



September 7, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Acting as the governing body of Water Environment Services
Clackamas County

Approval of a Contract with Wasco County Landfill, Inc. for waste disposal. Total value is \$1,200,000 for 3 Years. Funding is through Water Environment Services Sanitary Sewer Operating Fund. No County General Funds are involved.

Previous Board Action/Review	Presented at Issues – September 6, 2023		
Performance Clackamas	<ol style="list-style-type: none"> 1. This project supports the WES Strategic Plan to provide Enterprise Resiliency, infrastructure Strategy and Performance and Operational Optimization. 2. This project supports the County’s Strategic Plan of building a strong infrastructure that delivers services to customers and honors, utilizes, promotes and invest in our natural resources. 		
Counsel Review	Yes	Procurement Review	Yes
Contact Person	Terrance Romaine	Contact Phone	503-557-2821

EXECUTIVE SUMMARY: This contract is for the disposal of material removed from the wastewater and stormwater systems on a routine basis. Grit is the settled solid material that is removed from the waste stream during treatment of wastewater. It is not stabilized and has no resource value so it is disposed of in a landfill. Dewatered material from WES’s decant facility is also unusable and is landfilled. While biosolids are typically applied to agricultural fields in Eastern Oregon as a soil amendment, occasionally there are circumstances when biosolids quality does not meet DEQ criteria for land application, or haulers cannot get to/from farms due to winter weather, accidents or road closures. Having long-term contracts with landfills provides price stability and ensures continuity of WES operations.

RECOMMENDATION: Staff recommends the Board approve Contract #8450 with Wasco County Landfill, Inc. for waste disposal.

Respectfully submitted,

Greg Geist
Director, WES

Attachment: Contract 8450

For Filing Use Only



WASTE CONNECTIONS INC.
Connect with the Future™

SPECIAL WASTE DISPOSAL AGREEMENT (NON-HAZARDOUS WASTE)

Special Waste Profile Numbers: 2042-20-152 (Tri City Bio Solid)
2042-20-155 (Kellogg Bio Solid)
2042-20-154 (Grit and Screenings)
WC-22-160 (H2S Media)

Customer Billing Information

Name: Water Environment Services
Address: 15941 S. Agnes Ave
City: Oregon City
State: OR Zip: 97045
Phone: 503/742-4608 Fax: 503/557-2809
Contact: Kathryn McKnight

Waste Connections Subsidiary ("Service Provider")

Wasco County Landfill, Inc.

2550 Steele Road

The Dalles, Oregon 97058

Project: NA – ongoing operations

Additional Information: The Special Waste Application must be executed by WCL's Environmental Manager, or authorized representative, who thereby approves the waste as Acceptable Waste on a yearly basis.

- Special Waste Service.** Subject to the terms and conditions contained herein, Service Provider and Customer agree to be legally bound hereby and Service Provider agrees to accept at its Facility, Acceptable Waste (hereinafter referred to as "Special Waste" or "Waste") delivered by Customer, and which is acceptable to Service Provider as herein provided.
- Acceptable Waste.** Only those Special Wastes described in Section 3 herein and in any Special Waste Profile(s) which number is identical to the contract number referenced above, and which Profile(s) are hereby incorporated by reference herein, and which Waste is subsequently approved by Service Provider and is otherwise in accordance with all laws, regulations and permits, shall be acceptable for disposal at the Facility ("Acceptable Waste").

3. (A) **Rates for Disposal:**

<u>Waste</u>	<u>Disposal Method</u>	<u>Disposal Rate:</u>	<u>Fees / Taxes / Misc.</u>	<u>Transportation</u>
Bio Solids	Landfill	\$25.00/ton	Metro \$44.69/ton	
Grit and Screenings	Landfill	\$25.00/ton	Metro \$44.69/ton	
H2S Media	Landfill	\$25.00/ton	Metro \$44.69/ton	

Additional Information: Rates include all DEQ Fees and Wasco Taxes.

CPI Adjustment: There shall be no escalation in the Basic Disposal Price until Sept 1, 2024. On that date and each October 1 thereafter the Basic Disposal Price Shall be increased or decreased as follows:

The Basic Disposal Price will be adjusted 100 percent of the actual percentage change in the Consumer Price Index published for the first half of the immediately preceding year over the Consumer Price Index published for the first half of the year prior to the immediately preceding year. The consumer Price Index or "CPI-U" means the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Salem-Portland Metropolitan Area, as prepared by the United States Department of Labor, Bureau of Labor Statistics (BLS), or its Successor.

Customer shall also be liable for all taxes, fees, or other charges imposed by federal, state, local or provincial laws and regulations.

County and State of origin of Waste: Clackamas County, OR

- (B) **Incorporation by Reference.** In addition to Special Waste Profile(s) and the Terms and Conditions of Special Waste Disposal Agreement set forth on the reverse side of this document, the following documents are incorporated by reference into this Agreement as if fully set forth herein.

1) Clackamas County Government Addendum

4. **Term of Agreement.** This Agreement shall be effective as of the date provided for below the parties' signature line and shall continue until Sept 1, 2026.

SERVICE PROVIDER AND CUSTOMER, IN CONSIDERATION OF THE MUTUAL OBLIGATIONS CONTAINED HEREIN, AGREE THAT THIS IS A LEGALLY BINDING AGREEMENT WHICH IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON THIS PAGE AND ON THE REVERSE SIDE OF THIS DOCUMENT.

X _____
CUSTOMER SIGNATURE (AUTHORIZED REPRESENTATIVE)

X _____
CUSTOMER NAME AND TITLE (PLEASE PRINT)

X _____
DATE

X *[Signature]*
SERVICE PROVIDER SIGNATURE (AUTHORIZED REPRESENTATIVE)

X Carolyn Jones Business Dev. manager
SERVICE PROVIDER NAME AND TITLE (PLEASE PRINT)

X 8-24-23
DATE

Terms and Conditions of Special Waste Disposal Agreement

5. **The Agreement.** This Special Waste Disposal Agreement (this "Agreement") for the disposal of Special Waste shall consist of this Agreement, riders to the Agreement (if any) and any application, permit and/or approval that may be applicable to such Waste.

6. **Waste Accepted at Facility.** Customer represents, warrants and covenants that the Waste delivered to Service Provider at its Facility hereunder will be Acceptable Waste and will not contain any unacceptable quantity of hazardous materials or substances, radioactive materials or substances, or toxic waste or substances, as defined by applicable federal, state, local or provincial laws or regulations. Any Waste which does not meet these requirements shall hereinafter be referred to as "Unacceptable Waste". Customer shall in all matters relating to the collection, transportation and disposal of the Waste hereunder, comply with all applicable federal, state and local laws, regulations, rules and orders regarding the same. The word "Facility" shall mean any landfill, transfer station or other location used to transfer, process or otherwise dispose of such Waste.

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

8. **Rights of Refusal/Rejection.** Customer shall inspect all Waste at the place(s) of collection and shall remove any and all Unacceptable Waste. Service Provider has the right to refuse, or to reject after acceptance, any load(s) of Waste(s) delivered to its Facility including if Service Provider believes Customer has breached (or is breaching) its representations, warranties, covenants or agreements hereunder, or any applicable federal, state or local laws, regulations, rules or orders, even if only a portion of such Waste load is unacceptable. Service Provider shall have the right to inspect all vehicles and containers of Waste haulers, including Customer's vehicles, in order to determine whether the Waste is Acceptable Waste or Unacceptable Waste pursuant to this Agreement and all applicable federal, state and local laws, rules and regulations. Service Provider's exercise, or failure to exercise, its rights hereunder shall not operate to relieve Customer of its responsibilities or liability under this Agreement. Customer shall be responsible for, and bear all reasonable expenses and damages incurred by Service Provider, as a result of the Unacceptable Waste and in the reloading and removal of Unacceptable Waste disposed in the Facility. Service Provider, may also, in its sole discretion, require Customer to promptly remove the Unacceptable Waste.

9. **Limited License to Enter.** This Agreement provides Customer with a license to enter the Facility for the limited purpose of, and only to the extent necessary for, off-loading Acceptable Waste at the Facility in the manner directed by Service Provider. Except in an emergency, Customer's personnel shall not leave the immediate vicinity of their vehicle. After off-loading the Waste, Customer's personnel shall promptly leave the Facility. Under no circumstances shall Customer or its personnel engage in any scavenging of Waste or other materials at the Facility. Service Provider reserves the right to make and enforce reasonable rules and regulations concerning the operation of the Facility, the conduct of the drivers and others on the Facility premises, quantities and sources of Waste, and any other matters necessary or desirable for the safe, legal and efficient operation of the Facility including, but not limited to, speed limits on haul roads imposed by Service Provider, and the wearing of hard hats and other personal protection equipment by all individuals allowed on the Facility premises. Customer agrees to conform to such rules and regulations as they may be established and amended from time to time. Service Provider may refuse to accept Waste from and shall deny an entrance license to, any of Customer's personnel whom Service Provider believes is under the influence of alcohol or other chemical substances. Customer shall be solely responsible for its employees and subcontractors performing their obligations in a safe manner when at the facility of Service Provider.

10. **Charges and Payment.** Payment shall be made by Customer within thirty (30) days after receipt of invoice from Service Provider. In the event that any amount is overdue, Service Provider may terminate this Agreement. Customer agrees to pay a finance charge equal to the maximum interest rate permitted by law. Customer shall be liable for all taxes, fees, or other charges imposed upon the disposal of the Waste by federal, state, local or provincial laws and regulations. Service Provider, from time to time, may modify its rates upon thirty (30) days written notice to Customer.

11. **Termination.** Customer's obligations, representations, warranties and covenants regarding the Waste delivered and all indemnities shall survive termination of this Agreement. Should Customer materially default in any of its obligations hereunder, then Service Provider may immediately terminate this Agreement and Customer shall be liable for all costs and damages incurred by Service Provider.

12. **Driver's Knowledge and Authority.** Customer represents, warrants and covenants that its drivers who deliver Waste to Service Provider's Facility have been advised by Customer of Service Provider's prohibition on deliveries of hazardous materials or substances, radioactive materials or substances, or toxic waste or substances or any other Unacceptable Waste to the Facility of Service Provider's restrictions on deliveries of Special Waste to the Facility, of the definitions of "Hazardous Waste" and "Hazardous Substances" as provided by applicable federal, state and local law, rules and regulations and "Special Waste" as provided herein, and of the terms of this license to enter Service Provider's Facility.

13. **Indemnification.** Customer shall indemnify, defend and hold harmless Service Provider and its subsidiaries, affiliates and parent corporations, as applicable, and their respective officers, directors, lenders, employees, subcontractors and agents from and against any and all claims, suits, losses, liabilities, assessments, damages, fines, costs and expenses, including reasonable attorneys' fees (collectively, "Claims") to the extent arising or resulting from: (a) the acts, omissions, negligence, or willful misconduct (including criminal acts) of Customer, or its employees, representatives, agents, contractors, or subcontractors (excluding Service Provider), (b) the violation of any law, rule, regulation, license, permit, ordinance, or order by Customer, or its employees, representatives, agents, contractors, or subcontractors (excluding Service Provider), (c) Customer's breach of any term, condition, representation, warranty, or covenant herein, or (d) Unacceptable Waste. Customer shall also be responsible for increased inspection, testing, study and analysis costs made necessary due to reasonable concerns of Service Provider as to the content of the Waste, following discovery of Unacceptable Waste. This indemnification and other obligations stated in this Section 13 shall survive the termination of this Agreement.

14. **Insurance.** Customer shall maintain in full force and effect throughout the term of this Agreement the following types of insurance in at least the amounts specified below:

Coverages	Minimum Amounts of Insurance
Worker's Compensation	Statutory
Employer's Liability	\$1,000,000 per incident
General Liability	\$2,000,000 combined single limit
Automobile Liability	\$2,000,000 combined single limit

All insurance will be by insurers authorized to do business in the state in which the Facility is located. Prior to Customer being allowed on Facility premises, Customer shall provide Service Provider with certificates of insurance or other satisfactory evidence that such insurance has been procured and is in force. All policies, except workers' compensation, must add Service Provider as an additional insured, must contain waivers of subrogation in favor of Service Provider, and must be primary and non-

contributory to any insurance policies carried by Service Provider. Said policies shall not thereafter be cancelled, be permitted to expire or lapse, or be changed without thirty (30) days advance written notice to Service Provider. Customer warrants that it will secure the above minimum amounts of insurance from any transportation of the Acceptable Waste to the Facility.

15. **Failure to Perform.** Neither party hereto shall be liable for its failure to perform hereunder due to circumstances not its fault and beyond its reasonable control, including, but not limited to, strikes or other labor disputes, riots, protests, civil disturbances or sabotage, changes in law, fires, floods, compliance with government requests, explosions, accidents, weather, lack of required natural resources, or acts of God affecting either party hereto. In the event of any of the circumstances provided for in the preceding sentence, including, but not limited to, whether any federal, state or local court or governmental authority takes any action which would (i) close or restrict operations at the Facility, (ii) limit the quantity or prohibit the disposal of Waste at the Facility, or (iii) limit the ability of or prohibit Customer from delivering Waste to the Facility, Service Provider shall have the right, at its option, to reduce, suspend or terminate Customer's access to the Facility immediately, without prior notice and without any additional liabilities between the parties, other than Customer's payment obligation hereunder. Neither Party is required hereunder to settle any labor dispute against its own best judgment.

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

- (i) A petition for reorganization or bankruptcy filed by or against Customer.
- (ii) Failure by Customer to pay any amounts due to Service Provider.
- (iii) Any breach by Customer of any of its obligations pursuant to the Agreement.

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

17. **Assignment.** Customer may not assign, transfer or otherwise vest in any other Service Provider, entity or person, in whole or in part, any of its rights or obligations under the Agreement without the prior written consent of Service Provider, provided, however, that Service Provider may without any such prior written consent, assign its rights and/or obligations under the Agreement to a subsidiary or affiliate corporation.

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

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

20. **Notices.** All notices herein provided for shall be considered as having been given upon being placed in the mail, certified postage prepaid addressed to Service Provider or Customer at the address herein set forth in this Agreement or to such other address as may be given to the other party in writing.

21. **Liquidated Damages.** In the event that this Agreement is terminated by Customer in a manner not in accordance with Section 4 hereof, or terminated due to a breach of this Agreement by Customer, Customer shall pay, as liquidated damages, and not as a penalty, the greater of an amount equal to six (6) months' service charges or Customer's most recent monthly charge multiplied by six (6). Customer shall be given credit for any advance payments made hereunder, however, in computing the amount owed as liquidated damages hereunder. Customer acknowledges that this liquidated damages clause is reasonable and is applicable to recover damages related to its investment in equipment, development of Service Providers and hiring of employees undertaken by Service Provider to service its customers, including Customer. This liquidated damages clause in no way relieves Customer from its obligations and liability for other cost or damages as set forth elsewhere in this Agreement.

22. Miscellaneous

- (i) This Agreement shall be governed by the laws of the State in which the Facility is located.
- (ii) No waiver of a breach of any of the obligations contained in the Agreement shall be construed to be a waiver of any prior or succeeding breach of the same obligation or of any other obligation of this Agreement.
- (iii) No modification, release, discharge or waiver of any provision or obligation hereof shall be of any force, or effect, unless in writing signed by all parties to this Agreement.
- (iv) Customer shall treat as confidential and not disclose to others during or subsequent to the terms of this Agreement, except as is necessary to perform this Agreement, or to comply with any applicable law or regulation any information (including any technical information, experience or data) regarding Service Provider's plans, programs, plants, processes, products, costs, equipment or operations which may come within the knowledge of Customer or its employees in the performance of this Agreement, without in each instance securing the prior written consent of Service Provider.
- (v) If any term, phrase, obligation or provision of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall remain in effect and be construed without regard to such term, phrase, obligation or provision.
- (vi) This Agreement constitutes the entire understanding between the parties, replacing and amending any prior agreements between the parties, and shall be binding upon all parties hereto, their successors, heirs, representatives and assigns. Any provision, term or condition in any acknowledgement, purchase order or other response by Customer which is in addition to or different from the provisions of this Agreement shall be deemed objected to by Service Provider and shall be of no effect.
- (vii) Customer represents, warrants and covenants that it is and, during the term of this Agreement will remain, in compliance with and will perform its obligations pursuant to all applicable laws and regulations and shall indemnify, defend and hold harmless Service Provider from any breach thereof.
- (viii) It is the understanding and agreement of the parties that Service Provider is an independent contractor, and is not an agent, nor an authorized representative of Customer.

CUSTOMER: X _____

SERVICE PROVIDER: X _____

**CLACKAMAS COUNTY
GOVERNMENTAL CONTRACTING ADDENDUM
Contract #8450**

This Oregon Governmental Contracting Addendum ("Addendum") is entered into by **Water Environment Services**, a political subdivision of the State of Oregon ("District"), and **Wasco County Landfill, Inc.** ("Contractor"). This Addendum shall be attached to, and incorporated into, the Special Waste Disposal Agreement ("Contractor Agreement"). As used below, "Contract" means this Addendum and the Contractor Agreement. To the extent there is any conflict between the Addendum and the Contractor Agreement, the terms of this Addendum shall control.

- A. Term.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on **June 30, 2026**.
- B. District Contract Administrator.** The District Contract Administrator for this Contract is **Terrance Romaine**.
- C. Compensation.** The services under this Contract are not exclusive and are on an "as needed" basis. The District agrees to pay Contractor, from available and authorized funds, a sum not to exceed One Million Two Hundred Thousand Dollars (**\$1,200,000.00**) for services rendered in accordance with the Contract.
- D. Invoices and Payments.** Invoices shall be submitted to: TRomaine@clackamas.us

Payment and late fees shall only be in accordance with ORS 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor.

- E. Insurance.** Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. Contractor shall provide proof of said insurance and name the District and Clackamas County as additional insureds on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or procurement@clackamas.us.

Required - Workers Compensation: Contractor shall comply with the workers' compensation requirements in ORS 656.017, unless exempt under ORS 656.126.

<input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
--

<input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

The insurance described in this section shall not be cancelled or materially changed without Contractor providing at least sixty (60) days written notice to the District. This policy(s) shall be primary insurance as respects to the District. Any insurance or self-insurance maintained by the District shall be excess and shall not contribute to it. Any obligation that the District agree to a waiver of subrogation is hereby stricken.

- F. Debt Limitation.** The Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed inoperative to that extent.
- G. Public Contracting Requirements.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
1. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 2. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.

3. Not permit any lien or claim to be filed or prosecuted against the District on account of any labor or material furnished.
4. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
5. As applicable, Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling District to terminate this Contract for cause.

H. Governing Law; Venue. This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between District and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

I. Termination. This Contract may be terminated by mutual agreement of the parties or by the District for one of the following reasons: (i) for convenience upon thirty (30) days written notice to Contractor and, upon receipt of the written notice, Contractor shall stop performance, and District shall pay Contractor for the goods or services delivered and accepted; (ii) at any time the District fails to receive funding, appropriations, or other expenditure authority as solely determined by the District; (iii) if Contractor breaches any Contract provision or is declared insolvent, District may terminate after thirty (30) days written notice with an opportunity to cure.

J. Compliance. Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract.

K. Tax Compliance. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle District to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

L. Indemnification. Contractor agrees to indemnify, hold harmless and defend the District, its officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of Contractor or Contractor's employees or agents. Any obligation of the District to indemnify, hold harmless and defend Contractor, its officers, elected officials, agents and employees, or any other indemnitee, shall only be to the extent provided by Article XI, Section 10 of the Oregon Constitution and the Oregon Tort Claims Act (ORS 30.260 through 30.300) from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based on damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the District or the District's employee or agents.

M. Dispute Resolution. No attorney fees shall be paid for or awarded to either party in the course of any dispute, indemnification, or other recovery arising from this Contract. It is the intent of the parties that each shall bear the costs of its own legal counsel. Any requirements contained in this Contract waiving a right to a jury trial or requiring binding arbitration are void.

N. Records. Contractor shall maintain all accounting records relating to this Contract according to GAAP and any other records relating to Contractor's performance ("Records") for six (6) years from termination or as otherwise required. Contractor shall grant District, the federal government, and their duly authorized representatives access to the Records, including reviewing, auditing, copying, and making transcripts. Any documents that are requested to be maintained as confidential by either party shall only be maintained as confidential to the extent permitted by the Oregon Public Records Law ORS 192.

- O. Subcontractors.** Contractor shall ensure that its subcontractors, if any, comply with the requirements of this Addendum.
- P. Counterparts.** This Addendum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- Q. Waiver.** The failure of District to enforce any provision of this Contract shall not constitute a waiver by District of that or any other provision.

By their signatures below, the parties to this Addendum agree to the terms, conditions, and content expressed herein.

Wasco County Landfill, Inc.

Water Environment Services

[Signature]
Authorized Signature

8-24-23
Date

Chair

Debra Jones Business Dev. manager
Name/Title (Printed)

Date

Approved as to Form:

[Signature]
Counsel

8/28/23
Date