposal. Should the Yolo PHHWF be unable to accept the waste, an alternate permit hazardous waste facility may accept the waste with prior approval by the County.

4. Senior/Disabled Resident Door-to-Door Program

- i. County is responsible for receiving all phone calls and scheduling weekly door-to-door appointments. Up to ten (10) door-to-door pickups may be scheduled by the County per week. County will collect name, address, phone number and itemized list of materials that each resident is seeking to properly dispose of. This information will be presented to the Contractor at least two business days prior to collection. Contractor shall contact each resident prior to collection to confirm appointment.
- ii. Collection route will occur every Friday or Saturday, as mutually agreed upon between County and Contractor between the hours of 8:00 am and 2:00 pm.
- iii. Contractor shall provide door-to-door pick-up collection service to Seniors (age 65 and older) and Disabled Yolo County residents without fee to the resident. Contractor shall accept material quantities consistent with household generation totals of up to 125 pounds of solid material or 15 gallons of liquid material, per pick-up.
- iv. Per regulations, Contractor shall provide a receipt to each household from which waste was collected as part of the door-to-door hazardous waste collection program.
- v. All hazardous waste collected under this program shall be hauled directly to the County PHHWF for disposal.
- vi. In addition to collection of hazardous materials, Contractor shall collect up to one paper grocery bag or cardboard file box worth of miscellaneous electronic waste. If said electronic waste includes a device with a screen, such as a laptop or electronic tablet, Contractor is responsible for completing the necessary CalRecycle Form 198 and providing to County the day of collection.

5. Load Check Program

- i. The PHHWF is located onsite the Yolo County Central Landfill (YCCL) therefore the County also operates an active load check program for which

hazardous materials are collected. Contractor shall sort, identify, and package all load check materials from the designated area each week.

- ii. As part of the County load check program a significant number of cylinders and tanks are found which are not typically accepted as part of our HHW program. As such the Contractor is responsible for doing a complete evaluation of each cylinder and providing a quote to the County, not to exceed the annual amount allocated in Section 2.A.iii.
- iii. As part of the County load check program light fixtures are recovered from solid waste loads that have not been properly processed. Contractor shall assist County with the dismantling of the light fixtures to segregate polychlorinated biphenyls (PCB) ballasts, from non-PBC and electronic ballasts. The County will provide a means of disposal for all scrap metal and non-hazardous ballasts.
- iv. As part of the County load check program, non-hazardous cylinders such as helium, air compressors, water heater expansion tanks, and water tanks are accepted that have not been properly processed. Contractor shall receive annual training from County and assist with the proper processing of these cylinders, then place in County provided scrap metal bins.
- v. The County also accepts lawn mowers, edgers, and other fuel filled equipment. Contractor shall assist County with draining of fuel, both gasoline and oil, from these units, as well as removing any rechargeable batteries from electronic lawn equipment, then place in appropriate County provided scrap metal bin or battery drum for recycling.

6. Pump Service for PHHWF Sumps

- i. As part of the County's Spill Prevention, Control and Counter Measure (SPCC) Plan it is required that routine cleaning and pumping services are provided for the eight concrete containment sumps located beneath the PHHWF to stay in compliance with our regulatory programs. Contractor shall provide this service one time per year at the rates established in **Exhibit C** and shall instruct onsite staff to keep the sumps clear of debris and notify County when spills occur. Should the County find significant amounts of debris or hazardous waste in the sumps during routine monthly inspections, and that material has not been reported to the County and/or is due to negligence on the part of the Contractor, the County shall not be responsible for any expenses incurred by the Contractor to clean out the sumps to remove the material more than the two identified above. See **Exhibit E** for a map of the facility and its pumps.
- ii. As part of these services the debris and liquid waste collected must be disposed of at the Yolo County Central Landfill via the County liquid waste acceptance program. The disposal portion of this service shall be provided to the Contractor at no additional cost.

7. Reporting

The DTSC 303 Report is the responsibility of the Contractor and

shall include the following data on monthly basis to the County with the invoicing:

- Door-to-Door collection program quantities
- Reuse collection program quantities
- Load Check collection program quantities
- SQG collection program quantities

A cumulative copy of the DTSC 303 report shall be electronically submitted annually to the County no later than September 1 each year in Excel format with 12 tabs representing the 12 months in the fiscal year as outlined above and tab 13 representing the cumulative data.

ii.

8. Extended Producer Responsibility (EPR) Program

When programs are available, the Contractor shall utilize disposal partners that participate in EPR such as PaintCare, Thermostat Recycling Corporation (TRC), MED-Project and Call2Recycle.

B. More specifically, the Contractor shall provide the full range of services with regard to the project described above, with the focus on: (a) Permanent Hazardous Waste Collection; (b) Door-To-Door Collection; (c) Reuse Collection; (d) Load Check classification and (e) SQG Collection Program. Contractor will provide all facilities, equipment, personnel, labor, and materials necessary to provide the foregoing services in accordance with this Agreement.

C. The complete contract shall include the following Exhibits attached hereto and incorporated herein:

Exhibit A	RFP Excerpt
Exhibit B	Proposal Excerpt
Exhibit C	Pricing Sheet(s)
Exhibit D	Values of Yolo County
Exhibit E	Map of PHHWF

In the event of any conflict between any of the provisions of this Agreement (including Exhibits), the provision that requires the highest level of performance from Contractor for the County's benefit shall prevail.

II. COMPENSATION AND REIMBURSEMENT OF EXPENSES

A. For the services described in Paragraph I above, and subject to the condition that the services have been completed in a manner satisfactory to the Director or his/her designee, Contractor shall be compensated as follows:

- i. A total base cost of \$4,449.60 per week. This total base cost shall include

travel time to and from the PHHWF, set-up costs, event operation costs, take down costs, labor, Personal Protective Equipment (PPE) and materials as defined in County's Request for Proposals attached hereto as **Exhibit A** and further defined in **Exhibit C**.

- ii. Disposal costs as set forth in **Exhibit C** attached hereto and incorporated herein by reference. Material invoiced at weighted cost shall be weighed prior to manifest. Therefore, invoices shall be based on weights as identified on manifest.
- iii. Disposal cost for unmarked or damaged load check cylinders shall be quoted on an as needed basis but shall not exceed **\$40,000.00** each calendar year.
- iv. Containment sumps pumping and cleaning services shall be paid at **\$105.06** per hour and expenses to the County shall not exceed servicing of more than two times per year.
- v. During peak season, and upon prior approval from County, Contractor may provide additional staffing at the hourly rate of **\$63.00 (8-hour minimum)**. Equally, should Contractor fail to provide a minimum of three (3) staff per collection day, County may request the hourly rate be credited on the monthly invoice for any hours deficient.
- vi. Provided, however, that the total amount of compensation to be paid to Contractor for the services required by this Agreement shall not exceed **\$525,000.00** annually.

B. All prices are firm for a period of one (1) year from the date of award. The Contractor may raise prices in accordance with the Consumer Price Index outlined below each year this contract is in place. Should the County extend the term of the contract beyond the initial two (2) year term, a fee increase may also be requested annually thereafter utilizing the pricing established in Section II.A. and included as Exhibit C on January 1, 2023, as the base year. If requested, the rates shall be adjusted by the All-Urban Consumer Price Index (CPI) compiled by the U. S. Department of Labor, Bureau of Labor Statistics, or its successor agency, using the following parameters:

Area – San Francisco-Oakland-Hayward Area

Items – All Items

Base Period – Current 1982-84=100

Not seasonally adjusted

Periodicity – Bi-Monthly

Series Identification Number – CUURS49BSA0

Calculations: The average CPI value shall equal the sum of the six published bi-monthly CPI values for the 12-month calendar period divided by six. For example, when calculating the average CPI value for the 12-month period ending in April of 2022, the average CPI value shall equal the sum of the CPI values for June 2021, August 2021, October 2021, December 2021, February 2022, and April 2022 divided by six.

C. Contractor shall not be entitled to reimbursement of any additional expenses incurred by Contractor in the performance of services set forth in this Agreement. Upon request of each price increase, as defined above, the County reserves the right to accept or reject the request for price increase within ten (10) business days of the written request. If County rejects the proposed price increase, Contractor shall have the right to terminate the Agreement in accordance with Section IX.D of this agreement.

III. METHOD OF PAYMENT

A. Within thirty (30) days of the completion of each subtask identified in Paragraph I in a manner that is satisfactory to the Director, the Contractor shall submit a draft invoice and preliminary report detailing the itemized services provided to the County Director. If requested by the County, Contractor shall provide any further documentation to verify the compensation and reimbursement sought by Contractor.

i. Within fifteen (15) calendar days of the receipt of Contractor's detailed preliminary invoice, the County Director shall either approve the preliminary invoice and report or advise Contractor of any concerns. If satisfactory, a final invoice and final report will be requested to be prepared. An invoice shall not be paid within proper submittal of the monthly report.

ii. Within fifteen (10) calendar days of the receipt of Contractor's final invoice and report, the Director shall authorize payment or advise Contractor in writing of any concerns that the Director has with the invoice and any need for further documentation.

iii. Within thirty (30) calendar days of the Director's authorization for payment of an invoice, the County Auditor-Controller shall either issue the payment or advise Contractor in writing of any concerns that the County Auditor-Controller has with the request and any need for further documentation.

IV. STANDARDS

A. Performance

Contractor shall exercise all care and judgment that is consistent with good practices in the performance of the services required by this Agreement. All work, which Contractor performs, shall conform to the standards of safety and quality normally practiced in the collection, transportation, and disposal of hazardous wastes. In addition, Contractor shall perform all services required by this Agreement consistent with the requirements of law and the standards of the industry in which Contractor is engaged. In the event of a conflict between the requirements of law and industry standards, the requirements of law shall control the manner in which the services required of Contractor by this Agreement are performed.

B. Faithful Performance and Payment Bond

No later than 30 days after December 16, 2022, CONTRACTOR shall deliver to the County, and shall maintain at all times during the term hereof, a Faithful Performance Bond in the amount of \$150,000. The Faithful Performance Bond shall be on County-approved forms.

C. Time of Essence and Liquidated Damages

The Contractor agrees that time is of the essence in the performance of this Agreement. It is mutually agreed that the County and the public would sustain real and substantial damages as a result of any failure of the Contractor to timely perform each of its obligations under this Agreement, and that fixing actual damages for untimely completion would be extremely difficult or impracticable. The Contractor also agrees that the liquidated damages set forth below are not manifestly unreasonable under the circumstances existing on the effective date of this Agreement, and that consequently the Contractor shall pay the County, and the County may retain from amounts otherwise due the Contractor, the following amounts for the Contractor's failure to timely perform Contractor's obligations under this Agreement.

D. Liquidated Damages Assignment

- i. Monthly Post Report and Preliminary Invoice -Failure to provide Post Report (Form 303) and Preliminary invoice not later than 30 days after the end of each calendar month for the prior month's services and waste disposed. Damages shall be assessed \$500.00 per occurrence. Penalty shall be assessed only after two written notices of failure to perform have been issued.
- ii. Annual Department of Toxic Substances Control (DTSC) 303 Report - Failure to provide the DTSC annual 303 report to the County no later September 1st of each report year shall result in damages assessment of \$250 per occurrence that the report is deemed late, starting on September 2 of the report year.
- iii. Invoicing – Final Invoices shall be received not later than 30 days from the date of the preliminary invoice being approved by the Director. In the event of a failure to perform this requirement or if a final invoice is issued by the Contractor prior to the preliminary invoice being approved by Director, or if billing discrepancies are communicated to the Contractor and a revised invoice is not received within 30 days, damages shall be assessed at a rate of \$500 per occurrence. Penalties shall only be assessed after two written notices of failure to perform have been issued.
- iv. Letter of Intent for Destruction – Failure to provide letters of intent for destruction within 120 days of manifesting of materials shall result in damages to be assessed at \$200 per occurrence, plus \$50 per day starting on the 121st day after material was originally manifested at the YCCL PHHWF.
- v. Small Quantity Generator (SQG) –Performance failure for SQG would include, but shall not be limited to, failure to contact SQG in a timely manner, failure to collect the appropriate information from the SQG and/or failure to meet the reporting requirements of this agreement for SQG. Failure to respond

to a SQG appointment request within 5 business days shall result in a damage assessment of \$1,000 per occurrence after two written notices of failure to perform have been issued. Failure to bill SQG customers within one month of waste being collected shall result in a damage assessment of \$500 per occurrence after two written notices of failure to perform have been issued.

- vi. Senior/Disabled Resident Door to Door (D2D) Pickup – Performance failure for D2D would include, but shall not be limited to, failure to collect a D2D residence’s hazardous waste on scheduled collection date or notify the County in advance of Contractor’s inability to provide D2D collection services every Saturday. Failure to respond or communicate shall immediately result in a penalty of \$2,000 per resident. Increased damages associated with failure to perform for Senior/Disabled Pick-Ups is due to increased risk of bodily injury or death for senior or disabled residents if Contractor fails to make these pick-ups a priority. Penalties shall only be assessed after two written notices of failure to perform have been issued.
- vii. Inspection Performance –It is the expectation of the County that the Contractor shall operate the facility in full compliance with Title 22 of the California Code of Regulations and all other local, state, and federal rules and regulations. In the event the YCCL PHHWF has an inspection from any local, state, federal, or other regulatory agency, and receives violations due to the negligence of Contractor, Contractor shall be responsible for all fines associated with violations and may be assessed up to double the fine amount in damages, or a minimum of \$1,000 per violation, whichever is greater.
- viii. Damage Limits – In the event of damage assessment, the County acknowledges no single damage assessment shall exceed the monthly invoice for the month in which the assessment is levied.

V. REPORTS

A. Contractor shall provide fully executed copies of all Uniform Hazardous Waste Manifests, Bill of Lading, and other Certificates of Receipt within thirty (30) days from the date of disposal, destruction, or recycling or within a maximum of one-hundred-twenty (120) days of any hazardous material being manifested for shipment. These shall include final signature at end disposal facility.

B. Contractor shall provide monthly report within thirty (30) days after completion of each subtask identified in Paragraph I, which shall include:

- i.** Monthly Summary
- ii.** Shipment Data
- iii.** Reuse Data
- iv.** CESQG Data
- v.** Door to Door Data
- vi.** Stewardship Data (incl. Paint Care, TRC, Call2Recycle)

vii. Complete 303 Data using DTSC Template Format

C. Contractor shall provide such reports as are required elsewhere by this Agreement, and such additional information and reports relating to the services otherwise required by this Agreement as are reasonably requested by the Director, as the times and in the manner specified by this Agreement, or by the Director if not so specified. Any other provision of this Agreement notwithstanding, should Contractor fail to provide any report required by this Agreement in a timely manner and as otherwise set forth in this Agreement, County may withhold any payments otherwise due Contractor pursuant to this Agreement, and any other agreement between Contractor and County, until such report is properly submitted as determined by the Director.

D. County shall provide Contractor with all information pertinent to the services required of Contractor by this Agreement which is requested by Contractor and which is within County's possession. No charge will be made for these materials.

VI. OWNERSHIP OF DOCUMENTS AND WORK PRODUCTS

All professional and technical documents and information developed under this Agreement, and all work products, including writings, work sheets, reports, and related data, materials, copyrights and all other rights and interests therein, shall become the property of the County, and Contractor agrees to deliver and assign the foregoing to the County, upon completion of the services hereunder or upon any earlier termination of this Agreement. Contractor assigns the work products, as and when the same shall arise, for the full terms of protection available throughout the world. In addition, basic data prepared or obtained under this Agreement shall be made available to the County without restriction or limitation on their use.

No additional charge will be made for any of the foregoing.

VII. RECORDS; ACCESS, RETENTION

Contractor shall retain and make available for review by the County and its designees all records, documents, and general correspondence relating to this Agreement and the services required hereunder for a period of not less than five (5) years after receipt of final payment or until all pending audits and proceedings are completed, whichever is later. Contractor shall make such records available for inspection and copying by the County and its designees at any reasonable time. At least thirty (30) calendar days prior to any destruction of these records following the four years, Contractor shall notify the Director. Upon such notification, the Director shall either agree to the destruction or authorize the records to be forwarded to the County for further retention.

VIII. DISPUTES

Any dispute arising under this Agreement shall be decided by the County Administrative Officer who shall put his or her decision in writing and mail a copy thereof to the address for the notice to

Contractor. The decision of the County Administrative Officer shall be final unless, within thirty (30) days from the date such copy is mailed to Contractor, Contractor appeals the decision in writing to the County Board of Supervisors. Any such written appeal shall detail the reasons for the appeal and contain copies of all documentation supporting Contractor's position. In connection with any appeal proceeding under this paragraph, Contractor shall be afforded the opportunity to be heard and offer evidence in support of its appeal to the County Board of Supervisors at a regular Board meeting. Pending a final decision of the dispute, Contractor shall proceed diligently with the performance of this Agreement and in accordance with the County Administrative Officer's decision. The decision of the County Board of Supervisors on the appeal shall be final for purposes of exhaustion of administrative remedies.

IX. TERM AND TERMINATION

A. The term of this Agreement shall be from December 16, 2022 through December 31, 2024 unless sooner terminated as hereinafter provided. The Director may renew this Agreement for up to three (3) one-year terms upon giving Contractor at least one hundred twenty (120) days prior written notice of such renewal.

B. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the defaulting party of such default in writing and provide not less than thirty (30) days to cure the default. Such notice shall describe the default and shall not be deemed a forfeiture or termination of this Agreement. If such default is not cured within said thirty-day period (or such longer period as is specified in the notice or agreed to by the parties), the party that gave notice of default may terminate this Agreement upon not less than fifteen (15) days advance written notice. In the event of such termination based upon Contractor default, the County reserves the right to purchase or obtain the supplies or services elsewhere, and Contractor shall be liable for reasonable difference between the prices set forth herein and the actual cost thereof to the County. The foregoing notwithstanding, neither party waives the right to recover damages against the other for breach of this Agreement.

C. This Agreement is subject to the County, the State of California and the United States appropriating and approving sufficient funds for the activities required of the Contractor pursuant to this Agreement. If the County's adopted budget and/or its receipts from the State of California and the United States do not contain sufficient funds for this Agreement, the County may terminate this Agreement by giving ten (10) days advance written notice thereof to the Contractor, in which event the County shall have no obligation to pay the Contractor any further funds or provide other consideration and the Contractor shall have no obligation to provide any further services pursuant this Agreement. If the County terminates the Agreement pursuant to this subparagraph, the County will pay Contractor in accordance with this Agreement for all services performed to the satisfaction of the Director before such termination and for which funds have appropriated as required by law.

D. This Agreement may be terminated for any reason by either party at any time during

its term, by giving 120 days' written notice to the other party. Due to the complexity and liability issues of this Agreement, termination of the Agreement by Contractor with less than 120 days' notice shall result in an early termination penalty of \$60,000.

E. If Contractor, or any of its officers, agents, employees, Contractors, subcontractors, volunteers, or five percent owners, becomes excluded, debarred, or suspended from participation in Federally or State funded programs, the County may terminate this Agreement by giving ten (10) days advance written notice thereof to the Contractor.

F. Upon termination of this Agreement or suspension of work by either County or Contractor, Contractor shall furnish to County all documents and drawings prepared under this Agreement, whether complete or incomplete. In the event of termination for any reason, reproducible copies of all finished or unfinished documents, drawings, maps, models, photographs, and reports prepared by Contractor shall become the sole and exclusive property of Yolo County and Contractor shall be entitled to receive compensation for any work completed on such documents and other materials determined by the Director to be of satisfactory quality and within the terms and conditions of this Agreement. All creative work undertaken by Contractor such as sketches, copy, dummies, and all preparatory work for which Contractor is not compensated by the County shall remain the sole and exclusive property of the Contractor.

G. During and following the term of this Agreement, Contractor shall not use, distribute, or otherwise circulate any of the materials developed pursuant to this Agreement and for which Contractor was compensated by the County without the express written permission of the Director.

X. APPLICABLE LAWS

A. In the performance of the services required by this Agreement, Contractor shall comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives, and laws. This Agreement is also subject to any additional restrictions or conditions that may be imposed upon the County by the Federal or State government.

B. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California. Any action or proceeding arising out of this Agreement shall be filed and resolved in a California State court located in Woodland, California. Contractor waives any removal rights it might have under State or Federal law.

XI. NON-DISCRIMINATION IN SERVICES AND BENEFITS

Contractor certifies that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors

or the County Administrative Officer. For the purpose of this Agreement, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment or any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services.

XII. CONTRACTOR'S RESPONSIBILITIES

A. Contractor shall exercise all of the care and judgment consistent with good practices in the performance of the services required by this Agreement.

B. With the exception that this section shall in no event be construed to require indemnification by Contractor to a greater extent than permitted under the public policy of the State of California, Contractor shall indemnify, defend and hold harmless the County of Yolo, officers, agents, employees and volunteers from and against any and all claims, damages, demands, losses, defense costs, expenses (including attorney fees) and liability of any kind or nature arising out of or resulting from performance of the work, provided that any such claim, damage, demand, loss, cost, expense or liability is caused in whole or in part by any negligent or intentional act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable to the extent caused by Contractor's negligence. Contractor and/or Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement for the full period of time allowed by law. The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

C. Subcontractor agrees to be bound to the General Contractor/or Contractor and the County of Yolo in the same manner and to the same extent as General Contractor/or Contractor is bound to the County of Yolo under the Contract Documents. Subcontractor further agrees to include the same requirements and provisions of this agreement, including the indemnity and Insurance requirements, with any Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractor's work. A copy of the County of Yolo Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request.

In providing any defense under this Paragraph, Contractor shall use counsel reasonably acceptable to the County Counsel.

XIII. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

A. During the term of this Agreement, Contractor shall at all times maintain, at its expense, the following coverages, and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages (as applicable). Insurance coverage shall be with limits not less than the following:

- a. **Comprehensive General Liability** – \$1,000,000/occurrence and \$2,000,000/aggregate
- b. **Automobile Liability** – \$5,000,000 combined single limit per accident for bodily injury and property damage (include coverage for Hired and Non-owned vehicles)
- c. **Umbrella Liability** - \$5,000,000/occurrence and \$5,000,000/aggregate
- d. **Pollution Prevention Liability** – \$10,000,000/occurrence and \$10,000,000/aggregate
- e. **Workers' Compensation** – Statutory Limits/**Employers' Liability** - \$1,000,000/accident for bodily injury or disease

2. The County, its officers, agents, employees, and volunteers shall be named as additional insured, pursuant to Additional Insured Endorsement #1 for Commercial General Liability, on all but the workers' compensation and professional liability coverages. It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.

a. The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the County's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

b. The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the County of Yolo (if agreed to in a written contract or agreement) before the County's own Insurance or self-insurance shall be called upon to protect it as a named insured.

3. Said policies shall remain in force through the life of this Agreement and, with the exception of professional liability coverage, shall be payable on a "per

occurrence” basis unless the County Risk Manager specifically consents in writing to a “claims made” basis. For all “claims made” coverage, in the event that the Contractor changes insurance carriers Contractor shall purchase “tail” coverage covering the term of this Agreement and not less than three years thereafter. Proof of such “tail” coverage shall be required at any time that the Contractor changes to a new carrier prior to receipt of any payments due.

4. The Contractor shall declare all aggregate limits on the coverage before commencing performance of this Agreement, and the County’s Risk Manager reserves the right to require higher aggregate limits to ensure that the coverage limits required for this Agreement as set forth above are available throughout the performance of this Agreement.

5. Any deductibles or self-insured retentions must be declared to and are subject to the approval of the County Risk Manager. All self-insured retentions (SIR) must be disclosed to Risk Management for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied either by the named Insured or Yolo County.

6. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after prior written notice as soon as knowledge of cancellation is available and before the cancellation date, by certified mail, return receipt requested, has been given to the Director (ten (10) days for delinquent insurance premium payments).

7. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII, unless otherwise approved by the County Risk Manager.

8. The policies shall cover all activities of Contractor, its officers, employees, agents, and volunteers arising out of or in connection with this Agreement.

9. For any claims relating to this Agreement, the Contractor’s insurance coverage shall be primary, including as respects the County, its officers, agents, employees, and volunteers. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by Contractor’s liability insurance policy.

10. The Contractor shall waive all rights of subrogation against the County, its officers, employees, agents, and volunteers.

B. Prior to commencing services pursuant to this Agreement, Contractor shall furnish the County with original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and

are subject to the approval of, the County Risk Manager before work commences. Upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

- C. During the term of this Agreement, Contractor shall furnish the County with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. In the event of a claim, upon County's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications. In the event of a claim, upon written request, Yolo County reserves the right to obtain a full certified copy of any Insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.
- D. Contractor agrees to include with all Subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and the County of Yolo in the same manner and to the same extent as Contractor is bound to the County of Yolo under the Contract Documents. Subcontractor further agrees to include these same provisions with any Sub-subcontractor. A copy of the Owner Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The General Contractor/**and or Contractor** shall require all Subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to commencement of any work and General Contractor/**and or Contractor** will provide proof of compliance to the County of Yolo.
- E. Contractor shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this agreement, the County at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

XIV. WORKERS' COMPENSATION

Contractor shall provide workers' compensation coverage as required by State law, and prior to commencing services pursuant to this Agreement shall file the following statement with the County in a form substantially as set forth below.

XV. NOTICE

A. All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and Contractor at their respective addresses as follows:

Contractor: Clean Earth Environmental Solutions, Inc.
Attn: Sr. Regional Account Manager
11855 White Rock Road, Rancho Cordova, CA 95742

County: Department of Community Services
Division of Integrated Waste Management
Attn: Division Director
44090 County Road 28H, Woodland, CA 95776

B. In lieu of written notice to the above addresses, any party may provide notices through the use of facsimile machines provided confirmation of delivery is obtained at the time of transmission of the notices and provided the following facsimile telephone numbers are used:

Contractor: (714) 714-8596

County: (530) 666-8853

C. Any party may change the address or facsimile number to which such communications are to be given by providing the other parties with written notice of such change at least fifteen (15) calendar days prior to the effective date of the change.

D. All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using facsimile machines, or on the fifth (5th) day following deposit in the mail if sent by first class mail.

XVI. CONFLICT OF INTEREST

A. Contractor shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.

B. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Contractor's obligations and responsibilities hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed. This covenant shall remain in force until Contractor completes

performance of the services required of it under this Agreement.

C. Contractor agrees that if any fact comes to its attention that raises any question as to the applicability of any conflict-of-interest law or regulation, Contractor will immediately inform the County and provide all information needed for resolution of the question.

XVII. COVENANT AGAINST CONTINGENT FEES

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this agreement. For breach or violation of this warranty, the County shall have the right to annul this agreement without liability, or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

XVIII. AUDITS

Any failure or refusal by Contractor to permit the County access to any facilities, books, records, or other information required to be provided to the State Department of Toxic Substances Control (DTSC) by this Agreement shall constitute an express and immediate breach of this Agreement.

XIX. ASSIGNMENT AND SUBCONTRACTS

The services and obligations required of Contractor under this Agreement are not assignable in whole or in part. In addition, Contractor shall not subcontract any portion of the services required of Contractor by this Agreement without the express written consent of the Director. If any portion of the services required of Contractor are subcontracted, the subcontractor(s) shall maintain the same insurance as required of Contractor by this Agreement and Contractor shall be fully responsible to the County for all work undertaken by subcontractors.

XX. STATUS OF Contractor

A. It is understood and agreed by all the parties hereto that Contractor is an independent Contractor, and that no relationship of employer-employee exists between the County and Contractor. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of the County. Contractor hereby indemnifies and holds the County harmless from any and all claims that may be made against the County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement or any services provided pursuant to this Agreement.

B. It is further understood and agreed by all the parties hereto that neither Contractor

nor Contractor's assigned personnel shall have any right to act on behalf of the County in any capacity whatsoever as an agent or to bind the County to any obligation whatsoever.

C. It is further understood and agreed by all the parties hereto that Contractor must issue any and all forms required by Federal and State laws for income and employment tax purposes, including W-2 and 941 forms, for all of Contractor's assigned personnel.

XXI. AMENDMENT

This Agreement may be amended only by written instrument signed by the County and Contractor.

XXII. WAIVER

The waiver by the County or any of its officers, agents or employees or the failure of the County or its officers, agents, or employees to take action with respect to any right conferred by, or any breach of any obligation or responsibility of this Agreement shall not be deemed to be a waiver of such obligation or responsibility, or subsequent breach of same, or of any terms, covenants, or conditions of this Agreement.

XXIII. AUTHORIZED REPRESENTATIVE

The person executing this Agreement on behalf of Contractor affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of Contractor and to bind Contractor to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of Contractor and Contractor understand that the County is relying on this representation in entering into this Agreement.

XXIV. PUBLIC RECORDS ACT

Upon its execution, this Agreement (including all exhibits and attachments) shall be subject to disclosure pursuant to the California Public Records Act.

XXV. ADDITIONAL PROVISIONS

A. Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should the County choose to excuse any given failure of Contractor to meet any given condition, covenant, or obligation (whether precedent or subsequent), that decision will not be, or have the legal effect of, a waiver of the legal effect in subsequent circumstances of either that condition, covenant or obligation or any other found in this document. All conditions, covenants and obligations continue to apply no matter how often County may choose to excuse a failure to perform them.

B. Except where specifically stated otherwise in this document, the promises in this document benefit the County and Contractor only. They are not intended to, nor shall they

be interpreted or applied to, give any enforcement rights to any other persons (including corporate) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to anyone any "legitimate claim of entitlement" with the meaning and rights that phrase has been given by case law.

C. Limitation on Liability: In no event shall either party be liable under this Agreement for consequential, indirect, incidental, special, liquidated, exemplary, punitive or enhanced damages, lost profit or revenues, or diminution in value, arising out of, relating to, or in connection with any breach of this Agreement, regardless of (a) whether such damages were foreseeable, (b) whether or not it was advised of the possibility of such damages and (c) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based.

XXVI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the County and Contractor and supersedes all prior negotiations, representations, or agreements, whether written or oral. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

Contractor
DocuSigned by:

By Melinda Rath
D2473AAAB0644C9...
Melinda Rath, SVP of Sales & Customer Service
Clean Earth

County of Yolo

By _____
Angel Barajas, Chair
Board of Supervisors

11/29/22 | 9:21 AM EST

Attest:
Julie Dachtler, Clerk
Board of Supervisors

By _____
Deputy (Seal)

Approved as to Form:
Philip J. Pogledich, County Counsel

Kimberly Hood
Kimberly Hood, Asst. County Counsel

Digitally signed by Kimberly Hood
DN: cn=Kimberly Hood, o=County of Yolo, Office of the County
Counsel, ou=Assistant County Counsel,
email=kimberly.hood@yolocounty.org, c=US
Date: 2022.11.30 16:05:41 -0800

