

# **AGREEMENT**

BETWEEN

**CITY OF WILDOMAR**

AND

**CR&R INCORPORATED**

FOR

**THE COLLECTION AND TRANSPORTATION OF SOLID WASTE,  
RECYCLABLE MATERIALS, ORGANIC WASTE, AND  
CONSTRUCTION AND DEMOLITION DEBRIS (COLLECTION  
SERVICES) AND OTHER SPECIFIED SERVICES**

**DATED: OCTOBER 26, 2022**

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## **AGREEMENT**

This Agreement ("Agreement") is entered into as of October 26, 2022 by and between the City of Wildomar, a municipal corporation and general law city ("City") and CR&R Incorporated, a California corporation ("Contractor") (collectively, the "Parties") to provide an exclusive franchise for the Collection and Transportation of Solid Waste, Recyclable Materials, Organic Waste and Construction and Demolition Debris and other specified services within the City.

### **R E C I T A L S:**

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to Public Resources Code section 40059(a)(1), the City Council of the City has determined that the public health, safety, and welfare require that an exclusive franchise agreement be awarded to a qualified Solid Waste enterprise for Solid Waste Handling Services within the City Limits.

C. City and Contractor are mindful of the provisions of the laws governing the safe Collection, transport, recycling, and disposal of Solid Waste, including AB 939, AB 341, AB 1826, AB 1594, SB 1383, the Resource Conservation and Recovery Act ("RCRA"), and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). City and Contractor desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement, City is not thereby becoming an "arranger" or a "generator" as those terms are used in CERCLA, and that it is Contractor, not City, who is "arranging for" the Collection, transport for disposal, composting, and recycling of municipal Solid Waste in the City which may contain Hazardous Substances. City and Contractor understand and agree that it is Contractor, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Contractor on its Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Contractor, and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement City and Contractor further desire to confirm that Contractor has agreed to indemnify the City in connection with any claims relating to the inadvertent or intentional Collection, transportation and/or disposal of hazardous materials that may occur in connection with Contractor's performance under this Agreement.

E. Contractor has agreed, as part of this Agreement, and for the necessary consideration as shall be adjusted from time to time, to provide such services as are necessary or desirable to ensure City complies with the requirements of AB 939, AB 341, AB 1826, SB 1383 and Public Resources Code section 40000 et seq.

F. Contractor and City previously entered into that agreement for the Collection and Transportation of Solid Waste and Other Specified Services dated June 10, 2009 inclusive of five

(5) amendments, under which Contractor provided Solid Waste Handling Services, as that term is defined in Section 2 below, in a portion of the City's jurisdiction ("Prior CR&R Agreement"). Additionally, City and USA Waste of California Inc., now known as Waste Management Collection and Recycling Inc., ("Waste Management") previously entered into that agreement for the Collection and Transportation of Solid Waste and Other Specified Services dated June 10, 2009, inclusive of five (5) amendments, under which Waste Management provided Solid Waste Handling Services in a different portion of the City's jurisdiction ("Prior Waste Management Agreement"). Contractor and Waste Management have entered into that Asset Purchase Agreement dated September 29, 2022 by which Contractor will purchase and assume all of the rights and responsibilities of Waste Management under the Prior Waste Management Agreement concurrent with the Effective Date, as defined in Section 2, of this Agreement. The intent of the Parties is that on the Effective Date of this Agreement, Contractor will become the exclusive provider of Solid Waste Handling Services within the existing and future jurisdictional boundaries of the City for the duration of the Term of this Agreement.

2022-53

G. By Resolution No. \_\_\_, the City Council of City duly approved this Agreement, together with the Franchise Fee, Contractor payments to City, and other City-imposed fees provided for in the Agreement (collectively "City Imposed Fees"), and found and determined that such City Imposed Fees were both necessary and reasonably reflect, or are less than, the actual costs City that will incur in the administration of the contracted services, compliance with mandatory state laws and regulations related to the contracted services, and to mitigate the of impacts provision of the contracted services will have on City streets, Support for these findings is provided in both Resolution No. \_\_\_ and the accompanying staff report dated 10/26/2022.

2022-53

#### **C O V E N A N T S:**

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, City and Contractor hereby agree as follows:

#### **SECTION 1.**

#### **RECITALS & DISPOSITION OF PRIOR AGREEMENTS**

1.1 The Parties acknowledge the above recitals are true and correct and incorporate them herein as if they were fully restated.

1.2 City hereby authorizes and approves of Waste Management's sale of its rights and responsibilities under the Prior Waste Management Agreement to Contractor concurrent with the Effective Date of this Agreement. By letter dated October 5, 2022, Waste Management has represented to the City that it has duly approved and executed the Purchase Agreement with Contractor and has no opposition to the City entering into this Agreement with Contractor.

1.3 On the Effective Date, the Prior Waste Management Agreement shall be superseded and replaced in its entirety by this Agreement and any future rights and responsibilities of Waste Management thereunder shall inure to Contractor. Any continuing responsibilities owed by Waste Management to City under the Existing Waste Management Agreement shall survive and be

assumed by and become obligations of Contractor and be fully enforceable by City under this Agreement.

1.4 On the Effective date, the Prior CR&R Agreement shall be superseded and replaced in its entirety by this Agreement except that any continuing responsibilities owed by CR&R to City thereunder shall survive and become obligations of CR&R and be fully enforceable by City under this Agreement.

## **SECTION 2. DEFINITIONS**

Whenever any term used in this Agreement has been defined by the California Public Resources Code, the definition of such term set forth therein shall apply unless the term is otherwise defined in this Agreement.

### **2.1 AB 341**

“AB 341” shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011).

### **2.2 AB 939**

“AB 939” shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code section 40000 et seq., as it may be amended from time to time.

### **2.3 AB 1594**

“AB 1594” shall mean Assembly Bill No. 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014).

### **2.4 AB 1826**

“AB 1826” shall mean Assembly Bill No. 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

### **2.5 Affiliate**

“Affiliate” shall mean a business in which Contractor owns a direct or indirect ownership interest, a business (including corporations, limited and general partnerships and sole proprietorships) which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) “ten percent (10%)” shall be substituted for “fifty percent (50%)” in section 318(a)(2)(C) and in section 318(a)(3)(C) thereof, and (ii) section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership

under section 318(a), ownership interest of less than ten percent (10%) shall be disregarded, and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

## 2.6 Animal Waste

“Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

## 2.7 Applicable Law

“Applicable Law” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation, to the City’s Municipal Code, the California Integrated Waste Management Act of 1989 (Public Resources Code section 40000 et seq.), as amended as of the Effective Date, inclusive (without exclusion to other amendments not referenced here) of AB 939, AB 341, AB 1826, AB 1594, SB 1383, and inclusive of all regulations implementing same adopted as of the Effective Date.

## 2.8 Billings

“Billings” or “Billing” or “Bill” shall mean the statements of charges provided to Customers for services rendered by Contractor pursuant to the terms of this Agreement.

## 2.9 Bins

“Bins” shall mean a metal or plastic Container, including dumpsters, compactors, and any similar such devices with a capacity of under ten (10) cubic yards.

## 2.10 Bulky Items

“Bulky Items” shall mean Solid Waste that cannot and/or would not typically be accommodated within a Cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators with and without Freon, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as “white goods”); residential wastes (including wood waste, tree branches, scrap wood, in the aggregate not exceeding one cubic yard per Collection); and clothing. For purposes of this Agreement, and notwithstanding any provision hereof to the contrary, Bulky Items shall specifically include items commonly known in the waste industry as “brown goods” and “e-waste”. Bulky Items do not include Special Wastes, car bodies, car parts, tires, Construction and Demolition Debris or (with the exception of appliances/white goods described above) items that cannot reasonably be moved with equipment of the type which, pursuant to industry standards, would normally be carried in a truck Collecting Bulky Items. In the event a question arises as to whether a specific item, or category of items, meets the definition of Bulky Items, the City Manager shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

2.11 Cart

“Cart” shall mean a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated process, as opposed to a manual process of lifting and dumping.

2.12 City

“City” shall mean the City of Wildomar, a municipal corporation, located in Riverside County, California.

2.13 City Council

“City Council” shall mean the City Council of City.

2.14 City Limits

“City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Wildomar, and which are from time to time amended to reflect changes.

2.15 City Manager

“City Manager” shall mean the City Manager of the City of Wildomar or his or her designee.

2.16 Collect/Collection

“Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.17 Commercial Premises

“Commercial Premises” shall mean Premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding Residential Premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, in the Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which hotels and motels are operated and upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises; and Premises upon which mobile home parks exist shall be deemed to be Residential Premises and can be serviced with residential Carts or commercial Bins.

2.18 Construction and Demolition Debris

“Construction and Demolition Debris” shall mean used or discarded materials resulting from construction, remodeling, repair, or demolition operations for any type of structure.

2.19 Container

“Container” shall mean any and all types of Solid Waste receptacles, including Carts, Bins, and Roll off Boxes.

2.20 Contractor

“Contractor” shall mean CR&R Incorporated, the entity granting the franchise pursuant to this Agreement, or any party permitted, pursuant to the terms hereof, to become the successor or assignee thereof.

2.21 Customer

“Customer” or “Customers” shall mean any person receiving Solid Waste Handling services from Contractor within the Franchise Area.

2.22 Day

“Day” or “Days” shall mean calendar days unless otherwise specified.

2.23 Dwelling Unit

“Dwelling Unit” shall mean one or more rooms designed for occupancy by one person, group or family for living and sleeping purposes and containing kitchen facilities or an area designed for the preparation of food for use solely by that person, group or family.

2.24 Effective Date

“Effective Date” shall mean December 1, 2022.

2.25 Electronic Waste (E-Waste)

“Electronic Waste” or “E-Waste” shall mean discarded electronics equipment such as cell phones, computers, monitors, televisions, and other items containing cathode-ray tubes.

2.26 Environmental Laws

“Environmental Laws” shall mean all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et

seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

#### 2.27 Food Waste

“Food Waste” shall mean those discarded materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; (iv) vegetable trimmings, houseplant trimmings, food-soiled paper, and other compostable organic waste common to the occupancy of Residential Premises or Commercial Premises. Food Waste is a subset of Organic Waste.

#### 2.28 Franchise Area

“Franchise Area” shall mean all Premises within the City Limits, including Premises which may be annexed and thereby added to the City Limits following the Effective Date.

#### 2.29 Franchise Fee

“Franchise Fee” shall mean the franchise fee set forth and more fully defined in Section 11.5 (Franchise Fee) hereof.

#### 2.30 Green Waste

“Green Waste” shall mean tree trimmings, grass cuttings, dead plants, leaves, branches and dead trees (not more than six (6) inches in diameter or 48 inches in length) and similar organic materials.

#### 2.31 Gross Receipts

“Gross Receipts” shall mean and include all monies, fees, charges, consideration, and revenue received by Contractor in connection with, arising from, or in any way attributable to the Solid Waste Handling Services carried out by or on behalf of Contractor pursuant to this Agreement. Gross Receipts does not include; (a) the AB 939 Support Fee or the Street Sweeping Fee imposed on Customers by City which are billed, collected and remitted by Contractor to City; (b) revenue from the sale of Recyclable Material, Green Waste, Food Waste, and other material which is diverted from disposal; or (c) the receipt of governmental funding.

#### 2.32 Hazardous Substance

“Hazardous Substance” shall mean wastes other than Solid Waste that are any of the following: (a) any substances defined, regulated or listed (directly or by reference) as “Hazardous Substances,” “hazardous materials,” “Hazardous Wastes,” “toxic waste,” “pollutant” or “toxic substances” or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; (ii) the Hazardous Materials Transportation Act, 49 USC §5101 et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and



25316; (vi) the Clean Air Act, 42 USC §7401 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local laws or regulations, including any of the Environmental Laws, currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

### 2.33 Hazardous Waste

"Hazardous Waste" shall mean all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

### 2.34 Household Hazardous Waste

"Household Hazardous Waste" shall mean any Hazardous Waste generated by a Single Family or Multi-Family Dwelling, including but not limited to: automobile maintenance and repair products (e.g., motor oil, oil filters, antifreeze, brake fluid, etc.); lawn and garden chemicals (e.g., pesticides, herbicides, fungicides, etc.); cleaning products (e.g., bathroom cleaners, drain cleaners, chlorine bleach, solvents, oven cleaners, etc.); and home improvement supplies (e.g., stains, paints, varnish, paint thinners, chemical strippers, glue, pool chemicals, etc.). Household Hazardous Waste does not include any waste generated from a business operating out of a Single Family or Multi-Family Dwelling (whether or not permitted at that Premises) or waste otherwise generated from operating a business.

### 2.35 Household Sharps Waste

"Household Sharps Waste" shall mean home generated sharps waste as defined in Health and Safety Code §117671 and includes hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, which are generated from a Customer at Single Family or Multi-Family Dwelling.

### 2.36 Multi-Family Dwelling

"Multi-Family Dwelling" shall mean any building or lot containing more than one Dwelling Unit at which Contractor determines (and City agrees) the Dwelling Units must receive Solid Waste Collection services through the use of shared Bins, since they are not reasonably able to store Carts or otherwise receive individualized Solid Waste Collection service through the use of the automated Collection system utilizing Carts contemplated by this Agreement for Single Family Dwellings. Unless otherwise determined as set forth above, any Premises upon which four (4) or more Dwelling Units exists shall be deemed to be a Multi-Family Dwelling excluding mobile home parks. Any ambiguity as to whether a Customer's Premises qualifies for purposes of this

Agreement as a Single-Family Dwelling or Multi-Family Dwelling shall be resolved by the City Manager whose decision shall be final.

2.37 Municipal Code

“Municipal Code” shall mean City’s Municipal Code.

2.38 Organic Waste

“Organic Waste” shall mean Green Waste and Food Waste.

2.39 Person

“Person” shall mean any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Riverside, towns, cities, and special purpose districts.

2.40 Premises

“Premises” shall mean any land, building, and/or structure within the City Limits where Solid Waste is generated or accumulated.

2.41 Public Roads

“Public Roads” shall mean those public road rights-of-way within the City which have been offered to and accepted by the City, as of the Effective Date of this Agreement or subsequent thereto during the Term of this Agreement, into the City system of streets whether or not accepted for maintenance, roads internal to public parks and other facilities, any existing County roads within City that were not previously accepted by City but which are open, assessable to, and used by the public as public roads, and private roads existing within a mobile home park or common interest development which are accessible to Contractor and suitable for the service of Customers.

2.42 Recyclable Material

“Recyclable Material” or “Recyclables” shall mean those materials which are capable of being recycled, reprocessed, transformed and reused and which would otherwise be processed or disposed of as Refuse. These materials will include, but not be limited to those defined by the City for the purpose of placement by generators in proper receptacles and Collection by Contractor and may be modified from time to time when requested by Contractor and approved by City. Recyclable Materials currently being collected as of the execution of this Agreement include: newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); steel including “tin” cans and small scrap (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; mixed plastics such as plastic containers (1-7), and bottles including containers made of HDPE, LDPE, PET, or PVC; that are California Redemption Value (CRV) labeled.

#### 2.43 Refuse

“Refuse” shall mean all putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191 and attributed to normal activities of a Service Unit. Refuse must be generated by and at the Service Unit wherein the Refuse is Collected. Refuse does not include those items defined as Exempt Waste.

#### 2.44 Residential Premises

“Residential Premises” shall mean all premises upon which Dwelling Units exist. Notwithstanding any provision to the contrary herein, in the Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which hotels and motels are operated or upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises; and Premises upon which mobile home parks exist shall be deemed to be Residential Premises and can be serviced with residential Carts or commercial Bins.

#### 2.45 Roll off Box

“Roll off Box” shall mean Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

#### 2.46 SB 1383

“SB 1383” shall mean Assembly Bill No. 1383 from the 2015-2016 Regular Session of the California Legislature (Chapter 395, Statutes 2016).

#### 2.47 Single Family Dwelling

“Single Family Dwelling” shall mean a building or lot containing one Dwelling Unit, and, for purposes of this Agreement, includes buildings and lots with more than one Dwelling Unit where such Dwelling Units are determined by the City to be reasonably able to receive individualized Solid Waste Collection service by the automated process utilizing Carts contemplated herein. Any ambiguity as to whether a Customer’s Premises qualifies as a Single-Family Dwelling or Multi-Family Dwelling shall be resolved by the City Manager whose decision shall be final.

#### 2.48 Solid Waste

“Solid Waste” shall mean and include all discarded putrescible and nonputrescible solid, semisolid, and liquid wastes, including Refuse, Recyclable Materials, Organic Waste, Construction and Demolition Debris, industrial waste, Bulky Items, and any other discarded solid, semisolid, and liquid waste permitted to be processed at a processing facility or disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in the California Code of Regulations, as it may be amended from time to time. Solid Waste does not include hazardous (Class I) waste, low-level radioactive waste, untreated medical waste, or Special Wastes as defined herein.

#### 2.49 Solid Waste Handling Services

“Solid Waste Handling Services” shall mean the Collection, transfer, transport, recycling, processing, and disposal of Solid Waste for Premises within the City.

#### 2.50 Special Wastes

“Special Wastes” shall mean wastes other than Solid Waste including sewage, sludge, industrial sludge, asbestos, auto bodies or parts, tires, used motor oil, Hazardous Waste, Household Hazardous Waste, Universal Waste, Animal Waste, explosive substances, radioactive materials, and other materials which may not be disposed of at a Class III landfill or which require special handling.

#### 2.51 Stable Matter

“Stable Matter” shall mean” manure as defined in section 8.72.020 of City’s Municipal Code and also includes stable bedding materials, such as straw, hemp, wood shavings, shredded paper, or other organic material suitable for use at animal stables.

#### 2.52 Temporary Service

“Temporary Service” shall mean Solid Waste Handling Services provided by Contractor on an as-needed and temporary basis to any Premises within the City in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Roll off Boxes.

#### 2.53 Term

“Term” shall have the meaning ascribed in Section 6 (Term and Extensions) of this Agreement.

#### 2.54 Transformation

“Transformation” shall mean incineration, pyrolysis, distillation, gasification, or biological conversion other than composting. “Transformation” does not include composting.

#### 2.55 Universal Waste

“Universal Waste” shall mean wastes other than Solid Waste that are those Hazardous Wastes identified as universal waste in section 66261.9 of Title 22 of the California Code of Regulations, including, but not limited to: florescent bulbs and tubes; household batteries (e.g., D, AA, button-type, etc.); non-empty aerosol cans; electronic devices (e.g., televisions, computer monitors, cell phones, radios, video cassette recorders, etc.); and mercury containing devices (e.g., thermometers, thermostats, gauges, etc.), and generated by Single or Multi-Family Dwellings. Universal Waste does not include waste generated in the course of operating a business at a Single or Multi-Family Dwelling or waste otherwise generated from operating a business.

### **SECTION 3. GRANT OF EXCLUSIVE FRANCHISE**

#### **3.1 Scope of Franchise**

Except as hereinafter expressly set forth, City hereby grants to Contractor and Contractor hereby accepts from City, for the Term hereof, the exclusive contract, right, and privilege to Collect, transport, and dispose of all Solid Waste generated or accumulated within the Franchise Area. The exclusive franchise, right and privilege to provide Solid Waste Handling Services within City granted to Contractor by this Agreement shall be interpreted to be consistent with all applicable state and federal laws, now in effect and adopted during the Term of this Agreement, and the scope of this Agreement shall be limited by all applicable current and developing laws and regulations. In the event that future interpretations of current law or future enactments limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof.

#### **3.2 Matters Excluded from Scope of Franchise**

Notwithstanding any other provisions set forth in this Agreement to the contrary, the exclusive franchise granted herein shall exclude the Collection, transportation, processing, recycling, and/or disposal of:

(A) any Solid Waste otherwise within the scope of this Agreement which is transported by a Self-Hauler as that term is used in the Municipal Code, or any other City ordinance, resolution, regulation or policy, as such may be adopted or amended from time to time;

(B) the sale or donation of source separated Recyclable Material sold or donated by the person or entity that generated such Recyclable Material (the "Generator") to any Person or entity other than Contractor; provided, however, to the extent permitted by law, if the Generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer, or processing of Recyclable Material to any Person or entity other than Contractor, the fact that the Generator receives a reduction or discount in price (or in other terms of the consideration the Generator is required to pay) shall not be considered a sale or donation;

(C) any Solid Waste otherwise within the scope of this Agreement which is Collected or transported to a disposal or recycling facility by City employees in the course and scope of their employment with City;

(D) the Collection, transportation, or disposal of Hazardous Waste; Universal Waste; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease and similar waste; or other materials which do not constitute Solid Waste;

(E) the Collection, transportation, and processing of Construction and Demolition Debris by a contractor, handyman, repairman, or other similar service provider, using its own equipment, as an incidental part of the services provided to its customers, rather than as a hauling service, provided that such waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials;

(F) the Collection, transportation, and processing of Green Waste and related Solid Waste by a gardener, or landscaper, as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service provided that such Solid Waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials;

(G) the Collection, transportation, and processing of Stable Matter by an owner of the property or by owner through the hiring of a third party hired for the primary purpose of Collecting, transporting, and processing of said materials. To the extent Contractor is engaged in Collecting, transporting, and processing of Stable Matter within City the activity is limited to Stable Matter from City and for transportation and processing outside of the City and not for the purpose of disposal or application onto property within City. Therefore, Contractors services in this require are not prohibited or regulated under Chapter 8.72 of the Municipal Code;

(H) Solid Waste Handling Services provided by any Person having a legal right to continue doing so, pursuant to Public Resources Code section 49520, et seq., or otherwise, as long as and to the extent such legal right continues to exist; except that to the degree any territory in which Contractor has a franchise granted by another governmental entity is annexed into City during the Term, Contractor agrees the provisions of this Agreement shall apply to such territory and further acknowledges that this Agreement constitutes any notice required by the Public Resources Code in connection therewith.

(I) the Collection, transportation, and distribution of edible food recovered for human consumption prior to disposal; or

(J) the Collection, transportation, and processing of dirt, soil, sand, rock and similar material.

#### **SECTION 4. ENFORCEMENT OF EXCLUSIVITY**

The City shall adopt such ordinances or other regulations as it deems to be necessary or desirable to protect the exclusive rights granted herein. The City shall reasonably cooperate with the Contractor in its efforts to enforce the exclusivity hereof. City shall have the right, but not the obligation, to enforce the exclusivity hereof. Should the City wish to take administrative, law enforcement, or other legal action against any Person that infringes on the Contractor's exclusive rights, the Contractor shall reimburse the City for its reasonable administrative, law enforcement, or other legal costs related to any such action. Nothing herein shall preclude Contractor from taking such legal action against third parties as it deems appropriate to protect the exclusive nature of its Franchise rights under this Agreement.

## SECTION 5. ACCEPTANCE; WAIVER

Contractor agrees to be bound by and comply with all the requirements of this Agreement. Contractor waives Contractor's right to change the terms of this Agreement under federal, state, or local law, or administrative regulation. Contractor waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under section 49520 of the Public Resources Code. Additionally, by and upon the effectiveness of this Agreement, Contractor agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder, excepting, however, the right to compensation for services provided at the rates approved by City as of the Effective Date and the right to be credited for services already provided (such as situations where the maximum calls for Bulky Item services have been reached by a Customer; provided, however, nothing contained in this provision is intended to or shall relieve Contractor from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and Applicable Law shall survive the termination of the Prior Agreement.

## SECTION 6. TERM AND EXTENSION

### 6.1 Term

The term of this Agreement (the "Term") shall be for the period of twenty (20) years commencing on **December 1, 2022**, and ending at 11:59 pm on **November 30, 2042**, unless this Agreement is terminated sooner pursuant to Section 18 (City's Remedies; Default and Termination) hereof or extended by City provided below.

### 6.2 Option to Extend Term

Contractor shall provide City with a Notice of Expiration of Term, three (3) years prior to the expiration of the Term. During the first of the three (3) years, provided that Contractor is not then in material breach of the Agreement, City and Contractor shall meet and confer in good faith regarding extension or expiration of the Term, there being no obligation on either Party to extend the Term. If Contractor is in material breach of the Agreement, or City and Contractor have not approved an amendment to the Agreement extending the Term by the end of that first calendar year, then City may decide, in its sole discretion, to solicit proposals from one or more Persons, which may include Contractor, for a new franchise agreement. In the event City has been reasonably unable to complete its solicitation process and to secure an agreement approved by City by the end of the third year, City shall have the right, upon sixty (60) days prior written notice to Contractor, to unilaterally extend the Term of the Agreement for a period not to exceed (1) year to complete negotiation of a new franchise agreement. If City exercises its right to extend the Term

for one (1) additional year, then such extension shall be upon the terms and conditions then prevailing between the Parties under the Agreement.

## **SECTION 7. CONDITIONS TO EFFECTIVENESS OF AGREEMENT**

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein:

### **7.1 Accuracy of Representation**

All representations and warranties made by Contractor and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

### **7.2 Absence of Litigation or Referendum Petition**

There shall be no litigation pending in any court challenging the award of this exclusive franchise for Solid Waste Handling Services to Contractor or the execution of this Agreement or seeking to restrain or enjoin its performance.

### **7.3 Furnishing of Insurance, Bond, and Letter of Credit**

Contractor shall have furnished evidence of the insurance and Surety required by Sections 14 (Faithful Performance) and 15 (Insurance Coverage) hereof, and shall comply with all ongoing requirements relating thereto.

### **7.4 Effectiveness of City Council Action**

The City Council's Resolution approving this Agreement shall have become effective pursuant to California law.

### **7.5 Payments Due between Parties under Prior Agreement**

Contractor shall pay City any monies as may be owing to City from time to time (e.g. franchise fee, collected City fees) under the Existing CR&R Agreement.

City shall remit to Contractor any delinquent Residential rates that were duly placed on the tax roll for collection as required under the Existing CR&R Agreement that are collected from time to time by City.



**SECTION 8.  
SOLID WASTE HANDLING SERVICES  
PROVIDED BY CONTRACTOR**

**8.1 General**

**8.1.1 Equipment**

Contractor shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide for all services required by the terms of this Agreement.

**8.1.2 Performance Standards**

Contractor shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and all relevant provisions of Applicable Law.

**8.1.3 Noise and Disruption**

Contractor shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Contractor shall use its best efforts to coordinate its Collection schedules such that street sweeping on any given street shall occur the business day following Collection of Solid Waste by Contractor.

**8.1.4 Collection Times**

Contractor shall not commence Collection of Solid Waste for Customers at Commercial Premises (excepting Multi-Family Dwellings) until 5:00 a.m. and for Customers at Residential Premises and at Multi-Family Dwellings until 6:30 a.m., nor shall such activities occur after 7:00 p.m. for all Customers. The City Manager may require Contractor to comply with time frames applicable to Residential Premises in connection with Collection of Solid Waste for Customers at Commercial Premises whose Premises are in close proximity to Residential Premises. Solid Waste Collection at Single Family Dwellings shall not occur on Saturdays, excepting Temporary Services, unexpected service interruptions, and Collection occurring on Saturdays following such holidays as may be approved by the City Manager. Except as noted herein, no Solid Waste Collection shall occur on Sundays at Single Family Dwellings, or on Sundays at Multi-Family Dwellings or Commercial Premises, except in exceptional circumstances for which specific approval is given by the City Manager.

**8.1.5 Collection Schedule**

Contractor shall establish Collection routes and a Collection schedule which shall be approved by the City Manager such that Customers at all Residential and Commercial Premises within the City will have not less than one established Collection day each week. Contractor shall provide notice to each Customer of its established Collection day(s), and shall provide at least one week's notice to Customers of any change in their established Collection day(s). Notwithstanding any provision herein to the contrary, should any established Collection day fall on a legal holiday,

or on any other holiday which is observed by either a landfill or other lawful disposal or diversion site to which Solid Waste is taken for disposal or diversion, Contractor shall provide for Collection one (1) day later during the pick-up week, and the regular Collection schedule shall be resumed the following week. A pick-up week shall be defined as Monday through Saturday. Contractor may not change its established Collection schedules without obtaining the prior written consent of the City Manager. Contractor may charge Customers for emergency Collection services, where the emergency Collection is not required as a result of a missed pickup as set forth in Section 8.1.9 (Missed Pick-ups), at rates which do not exceed the maximum rates set forth on Exhibit A.

#### 8.1.6 Commingling of Routes

Contractor shall not, during its Collection process, commingle Solid Waste Collected hereunder with Solid Waste Collected in any other City, or on behalf of any other entity operating or existing within City that is not subject to this Agreement, and is specifically prohibited from combining Collection routes related to services provided pursuant to this Agreement with Collection routes for other jurisdictions it may service. Notwithstanding the foregoing, source separated Recyclable Materials Collected by Contractor may be commingled with such materials Collected in other jurisdictions provided Contractor maintains a method of allocating tonnage between jurisdictions that is satisfactory to the City Manager.

#### 8.1.7 Placement of Containers

Contractor shall, whenever possible, place Carts in the street gutter, adjacent to the curb, upon completing Collection. Contractor shall place all Bins in the location upon the property of each Customer utilizing Bins designated for storage of Bins, and shall secure gates, doors, and/or enclosures when applicable.

#### 8.1.8 Contractor's Containers

(A) Contractor's Containers shall meet the minimum standards set forth on the attached Exhibit I.

(B) Contractor shall provide two (2) sizes of Carts (small and large) having capacities of approximately 64-gallon and 96-gallon. Notwithstanding the foregoing, the Parties recognize that different vendors provide Carts of slightly different dimensions, and hence the capacity of each of the two Cart sizes Contractor is to provide (i.e., small and large) may vary slightly, but in no case by more than 10% of the capacities noted above.

(C) Contractor shall be responsible to provide Carts in colors and labeling that meet Applicable Law, and Contractor shall not receive additional compensation for providing Carts that comply with Applicable Law.

(D) Contractor shall, upon request by Customer, be responsible to replace damaged Containers when necessary due to cracks causing leakage or spills, nonfunctional or absence of lids, broken container bottoms, broken wheels and similar issues.

(E) Contractor shall deliver Residential Carts to each Customer at no additional charge.

(F) All Carts shall be maintained by Contractor in a watertight condition, as shall all Bins which are used primarily for the disposal of Solid Waste containing liquids.

(G) Within seventy-two (72) hours after notification (Sundays and holidays excepted), Contractor shall repair, remove graffiti from, and replace lost, stolen or damaged Carts at no charge to Customers. However, Contractor shall be entitled to charge Customers for the replacement of any Cart that has been damaged by a Customer's neglect or abuse, ordinary wear and tear excepted, with such charges being subject to the City Manager's approval and at a fee no higher than Contractor's actual cost of repair and replacement. Notwithstanding the above, upon request and up to one time per calendar year, Contractor shall exchange a Customer's Cart for a new or "like new" Cart at no additional charge after the first five (5) years of the delivery of a new or like new Cart.

(H) Contractor shall at Customer's request biannually refurbish, replace, and steam clean as necessary all Bins and Contractor-provided Roll off Boxes at no charge to Customers; provided, however, City may require the steam cleaning or replacement of Bins utilized at restaurants, bars and grocery stores/markets more frequently if it determines such action is needed to protect public health and safety. Additional steam cleaning shall be provided to any Customers who request it at a charge not to exceed the maximum rate set forth in Exhibit A hereto, or alternatively, Contractor shall provide a replacement Bin or Roll off Box to Customers at no charge. Contractor may charge Customers for damaged Bins at rates that do not exceed the maximum rate set forth in Exhibit A.

(I) All Bins and Roll off Boxes shall be kept freshly painted in a uniform fashion and shall be identified with Contractor's name and phone number in letters not less than three (3) inches high on its exterior so as to be visible when the Container is placed for use.

(J) Contractor shall be responsible to provide Bins and Roll off Boxes in colors and labeling that meet Applicable Law, and Contractor shall not receive additional compensation for providing Bins and Roll off Boxes that comply with Applicable Law.

(K) At a Customer's request, Contractor shall provide Bins with locking lids and locks and may charge rates to Customers for locking Bins which do not exceed the maximum rates set forth on Exhibit A.

#### 8.1.9 Missed Pick-ups

In case of a missed pick-up called in by a Customer, Contractor shall Collect Solid Waste from such Customer no later than the next day of the pick-up week following the date of the call unless the customer did not place their containers out for collection at the required time on one (1) occasion within a twelve (12) month period. Records of the addresses of all missed pick-ups shall be maintained by Contractor, and shall be reported to City upon request. If Contractor demonstrates to the satisfaction of the City Manager a pattern of ongoing late "set-outs" or wrongful Customer notifications by any given Customer, missed pick-ups resulting from late set-outs by that Customer shall not be counted as missed pick-ups in evaluating Contractor's performance hereunder. The Customer service phone system required by Section 10.7.2

(Telephone Customer Service Requirements) hereof is intended, among other things, to serve as a “hotline” for Customers to call in the event Solid Waste placed for Collection is not Collected by Contractor and to facilitate having such Solid Waste Collected as soon as reasonably possible, and in no event later than as required by the provisions hereof.

#### 8.1.10 Record of Non-collection

As more fully set forth herein, Contractor shall Collect all Solid Waste placed for Collection by Customers in Containers, excepting materials that do not meet the definition of Solid Waste (such as hazardous materials). Whenever Contractor determines not to Collect any Solid Waste deposited for Collection, Contractor shall leave a tag at least 2” by 6” in size, indicating the reason for Contractor’s refusal to do so. This information may be either handwritten or left by means of a check system (i.e., checking off boxes on a preprinted form). The tag shall provide Contractor’s business name and its local telephone number and shall be securely fastened to the Container or the article refused. Contractor shall maintain a record of all such taggings at its place of business. Such record shall contain the date of such notice, street address, reason for non-collection, and a summary of any communications between Contractor and the Customer involved. Such notice shall be retained so that it may be inspected by representatives of City upon request.

#### 8.1.11 Recyclables and Organic Waste Contamination

Contractor shall meet its SB 1383 contamination monitoring requirements using route reviews as outlined herein:

(A) Contractor must offer all Customers the correct combination of Cart and Bin sizes and collection frequency that matches their unique service needs (as reasonably determined by Customer and Contractor) to reduce contamination of Recyclable Materials and Organic Waste, and provide service at the least cost to Customer. To support the diversion requirements herein, Contractor is only required to collect and process Recyclable Materials if they have been separated by the Customer from Refuse and Organic Waste, and is only required to collect Organic Waste if it has been separated by the Customer from Refuse and Recyclable Materials.

(B) Contractor shall conduct Route Reviews for prohibited container contaminants in a manner that is deemed safe by the Contractor, that results in all routes being reviewed annually, and is consistent and in accordance with SB 1383 Regulations. Containers may be randomly selected along the route. This Section should not be construed to require that every container on Contractor’s route must be sampled annually. Upon finding Prohibited Container Contaminants in the Container, Contractor may take the following steps:

##### (1) First and Second Occurrence.

For the first and second occurrence within any one Calendar Year of contamination for a particular container (i.e., Recyclable Materials or Organic Waste), Contractor must collect the contaminated container (as Refuse) and must affix a Contamination Violation Notice to the contaminated container which contains instructions on the proper

procedures for sorting Recyclable Materials or Organic Waste, and must notify the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag), that for the third and subsequent incidents of excess contamination, the Customer may be charged a contamination fee for the contaminated container, and Contractor also may increase the Cart size, or require an additional Cart at Customer's cost not to exceed the maximum rates set forth in Exhibit A. Contractor's representative must also contact the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Recyclable Materials and/or Organic Waste. Contractor must also provide digital/visual documentation to the Customer that clearly documents the Customer's on-going contamination problems.

(2) Third and Subsequent Occurrence.

For the third or subsequent occurrence within any one Calendar Year of contamination for a particular container (i.e., Recyclable Materials or Organic Waste), Contractor must collect the contaminated Container (as Solid Waste) and must charge the Customer a contamination fee as set forth in Exhibit A. Contractor must continue providing the Recyclable Materials or Organic Waste Collection Services. Contractor must provide (or have provided) digital/photographic documentation to the Customer that clearly documents the Customer's on-going contamination problems and written Notices of contamination as described above. Contractor may increase the Container size or collection frequency at Customer's cost not to exceed the maximum rates set forth in Exhibit A and impose a contamination surcharge on the account for a period of six months or until the Customer has demonstrated no contamination for a period of three (3) consecutive months at a cost not to exceed the maximum rates set forth in Exhibit A. Contractor must notify City (e-mail notice is acceptable) within five (5) Business Days if Contractor increases the Container size or collection frequency for excessive contamination or imposes the contamination surcharge to the account. City will consult with Contractor and consider, and pursue as applicable, appropriate legal remedies against offending Customers in order to secure discontinuance of the contamination. All City costs of such action shall be recoverable by the City from the offending Customer.

(3) Tracking Occurrences of Contamination.

Each Contamination occurrence is tracked annually per Calendar Year or as may be required by SB 1383, and resets at the start of each Calendar Year if contamination occurrences are not active and consecutive. Where contamination is occurring, and occurrences are consecutive and not remedied, their count shall continue across Calendar Years until remedy occurs. In this case, once the Customer has demonstrated no contamination for a period of three (3) consecutive months the clock will reset.

(4) Disputes Over Excess Contamination Charges.

If Customer disputes a contamination charge (which must be within thirty (30) days of them being assessed), Contractor will temporarily halt any unpaid contamination charge and/or increased Maximum Service Rate resulting from increasing the Collection Container size or collection frequency, and Contractor may request a ruling by the City Manager to resolve the dispute. A request by Contractor to the City Manager to rule on any such dispute must be filed within ten (10) Business Days of Contractor's halting of contamination charge, or increased Maximum Rate, and must include written documentation and digital/visual evidence of ongoing overall problems. The City Manager may request a meeting (in person or by phone) with both the Customer and Contractor to resolve the dispute. Following such a meeting, the City Manager will rule on the dispute within ten (10) Business Days, and the City Manager's decision on resolving the dispute between and Customer will be final. If the City Manager rules in favor of the Customer, Contractor will credit the disputed contamination charges or increased Maximum Service Rate. If the City Manager rules in favor of Contractor, Contractor may charge Customer the prior halted contamination charge and/or increased Maximum Service Rate resulting from increasing the Collection Container size or collection frequency and may follow the steps for collection of delinquent accounts.

(C) Notwithstanding the foregoing, this Section shall not prohibit Contractor from meeting its compliance requirements by any alternative methods or procedures, provided it complies with SB 1383, the SB 1383 Regulations, and/or any other applicable law, as may be amended from time to time.

8.2 Residential Solid Waste Handling Service

8.2.1 Single Family Dwelling Customers – Automated Collection

Contractor shall provide each Customer at a Single Family Dwelling with one Cart designated for the Collection of Refuse, one Cart designated for the Collection of Recyclable Materials, and one Cart designated for the collection of Organic Waste, and Customer shall be entitled to choose between either a 64-gallon or 96-gallon Carts (subject to the provisions of Section 8.1.8 (Contractor's Containers). Contractor shall Collect all Solid Waste placed out for Collection in Carts by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in Exhibit A. Contractor may charge Customers for additional Collection in excess of once per week at rates that do not exceed the maximum rates set forth in Exhibit A. Upon request from any Customer at a Single-Family Dwelling, Contractor shall provide such Customer with one or more additional Refuse, Recyclables, or Organic Waste Carts, and shall Collect all Solid Waste placed for Collection in such additional Refuse, Recyclables, or Organic Waste Carts at rates that do not exceed the maximum rates set forth in Exhibit A. Wherever feasible, Customers shall be directed by Contractor to place Carts for Collection either in the street gutter, against the curb, in front of their Premises. If a Customer and Contractor cannot agree upon a Collection location, or if City

Manager determines the selected location may cause safety or other concerns, City Manager may make the final determination of the Collection location. It is the intent of the parties that the services provided under this Agreement will result in an automated Collection system that includes source separation of Recyclable Material and source separation of Organics Waste. Accordingly, if Refuse is routinely placed for Collection other than in a Refuse Cart, Contractor shall work with the Customer involved to determine if the Customer is in need of additional or larger Refuse Carts. The City Manager is authorized to require Contractor to deliver additional Refuse Carts to any such Customers or to require such other action of Contractor as is reasonably deemed necessary to ensure the Collection system, including specifically the recycling programs, contemplated by this Agreement are achieved.

#### 8.2.2 Walk-Out Service

Contractor shall provide eligible Customers with “walk-out service” as set forth in this Section at no additional charge. This service shall require Contractor to use its own forces to bring a Customer’s Carts from a Customer’s backyard, side yard, or such other location at which the Customer’s Containers are regularly stored, to Contractor’s Collection Vehicle; and, after disposal of the contents thereof, returning said Containers to the location where they are regularly stored. To be eligible for this service, a Customer shall have a DMV issued disabled person placard/license plates, and provide a letter to Contractor from a physician confirming the Customer is unable to move his/her Carts to the curb, and that to the best of the physician’s knowledge there is no other capable persons living in the Customer’s household to provide this service. Contractor may require each eligible Customer to provide a new letter from a physician on an annual basis in order to maintain eligibility for walk-out service. Any dispute regarding a Customer’s eligibility for walk-out service shall be resolved by the City Manager. Contractor may provide Customers who are not eligible for free walk-out service pursuant to the forgoing with walk-out service at a rate which shall not exceed the maximum rate set forth in Exhibit A. Contractor may require as a condition of walk-out service that a Customer sign a standardized agreement, the terms of which shall be subject to City’s approval, which authorizes entry onto the Customer’s property and holds Contractor harmless from liability (including, specifically, liability related to pets escaping) associated with Contractor providing such service.

#### 8.2.3 Recycling Program for Single Family Dwellings Using Carts

Contractor shall provide each Customer at a Single-Family Dwelling with a Cart of the same size as the Customer’s Refuse Cart (subject to the provisions of Section 8.1.8 (Contractor’s Containers) designated for the Collection of Recyclables (a Recyclables Cart). Upon request by a Customer using a 64-gallon Refuse Cart, Contractor shall provide a Recyclables Cart that is equivalent to the Customer’s Refuse Cart at a rate which shall not exceed the maximum rate of the Customer’s Refuse Cart as set forth in Exhibit A. Contractor shall Collect all Recyclable Material placed out for Collection in a Recyclables Cart by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in Exhibit A. Upon request from any Customer at a Single Family Dwelling, Contractor shall provide such Customer with additional Recyclables Carts at rates that do not exceed the maximum rates set forth in Exhibit A corresponding to the size of Recyclables Carts provided. Customers shall be directed to place Recyclables Carts in the same location for Collection as Refuse Carts. At a minimum, the following materials shall be allowed to be

deposited by Customers for Collection in Recyclables Carts: aluminum cans; glass jars and bottles; bi-metal and tin cans; empty aerosol containers; polyethylene terephthalate plastic ("PET"); high density polyethylene plastic ("HDPE"); plastics types 3 – 7; plastic bags, shrink wrap, plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable); coat hangers and metal foil; newspaper; mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper); corrugated cardboard; and telephone books. Contractor shall deliver all Recyclable Material to a properly permitted facility that will process Recyclable Material in a method that will provide the City with diversion credit under Applicable Law. Contractor shall follow the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H.

#### 8.2.4 Organic Waste Collection for Single Family Dwellings

Contractor shall provide Customers at Single Family Dwellings with a Cart of the same size as the Customer's Refuse Cart (subject to the provisions of Section 8.1.8 (Contractor's Containers), designated for Collection of commingled Organic Waste (an "Organic Waste Cart"). Upon request by a Customer using a 64-gallon Refuse Cart, Contractor shall provide an Organic Waste Cart that is larger than the Customer's Refuse Cart (i.e., 96-gallon Organic Waste Cart, as applicable). Contractor shall Collect all Organic Waste placed out for Collection in an Organic Waste Cart by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in Exhibit A. Upon request from any Customer at a Single-Family Dwelling, Contractor shall provide such Customer with additional Organic Waste Carts at rates that do not exceed the maximum rates set forth in Exhibit A corresponding to the size of Organic Waste Carts provided. The maximum rate set forth on Exhibit A applicable to Customers whose Organic Waste Carts are larger than their Refuse Cart shall be based on the maximum rate applicable to the size of Refuse Cart provided; however, as noted above, the maximum rate set forth on Exhibit A applicable to additional Organic Waste Carts shall be that set forth on Exhibit A corresponding to the size of the Organic Waste Cart provided. Contractor shall Collect Organic Waste placed in Organic Waste Carts for Collection from each Customer on the same day as such Customer's Refuse Cart is Collected, using an automated Collection process. Organic Waste may NOT be placed in Organic Waste Carts in compostable bags. Customers shall be directed to place Organic Waste Carts in the same location for Collection as Refuse Carts. Contractor shall follow the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H.

#### 8.2.5 Multi-Family Dwelling Customers

Contractor shall comply with all requirements applicable to Commercial Customers, set forth below, in connection with Multi-Family Dwellings, and further shall comply with the specific provisions contained herein related to such Dwellings. Customers at Multi-Family Dwellings shall be provided sufficient services by Contractor to enable them and the City to comply with Applicable Law.



#### 8.2.5.1 Multi-Family Source Separated Collection Program

Contractor shall provide all Customers at Multi-Family Dwellings participating in a Source Separated Collection Program meeting the requirements set forth below through a combination of Bins, meeting the minimum standards set forth in Exhibit I, some of which are designated for the Collection of Refuse (“Refuse Bins”), designated for the Collection of Recyclable Material (“Recycle Bins”), and designated for the Collection of Organic Waste. Contractor shall follow the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H.

##### (A) Refuse Bins and Carts

Contractor shall provide all Customers with the number of Refuse Bins reasonably needed for Refuse Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Refuse placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. The size of Refuse Bins utilized, and the frequency of their Collection, shall be mutually agreed upon in writing by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Refuse Bins, Refuse Bin sizes, and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Refuse Bins at any given Multi-Family Dwelling, the City Manager shall have the ability to approve the number of Refuse Bins used at such location. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A.

##### (B) Recycle Bins and Carts

Contractor shall provide all Customers with the number of Recycle Carts or Bins reasonably needed for Recyclable Material Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Recyclable Material placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. The size of Recycle Carts or Bins utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers in writing (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Recycle Carts or Bins, Recycle Carts or Bin sizes and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Recycle Carts or Bins at any given Multi-Family Dwelling, the City Manager shall have the ability to approve the number of Recycle Carts or Bins used at such location. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for

such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A. At a minimum, Contractor shall allow the materials identified in Section 8.2.3 (Recycling Program for SFDs Using Carts) above to be placed for Collection in Recycle Carts. Should such Recycle Carts or Bins be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in Exhibit A for contaminated loads. Contractor shall deliver all Recyclable Material to a properly permitted facility that will process Recyclable Material in a method that will provide the City with diversion credit under Applicable Law.

(C) Organic Waste Carts, Bins and/or Roll off Boxes

Contractor shall provide all Customers with the number of Organic Waste Carts, Bins, and/or Roll off Boxes reasonably needed for Organic Waste Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Organic Waste placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. As part of the Commercial Organic Waste, Roll off Boxes may only be used for the Collection of Green Waste mutually agreed upon by Contractor and its Customers in writing (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Organic Waste Carts or Bin sizes and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Organic Waste Carts or Bins at any given Multi-Family Dwelling, the City Manager shall have the ability to approve the number of Organic Waste Carts or Bins used at such location. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A. Should such Organic Waste Cart or Bin be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in Exhibit A for contaminated loads. Contractor shall deliver all Organic Waste to a properly permitted facility that will compost or process Organic Waste in a method that will provide the City with diversion credit under AB 1594, AB 1826, and SB 1383.

8.2.6 Bulky Item Collection

8.2.6.1 Bulky Item Service for Single Family Dwellings

Contractor shall provide Bulky Item Collection services to residents living at all Single-Family Dwellings, including mobile home parks serviced exclusively by Carts and individually billed, in City at no charge on an on-call basis as set out here. The no-charge Bulky Item Collection service set forth in this Section shall only apply with respect to Bulky Items generated at the Dwelling Unit at which the Customer calling for service resides and is limited to up to four (4) items per scheduled pick up and three (3) pickups per calendar year. Additional Bulky Item Collection in addition to the three (3) pickups per calendar year. Residential Customers

may also place more than four (4) items per pick-up but the total number of items shall not exceed twelve (12) items per year. Additional Bulky Item Collection in addition to the twelve (12) maximum per year noted above shall be charged to the Customer at the rate established in Exhibit “A”. Bulky Items Collected pursuant to this Section shall occur on the same day as the Residential Customer’s regularly scheduled Collection day. In order to receive such service, Residential Customers shall provide Contractor with at least seventy-two (72) hour prior notice by phone. Residential Customers shall specify the number and type of Bulky Items to be Collected. Items must be left on the curb, or other designated location on or adjacent to customer’s property, and not exceed one and one-half cubic yards per pick-up. Collection of heavy waste materials such as dirt, rock, concrete, and asphalt are not included in this service. Contractor shall produce, keep current, and provide public information specifically outlining its Bulky Item Collection service, which shall specifically include the annual publication.

#### 8.2.6.2 Bulky Item Service for Multi-Family Dwellings

Residents at Multi-Family Dwellings shall receive the same Bulky Item Collection services as Commercial Premises as set forth in Section 8.3.3 (Commercial Bulky Item Service).

#### 8.2.6.3 Semi-Annual Residential Community Clean-up

Up to twice a calendar year, Contractor shall provide roll-off bins at up to two locations within the City as designated by the City Manager or their designee for a single day community Bulky-Item collection event (“Community Clean-Up Days”). These events are not designated for contractors or commercial customers. Wildomar residents must show proof of residency (picture ID) and a recent utility bill from the City of Wildomar. City will request a disposal waiver from the Riverside County Waste Management Department prior to each event in order to waive disposal fees for each clean up event. Contractor shall provide these services at no charge to the City residents. Contractor shall cooperate with the City Manager and designated community leaders to organize and facilitate the events. Collection of heavy waste materials such as dirt, rock, concrete asphalt and other inert materials are not included in this service. A maximum of four (4) car tires per resident will be allowed. No commercial or large vehicle tires. Contractor will make a good faith effort to divert the bulky material away from the designated landfill and to another facility where it can be either recycled or refurbished for reuse. Collection of Liquid, Hazardous and other Special Wastes are not included in this service.

#### 8.2.6.4 Bulky Item Diversion

Bulky Items Collected pursuant to this Agreement may not be landfilled until the following hierarchy of diversion efforts has been followed by Contractor:

- a. Reuse as is (if energy efficient);
- b. Disassemble for reuse or Recycling;
- c. Recycle, Transformation, or other means of diversion; and
- d. Disposal.

This hierarchy is intended to preclude the use of front or rear loading packer vehicles for Bulky Items unless the compaction mechanism is not used to compact the Bulky Items. The disposition of Bulky Items shall be tracked by Contractor and this information shall be included in Contractor's quarterly reports to City.

#### 8.2.6.5 Proper Handling of Bulky Items

Contractor shall properly handle all materials required to be Collected as Bulky Items, including specifically items that require special handling pursuant to the Environmental Laws, such as materials that constitute Universal Waste and/or e-waste."

#### 8.2.7 Illegal Dumping Retrieval Services

Contractor agrees to provide specified illegal dumping retrieval and disposal services as follows:

##### (A) Retrieval of Illegal Dumping Materials along Public Roads

(1) Contractor shall anticipate and arrange to receive daily emails from City of illegal dumping materials along Public Roads as reported by citizens to the City.

(2) Except as provided in paragraph C of this Section, Contractor shall arrange to remove and shall dispose all such reported illegally dumped materials along Public Roads within the Franchise Area. For the purpose of this provision, the Public Road shall include public rights of way within twenty (20) feet of the paved roadways and within twenty (20) feet of the shoulders of unpaved roadways. Contractor shall remove the reported materials within forty-eight (48) hours of the receipt of an email from City, except where such materials are located in a remote area, as determined by the City Manager, in which event removal shall occur within five working days of receipt of City's email. Contractor may request that specified roads, determined by the Contractor to be inaccessible for waste removal, be considered by the City Manager for exclusion from this requirement waste removal requirements.

(3) Contractor shall provide City a report each quarter identifying the date, location, and quantity of trash, in quantities exceeding one equivalent medium size trash bag, and bulky items, such as tires, couches, and appliances, retrieved during the reporting period.

(4) Contractor shall not be required to enter onto private property, or any type of illegal dumping sites, except as expressly provided in paragraph B below, to retrieve illegal dumping materials along Public Roads.

##### (B) Retrieval of Materials as Part of City Code Enforcement Activities

(1) Contractor shall, free of charge, respond to calls from City's Maintenance and Code Enforcement Divisions and from its Police Department, to

provide Containers and dispose of Bulky Items and other Solid Waste as a result of illegal or unauthorized dumping, or other Code enforcement matters, occurring within City.

(2) Contractor agrees that if requested to provide such services in connection with abatement activities for which reimbursement is sought from the property owner by City through abatement liens or otherwise, Contractor will provide billing information sufficient for City to include it in its liens, and Contractor will be paid at such time as the abatement lien is paid, or reimbursement is otherwise obtained by City from the property owner, plus pro rata interest and penalties that do not exceed the maximum rates and fees set forth in Exhibit A.

(3) If City requires Contractor to enter private property, City will agree to provide Contractor with either a warrant or order issued by a court of competent jurisdiction permitting such entrance or will provide Contractor with a waiver and release of any liability for such entry. Contractor will not be held liable for any damage to private property, except that caused by its willful or negligent actions.

(4) Upon receipt of a call for service from City made pursuant to this Section, Contractor shall advise City within four (4) hours as to when service will be provided, and unless otherwise agreed by City, service shall be provided within twenty-four (24) hours.

(C) Exclusions from Illegal Dumping Materials Retrieval

(1) Contractor shall not be obligated to Collect, transport or dispose of abandoned vehicles and objects or appliances larger than conventional household furniture or appliances as well as hazardous, special and medical wastes, provided, however, that of these exempted items are noted by Contractor along the Public Road, then Contractor shall promptly report the observation to the City Manager.

(2) Contractor shall not be required to collect Hazardous Waste, Liquid Waste or Special Waste as part of this service. If Contractor identifies of the foregoing, then Contractor shall promptly notify City so that arrangements can be made for appropriate clean-up and disposal of such waste.

8.2.8 Residential Drop-Off of Universal Waste

Contractor shall include Universal Waste collection service at their twice per year Community Clean ups. Residents of the City can drop-off up to six (6) Universal Waste Items at these events. Contractor shall properly handle and dispose of, or provide a third party approved by the City Manager, to handle and dispose of, all Universal Waste in accordance with all Applicable Law and, to the extent legally possible, follow the hierarchy of diversion efforts set forth in Section 8.2.6.4 (Bulky Item Diversion).

### 8.3 Commercial Solid Waste Handling Services

#### 8.3.1 Commercial Bins and Roll off Boxes

Contractor shall provide all Customers at Commercial Premises (“Commercial Customers”) with at least one Container for Collection of Refuse, and shall Collect all Refuse placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. Contractor shall provide additional Containers to Customers and shall provide additional Collections upon request, or as may be required by City’s Municipal Code, health and safety requirements, or by the City Manager, and may charge rates for such services which do not exceed the maximum rates set forth in Exhibit A. Bins and Roll off Boxes shall be Collected by Contractor from the location upon each Customer’s property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Contractor. Notwithstanding anything set forth herein to the contrary, Contractor need not provide Containers to Customers who chose to utilize their own Roll off Box compactors. Further, Contractor may lease Roll off Box compactors to Customers at rates that it sets, which rates shall not be regulated by this Agreement. Contractor shall provide Solid Waste Handling Services in connection with Roll off Box compactors at rates that do not exceed the maximum rates set forth in Exhibit A.

#### 8.3.2 Commercial Carts

As an alternative to the requirements of Section 8.3.1, Contractor shall offer Collection in sixty-four (64) or ninety-six (96) gallon Refuse Carts (subject to the provisions of Section 8.1.8 (Contractor’s Containers) to Commercial Premises where the Customers do not have space for, or do not generate enough Refuse to require the use of Bins or Roll off Boxes for Collection. Rates for Customers at Commercial Premises (excepting Multi-Family Dwellings) receiving such service shall not exceed the maximum rates set forth on Exhibit A for Commercial Refuse Carts; provided, however, rates for Customers at Multi-Family Dwellings receiving such service shall not exceed the maximum rates set forth on Exhibit A for Residential Cart Service. If Contractor and Customer have a disagreement as to whether a Refuse Cart is appropriate, or if City determines the Collection in a Refuse Cart causes health and safety or other concerns, City shall make the final determination as to whether Collection in a Refuse Cart may occur.

##### 8.3.2.1 Commercial Source Separated Collection Program

Contractor shall provide Customers at all Commercial Premises with a Source Separated Collection Program meeting the requirements set forth below through a combination of Containers, meeting the minimum standards set forth in Exhibit I, some of which are designated for the Collection of Refuse, Recyclable Material, and Organic Waste. Contractor shall follow the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H.

##### (A) Refuse Containers

Contractor shall provide all Customers with the number of Refuse Containers reasonably needed for Refuse Collection at each Commercial Premises, and shall Collect all Refuse placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. The size of Refuse Containers utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Refuse Containers, sizes, and more frequent Collection, should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Refuse Containers at any given Commercial Premises, the City Manager shall have the ability to approve the number of Refuse Containers used at such location. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Commercial Premises for such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A.

(B) Recyclables Containers

Contractor shall provide all Customers with the number of Recycle Containers reasonably needed for Recyclable Material Collection at each Commercial Premises, and shall Collect all Recyclable Material placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. The size of Recycle Containers utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Recycle Containers, sizes, and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Recycle Containers at any given Commercial Premises, the City Manager shall have the ability to approve the number of Recycle Containers used at such location. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Commercial Premises for such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A. At a minimum, Contractor shall allow the materials identified in Section 8.2.3 (Recycling Program for SFD’s using Carts) above to be placed for Collection in Recycle Carts. Should such Recycle Carts or Bins be contaminated with materials not permitted to be placed therein for Collection, beginning July 1, 2021, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in Exhibit A for contaminated loads. Contractor shall deliver all Recyclable Material to a properly permitted facility that will process Recyclable Material in a method that will provide the City with diversion credit under AB 939, AB 341, AB 1594, AB 1826, and SB 1383.

(C) Organic Waste Carts, Bins and Roll off Boxes

Contractor shall provide all Customers with the number of Organic Waste Containers reasonably needed for Recyclable Material Collection at each Commercial Premises, bearing in mind space limitations, and shall Collect all Organic Waste placed

therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in Exhibit A. As part of the Commercial Organic Waste, Roll off Boxes may only be used for the Collection of Green Waste. The size of Organic Waste Containers utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Organics Waste Container sizes and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event of any dispute as to the adequacy of the number of Organic Waste Containers at any given Commercial Premises, the City Manager shall have the ability to approve the number of Organic Waste Containers used at such location. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for “extra dumps” as set forth in the attached Exhibit A. Should such Organic Waste Containers be contaminated with materials not permitted to be placed therein for Collection, beginning July 1, 2021, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in Exhibit A for contaminated loads. Contractor shall deliver all Organic Waste to a properly permitted facility that will compost or process Organic Waste in a method that will provide the City with diversion credit under Applicable Law.

#### 8.3.3 Commercial Bulky Item Service

Contractor shall provide unlimited Bulky Item Collection services to Commercial Premises on an on-call basis. Contractor may charge rates for such services which shall not exceed the maximum rates set forth in the attached Exhibit A. Bulky Item Collection service calls shall be responded to within a reasonable time but not longer than seven (7) days from the date of the Customer’s call for service. Where possible, Commercial Customers will be encouraged to order a Roll off Box for large bulky item services. Contractor shall produce, keep current, and provide public information specifically outlining the Bulky Item pick-up service. Bulky Items Collected pursuant to this Section are subject to the diversion and handling requirements set forth in Sections 8.2.6.4 (Bulky Item Diversion) and 8.2.6.5 (Proper Handling of Bulky Items).

#### 8.3.4 Monitoring Overloading of Commercial Containers

Contractor shall implement its Operation Overload Program in an effort to manage overloaded commercial bins. Overloaded bins will be identified by Contractor’s drivers and a picture will be taken documenting the overload. Contractor will send a letter with the picture, date, address and other important account information to the Customer informing them of the overloaded bin with a copy to City. No charges will be assessed on the first notice. If the Customer has a reoccurrence, then Customer will be notified and charged a Bin Overage Fee in an amount that does not exceed the maximum rate as set forth in the attached Exhibit A. Customers will be encouraged to right size their service to avoid future Bin Overage Fees and/or other unsanitary conditions caused by the Customer. Contractor shall work with the City Manager in identifying and resolving continual problems with overflowing Bins and/or other unsanitary conditions caused by Customers.



#### 8.4 Other Collection Programs As May Be Required by Law

In the event CalRecycle, or any federal, state, or local law or regulation, imposes upon City or Contractor a requirement for the implementation of any program for the Collection of any waste material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement, whether Commercial or Residential in nature, Contractor shall design and present a program to City to comply with such requirement, which program shall meet the City Manager's reasonable approval. Except with respect to programs which are required due to Contractor's failure to achieve the diversion requirements set forth herein (resulting from Contractor's own actions and not resulting from changes in disposal or recycling option), at such time as (if) any such program is implemented, Contractor and City shall meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth on Exhibit A in order to compensate Contractor for developing and implementing such a program as set forth in Section 24.5 (Discretionary Adjustments) of this Agreement. Contractor shall not be responsible for any fines or penalties arising from City's failure or refusal to implement such programs developed by Contractor.

#### 8.5 Roll Out Service

Certain Premises within the City Limits require Contractor to move a Bin in order to service the Bin ("Roll Out Service"). Contractor may charge said Premises for the Roll Out Service where Contractor is required to move a Bin more than fifteen (15) feet. Contractor may charge rates for such Roll Out Service which shall not exceed the maximum rates set forth in the attached Exhibit A.

#### 8.6 Construction and Temporary Bin/Roll-off Services

Contractor shall provide construction and temporary bin/roll-off services using rates reflected in Exhibit A.

#### 8.7 Temporary Services

Contractor shall provide Temporary Services on an on-call basis to any Customer requesting such service pursuant to the following conditions:

(A) Bins and Roll off Boxes utilized in connection with Temporary Services shall meet the minimum standards set forth herein and Containers shall be delivered within twenty-four (24) hours of a call for such service, excepting Sundays and holidays.

(B) No charges excepting rates not exceeding the maximum rates set forth in the attached Exhibit A related to Bins or Roll off Boxes utilized in connection with Temporary Services shall be imposed by Contractor, unless approved in accordance with Section 8.10 (Special Services).

(C) City has in place an ordinance regulating the recycling and disposal of Construction and Demolition Debris, and Contractor agrees to comply with all applicable provisions thereof. The Customer shall be responsible for the costs of disposal of such waste at rates that do not exceed the maximum rates as set forth in the attached Exhibit A.

(D) In addition to complying with any other requirements of the City's ordinance regulating Construction and Demolition Debris, Contractor shall make all reasonable efforts to recycle all Construction and Demolition Debris it Collects, especially to the degree such loads contain clean inert materials. Towards this end, Contractor shall make available to Customers involved in construction separate Containers within which to Collect different types of marketable materials, such as dirt, steel, concrete and wood.

## 8.8 Recycling Obligations and Public Education Program

### 8.8.1 Minimum Requirements for Collection of Recyclable Material, and Organic Waste, Containers

Contractor shall utilize a truck dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with Refuse or Recyclable Material. Similarly, Contractor shall utilize a truck dedicated for the purpose of Collecting Recyclable Material, such that Recyclable Material Collected in Recyclables Carts or Recyclables Bins, once Collected, is not commingled with Refuse or Organic Waste. All Recyclable Material separated prior to Collection and thereafter Collected by Contractor pursuant to this Agreement shall be delivered to a properly permitted facility for recycling and reuse purposes. All Organic Waste separated prior to Collection and thereafter Collected by Contractor pursuant to this Agreement (including specifically materials Collected in Organic Waste Containers, and Holiday Trees) shall be delivered to a properly permitted facility for recycling, mulching, composting, or alternative uses for which diversion credit is provided as may be approved by CalRecycle. Contractor shall be responsible for implementing programs which will divert Recyclable Material, and Organic Waste, from disposal in order to meet the diversion requirements of this Agreement. All Roll off Boxes, whether for Commercial Premises or Temporary Service shall be delivered to a properly permitted facility for recycling and reuse purposes.

### 8.8.2 Applicable Law Obligations, Guarantee, and Indemnification

#### 8.8.2.1 Warranties and Representations

Contractor warrants and represents that it is aware of and familiar with City's Source Reduction and Recycling Element (the "SRRE"), that it is familiar with City's waste stream, and that it has the ability to make commercially reasonable efforts to provide sufficient programs and services to ensure City will meet or exceed the diversion goals (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in Applicable Law. Contractor shall do so without imposing any costs or fees in an amount not to exceed the maximum rate as set forth in the attached Exhibit A.

#### 8.8.2.2 Mutual Cooperation

City and Contractor shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by Applicable Law. In this regard, City's obligations shall include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting diversion goals, or other exceptions from the terms of Applicable Law and reasonable

consideration of programs (and associated costs) offered by Contractor as set forth in Section 8.4 (Other Collection Programs Required by Law).

#### 8.8.2.3 Waste Reduction and Program Implementation

Contractor shall implement the programs identified in the SRRE and Household Hazardous Wastes Element ("HHWE") immediately upon the Effective Date hereof, and will implement any programs required by any amendments or modifications thereto upon approval of any cost increases. Contractor shall employ a Person as a recycling coordinator whose responsibilities will be to implement the programs identified in the SRRE and HHWE. Contractor shall provide City with monthly, quarterly and annual written reports in a form adequate to meet City's filing and reporting requirements under Applicable Law to CalRecycle and to the County of Riverside throughout the Term of this Agreement wherein City's performance under the above programs shall be set forth in detail. Contractor shall be responsible to prepare, or assist City with the preparation of, all reports and other information as may be required by any agency, including specifically, the State of California, in order to comply with AB 939, AB 341, AB 1826, and SB 1383.

#### 8.8.2.4 Minimum Diversion Requirements

City requires Contractor to assist City in complying with the diversion requirements set forth in the Applicable Law as implemented by CalRecycle ("Diversion Requirements"). Contractor must provide documentation to City within forty-five (45) days of the end of each calendar year stating and supporting that calendar year's diversion rate as set forth in Section 8.8.2.5 below. Contractor's Sustainability and Diversion Plan is outlined in Exhibit G.

(A) If City fails to comply with the Diversion Requirements due to Contractor's failure to implement the terms of this Agreement (unless such failure is the result of forces outside the control of Contractor or the result of City's failure or refusal to implement programs proposed by Contractor) and Contractor fails to achieve the minimum annual Diversion Requirements, Contractor must submit a Corrective Action Plan to assist City to comply with Public Resources Code section 41780 and other Applicable Laws, by May 15th following the year the Diversion Requirements were not met. Contractor's Corrective Action Plan is subject to approval by the City Manager, and to be approved must constitute a good faith corrective action plan to allow City to comply with Public Resources Code section 41780 and other Applicable Laws. Implementation of the Corrective Action Plan will be at Contractor's sole cost and expense. If Contractor fails to submit a Corrective Action Plan acceptable to the City, Contractor may be subject to Liquidated Damages as specified in this Agreement. Provided that Contractor has implemented all required Contractor diversion and public education programs required under this Agreement, has submitted a Corrective Action Plan acceptable to the City, and has implemented that Corrective Action Plan no later than as scheduled in the Corrective Action Plan, Contractor's failure to meet the Diversion Requirements shall not constitute an event of default under this Agreement.

(B) If Contractor fails to meet the Diversion Requirements or if City fails to comply with the Diversion Requirements and Contractor has implemented all required

Contractor diversion programs, the City may direct Contractor to modify its programs, or implement new diversion programs. Any such modification of Contractor's existing diversion programs or addition of new diversion programs done at the City's request will be reviewed as a discretionary adjustment to rates in accordance with Section 24.5.

(C) Notwithstanding any other provision of this Agreement to the contrary, where CalRecycle has determined that there are no commercially viable markets for a specific type of Recyclable Materials, and with written notice to City, Contractor is unable to identify a market for one or more Recyclable Material despite the exercise of commercially reasonable efforts to process and market the material, and determines, in the interest of safeguarding public health, to dispose of the Recyclable Material, such a determination shall not constitute a failure to implement service, or a failure to implement a program, or an event of default hereunder.

#### 8.8.2.5 Contractor's Diversion Requirements

City's diversion rate is calculated by CalRecycle and must meet or exceed the Diversion Requirement as set forth in the Applicable Laws and all amendments and related subsequent legislation including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirement, and that it will do so without imposing any costs or fees other than those set forth in Exhibit A, except as provided in Section 24.5 (Discretionary Adjustments). Contractor's obligation to meet the Diversion Requirements shall be deemed not to be met if City diversion rate does not meet CalRecycle minimum requirements. Contractor warrants that it is aware of and familiar with City's Solid Waste stream, and that it has the ability to, and must provide, sufficient programs and services designed to ensure City will meet or exceed the diversion requirements as set forth in this Section, as well as the diversion requirements of the Applicable Laws.

#### 8.8.2.6 Guarantee and Indemnification

Contractor warrants and guaranties that it will carry out its obligations under this Agreement such that: (i) assuming reasonable City cooperation, both it and City will at all times be in compliance with the requirements of all Applicable Laws, and (ii) City will meet or exceed the diversion requirements (including, without limitation, providing collection and processing services as required in this Agreement, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Applicable Laws. The Parties agree to promptly meet and confer in good faith in the event there are any changes in the Applicable Law that would materially alter or expand the guarantee and indemnity provided in this Section and all amendments thereto. In this regard, Contractor agrees that it will, in addition to any other requirement contained herein, at its sole cost and expense:

(A) defend, with legal counsel reasonably acceptable to City, indemnify and hold City harmless from payment of all fines and/or penalties imposed by CalRecycle, subject to the restrictions set forth in Public Resources Code section 40059.1, if the requirements of the Applicable Law are not met by the Contractor with respect to the Solid Waste Collected and Processed under this Agreement, and such failure is: (i) due to the failure of Contractor to meet its obligations under this Agreement, or, (ii) due to Contractor

delays in providing information that prevents Contractor or City from submitting reports required by the Applicable Laws in a timely manner;

(B) assist City in responding to inquiries from CalRecycle;

(C) assist City in preparing for, and participating in, any review of City's SRRE pursuant to Applicable Law;

(D) assist City in applying for any extension, including under Public Resources Code section 41820, if so directed by City;

(E) assist City in any hearing conducted by CalRecycle relating to City's compliance with Applicable Law;

(F) assist City with the development of and implement a public awareness and education program that is consistent with the City's SRRE and HHWE, as well as any related requirements of Applicable Law; and

(G) provide City with recycling, source reduction, and other technical assistance related to compliance with the Applicable Law.

#### 8.8.3 Waste Generation/Characterization Studies

Contractor acknowledges that City may be required to periodically perform Solid Waste generation and disposal characterization studies to comply with the requirements of the Applicable Law. Contractor agrees to perform such studies if required by City and further to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste Collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed to satisfy the requirements of the Applicable Law.

#### 8.8.4 Implementation of Additional Diversion Services

In the event City does not meet the diversion, program, and reporting requirements imposed by AB 939, AB 341, AB 1826, and SB 1383 with respect to all waste generated in City, City may direct Contractor to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services, and Contractor agrees to do so at such cost as approved pursuant to Section 24.5 (Discretionary Adjustment). Pilot programs and innovative services which may entail new Collection methods and the use of new or alternative waste processing and disposal technologies are included among the kinds of changes which City may direct.

#### 8.9 Additional Services

As part of the consideration for entering into this Agreement, Contractor shall provide the following additional services at no charge, and shall not adjust its rates to Customers to offset costs incurred in providing any of the following services:

#### 8.9.1 Collection From City Buildings and Facilities

A. Contractor shall provide Solid Waste Handling Services (including specifically Collection, disposal and processing) at all Premises owned and/or operated by the City at no cost to City, and shall provide Containers for such routine service as City deems appropriate for each of its various Premises (i.e., Carts, Bins, or Roll off Boxes). Such services shall be provided for all existing City facilities included in Exhibit B, as they may be expanded from time to time, as well as all new or additional facilities acquired/constructed during the Term hereof at no additional cost. Such services explicitly exclude Construction and Demolition Debris pick-up and disposal unless paid for by the City or its construction/demolition contractor. Contractor shall carry out its obligations pursuant to this provision in a manner, and to a degree, approved by the City Manager.

B. City will procure street sweeping services from one or more third party service provider on or before December 31, 2022 and will instruct such service provider(s) to deposit the Solid Waste collected from street sweeping activities at a City designated facility. Contractor shall provide City within one low-sided Roll-Off Bin at the City designated facility for this purpose. Contractor shall Collect all such Solid Waste from the City designated facility at least weekly, for disposal and processing at no charge to City during the Term of this Agreement.

C. Contractor shall assist the City in disposing of used car tires by providing a 40 cubic yard Roll off Box at the City's Corporate Yard. City personnel will load the box with tires. Contractor will pick up two full boxes at one time and deliver tires to BJ's Tire Recycling in Fontana (14212 Santa Ana Ave., Fontana, CA 92337) for recycling. Contractor will deliver the tires to Fontana free of charge and the City will pay for all disposal costs. Contractor will manage all required documentation. If disposal locations change, the Contractor and City will meet and confer in good faith to discuss disposal costs and transportation costs. Any additional costs will be evaluated.

#### 8.9.2 Collection at City Sponsored Events

Contractor shall provide Refuse, Recyclable Material, and Organic Waste Collection at all City-sponsored or supported non-profit events as designated from time to time by City on Exhibit B. The number, type and service requirements for these events may vary from year to year. This service shall include providing, servicing and storing Containers (cardboard boxes, Carts, Bins, and/or Roll off Boxes), and Collecting, processing and Disposing of all Solid Waste Collected in a manner that complies with all other provisions of this Agreement, and the Applicable Law, including those related to diversion. Contractor shall provide these services for up to ten (10) 36 cubic yard Roll off Boxes per calendar year at no cost to City; provided, however, Contractor shall be responsible for paying landfill tipping or material recovery facilities handling fees associated with such services.

#### 8.9.3 Recycling and Organic Waste Assistance for Special Events

Contractor shall assist Persons designated by City (whether City employees or private individuals) who are responsible for coordinating special events or events in large venues

(such as concerts or sporting events) in the implementation of recycling programs. Customer or event planner, or upon request from either of them, Contractor, shall assist Customer with the Customer's preparation and submitting to City a "waste reduction and recycling plan" prior to such events. Contractor shall submit to Customer detailed reports within 30 days of the event outlining the Solid Waste Collected, and diverted, and Contractor shall include this data in its Annual Reports to City. Notwithstanding the foregoing, Contractor may charge for refuse boxes, recycle boxes, box liners, and other containers Contractor provides for said special events at rates that do not exceed the maximum rates set forth on Exhibit A.

#### 8.9.4 Holiday Trees

For the first two regularly scheduled pickup days after New Year's Day, Contractor shall, free of charge, pick up all Holiday Trees placed out for Collection by Customers. Such trees shall not be comingled with other Solid Waste and shall be delivered to a proper facility for processing, rather than disposal, as required by the provisions hereof. All ornaments and other decorations shall have been removed from the Holiday Trees.

#### 8.9.5 Services for City Specified Public Roads

Contractor shall, at no charge to City, provide suitable waste receptacles and provide Solid Waste Handling Services of up to three (3) times per week for up to a total of ten (10) locations allocated among one or more Public Roads that are, in the reasonable determination of the City Manager, frequented by high levels of pedestrian traffic. City shall provide a map of these locations to Contractor in advance of Contractor's placement of the waste receptacles and commencement of service at the locations. Contractor's receptacles will be capable of mechanical servicing from Contractor's collection vehicles, but shall be of such a type and size as to function appropriately within the environs of a pedestrian walkway. Contractor's receptacles may be placed on a sidewalk or other City designated area provided they are placed in locations that are both accessible by Contractor's collection vehicles and that do not otherwise obstruct pedestrian traffic. City may request service for locations in addition to the ten (10) referenced above, at a cost to City to be mutually agreed upon by City and Contractor.

#### 8.9.6 Free Disposal and Processing of City Delivered Waste

Contractor shall provide City with free disposal and processing, at Contractor's Riverside County Materials Recovery Facility/Transfer Station, of waste generated within City Limits and delivered from City owned and operated vehicles, or authorized contracted vehicles. This waste may include Green Waste from City-authorized Public Works operations. Such waste shall be limited to 200 tons per year, plus an additional 2% increase per year, at no charge to City. The 200 ton annual limit does not include Contractor's disposal of street sweeping waste which Contractor agrees to dispose of at no charge to City or its street sweeping contractor(s) or disposal of used cart tires under Contractor's used tire program. Contractor may reject loads or charge for processing in the event current local, state, or federal regulations result in an increase in fees, rates, or eventual uses of the delivered waste. Should such waste be prohibited from use as alternative daily cover at local landfills at the current no charge rate, Contractor and City agree to negotiate in good faith to determine an alternative use and corresponding cost of diversion or reimbursement.

to Contractor for the end costs of the delivered waste as set forth in Section 24.5 (Discretionary Adjustment) of this Agreement.

#### 8.10 Special Services

Contractor may provide special pickup procedures or services in addition to the services described herein for Customers who request or require such services at reasonable rates established by Contractor, which rates are subject to approval by the City Manager. Contractor shall notify the City Manager of any such services prior to such time as they are provided in order to allow the City an opportunity to conduct necessary inspections, review the proposed rate, and impose appropriate regulations.

#### 8.11 Non-Profit Assistance

Contractor shall provide Roll off Boxes or Bins to any qualified or IRS certified IRC section 501(c)(3) non-profit entities (e.g., Boy Scouts, Girl Scouts, Boys' and Girls' Clubs, churches, Earth Clubs, etc.). Contractor shall charge fifty percent (50%) of current rates to such groups. Contractor shall appropriately dispose of or divert any Refuse, Recyclable Material, or Organic Waste Collected pursuant to this Section. Contractor shall be allowed to review any possible abuses of this service with the City Manager if Contractor experiences higher than reasonably anticipated volumes of Solid Waste from the event.

#### 8.12 Generator Waiver Program Coordination

##### 8.12.1 General

In accordance with Applicable Law and the City Code, the City may grant waivers (de minimis, physical space or Collection frequency) to Generators that impact the scope of Contractor's provision of service for those Generators. Waivers issued shall be subject to compliance with SB 1383 Regulatory requirements, pursuant to 14 CCR section 18984.11.

##### 8.12.2 Requests Submitted to Contractor

Generators may submit requests for de minimis waivers, physical space waivers, and Collection frequency waivers to the Contractor. Contractor shall, within fifteen (15) working days, review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Contractor shall provide documentation of the inspection, including the Contractor's recommendation to approve or deny the waiver request, and send this information to the City within five (5) working days of receipt of the Generator's waiver application for the City's review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Contractor's recommendation. Contractor shall report information regarding waivers reviewed on a quarterly basis.

##### 8.12.3 Contractor Change in Generator's Service Levels

When the City grants a waiver to a Generator, the City shall notify the Contractor within fifteen (15) working days of the waiver approval with information on the Generator and any changes to the service level or Collection service requirements for the Generator. Contractor



shall have ten (10) working days to modify the Generator's service level and billing statement, as needed.

#### 8.12.4 Reverification of Waivers

It shall be the responsibility of the Contractor to verify that the Generators with de minimis, physical space constraint, or Collection frequency waivers continue to meet the waiver requirements set forth in this Section. Contractor shall conduct such reverifications of waivers through inspection of each Generator's premises and review of applicable records at least once every five (5) years for de minimis and physical space constraint waivers. Contractor shall maintain a record of each waiver verification and provide a quarterly report to the City documenting the waiver reverifications performed and recommendations to the City on those waivers that Contractor concludes are no longer warranted. The City shall make a final determination of the waiver eligibility of Generators.

#### 8.12.5 Contractor Recordkeeping of Generators Granted Waivers

Upon Contractor request, no more than two (2) times per year, the City shall provide Contractor an updated listing of waivers approved by the City, including the Generators' names, mailing address, service address, and type of waiver. Contractor shall maintain waiver-related records and report on waiver verifications, as required herein.

#### 8.12.6 Inspections and Enforcement

Beginning January 1, 2022, Contractor shall assist the City with and/or conduct applicable inspections and enforcement, to the extent delegable, as required by SB 1383 Regulations. Contractor shall maintain all applicable records from inspection and enforcement in accordance with SB 1383 Regulations.

#### 8.13 Education and Outreach

(A) Contractor shall, at its sole expense, create all applicable education materials and conduct all education programs and activities as provided by and in accordance with the SB 1383 Regulations. Contractor shall cooperate and coordinate with the City on public education activities.

(B) Contractor shall develop a list of Food Recovery Organizations and Food Recovery Services operating within the City, maintain the list on the Contractor's City-specific website, share the list with the City if the City wants to post the list on additional City websites, and update the list annually. The list shall include, at a minimum, the following information about each Food Recovery Organization and each Food Recovery Service:

- (1) Name and physical address;
- (2) Contact information;
- (3) Collection service area;

(4) An indication of types of Edible Food the Food Recovery Service or Food; and

(5) A list of types of Edible Food the Recovery Organization can accept for Food Recovery.

(C) At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:

(1) Information about the City's Edible Food Recovery program;

(2) Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;

(3) Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and

(4) Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

(D) The Contractor may provide the information required above by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to commercial businesses.

(E) Contractor shall comply with all applicable public education and outreach record keeping and reporting requirements as provided by SB 1383 and the SB 1383 Regulations.

#### **8.14 Route Reviews and Compliance Reviews**

Contractor shall be responsible for conducting Route Reviews and Compliance Reviews and all associated requirements, including providing all necessary documentation to the City, to fully satisfy the City's responsibilities for Route Reviews and Compliance Reviews under SB 1383.

### **SECTION 9. MINIMUM STANDARDS FOR CONTRACTOR'S SOLID WASTE HANDLING SERVICE COLLECTION VEHICLES**

#### **9.1 General**

Contractor shall provide vehicles for the Collection of Solid Waste ("Collection Vehicles") that are sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. Contractor is expressly obligated to provide such Collection Vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection Vehicle used to respond to complaints and emergencies. Upon or prior to the Effective

Date of this Agreement and prior to the start of any extension period of this Agreement pursuant to Section 6, Contractor shall provide City with a report containing the information required under South Coast Air Quality Management District's Rule 1193(d)(7).

## 9.2 Air Quality/Fuel Requirements

Contractor's Collection Vehicles shall comply with all rules and regulations of the South Coast Air Quality Management District, the Air Resource Board, and any other regulatory body that may be in effect during the Term of this Agreement, as well as other federal, state and local laws and regulations that may be enacted during the Term of this Agreement. Contractor's Collection Vehicles shall meet or exceed such air quality standards as may be adopted by the forgoing regulatory bodies during the Term. Contractor's Collection Vehicles shall comply with the requirements in the South Coast Air Quality Management District's Rule 1193.

## 9.3 Specific Requirements

Each Collection Vehicle utilized by Contractor in the performance of this Agreement shall meet the following minimum standards:

(A) Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

(B) Each Collection Vehicle shall be inspected regularly by Contractor, and not less than once every other year, to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Contractor shall provide copies of its Biannual Inspection of Terminal ("BIT") inspection reports to City within thirty (30) days of its receipt of such reports and shall make all records related to its Collection Vehicles, including Contractor's maintenance records, available to City upon request by the City Manager. It is the intention of this provision that all Collection Vehicles be inspected at least once per year -- every other year through a BIT inspection, and in alternative years at least once (if not more often) by Contractor.

(C) Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

(D) Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof"; and (2) at all times comply with the provisions of all laws and regulations including the Vehicle Code and any applicable NPDES permit, with regard to materials leaking from Collection Vehicles. Contractor shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

(E) Each Collection Vehicle shall be painted periodically, which shall include all necessary body work, and shall be regularly cleaned, so that such Collection Vehicles

do not become unsightly, as determined by the City Manager. Each Collection Vehicle shall be painted with Contractor's colors and identifying information as required herein.

(F) Contractor's name, local or toll-free telephone number, and a Collection Vehicle number shall be visibly printed or painted in letters not less than three (3) inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Contractor's Collection Vehicles, when such Collection Vehicles are providing Collection services within City Limits, shall be subject to approval by City.

(G) Each Collection Vehicle shall be maintained in a clean and sanitary condition, both inside and out and shall be washed at least once every seven (7) calendar days.

(H) Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Contractor's dispatcher and/or main office.

(I) Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety-related technologies that become standard in the waste industry, and at a minimum shall have a video monitor based back-up system, or its equivalent. Contractor shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the services contemplated by this Agreement.

(J) Each Collection Vehicle shall be equipped with the so called "Smart System Technology" whereby Contractor can track the location of and services provided by each Collection Vehicle with a computer based monitoring system. Upon request from City, Contractor shall provide any available data from this system, such as route tracking information and similar data that may be useful in investigating Customer complaints.

(K) Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Contractor shall repair, or arrange for the repair of, all of its Collection Vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance has been properly performed, and shall make such records available to City upon request.

(L) No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Contractor shall clean up any leaks or spills from their Collection Vehicles per the NPDES permit in effect at the time. No fluids shall be washed into storm drains at

any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

(M) Upon request, Contractor shall furnish City a written inventory of all equipment, including Collection Vehicles, used in providing service pursuant to this Agreement. This inventory shall list all equipment by manufacturer, identification number, date of acquisition, type and capacity.

(N) Contractor shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the City Manager.

(O) Contractor shall not load Collection Vehicles in excess of the manufacturer's recommendations or limitations imposed by state laws or regulations or locally posted weight limits. Noise levels of equipment used for Collection shall not exceed 75db (seventy-five decibels) when measured at a distance of twenty-five (25) feet from the Collection Vehicle, five (5) feet from the ground.

#### 9.4 Costs of Operation and Damages

Contractor shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Law, including without limitation, any such laws and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits.

#### 9.5 City Inspection

City may cause or require any Collection Vehicle used in performance of this Agreement to be inspected and tested at any time and in such manner as may be appropriate to determine that the Collection Vehicle is being maintained in compliance with the provisions of this Agreement.

#### 9.6 Correction of Defects and Removal of Vehicles from Use within City

Contractor agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe, unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the City Manager gives his written consent for its return.

#### 9.7 RNG Vehicle Fuel Transition and Recovered Organic Waste Product Procurement Credits

##### 9.7.1 RNG Fuel Vehicle Transition

Contractor shall transition all of its franchise residential and commercial collection vehicles to renewable natural gas (RNG) by December 31, 2025.

#### 9.7.2 RNG Fuel Procurement Credits

Contractor agrees to coordinate and cooperate with the City to meet its Recovered Organic Waste Product procurement target, as defined in and required by Applicable Law. In support of that objective the City will receive any applicable SB 1383 Recovered Organic Waste Product procurement credits for all RNG used by the Contractor to power Contractor's Collection vehicles as allowed by the Applicable Law and within the time provided therein.

### **SECTION 10. CONTRACTOR'S SOLID WASTE HANDLING SERVICE PERSONNEL**

#### 10.1 Uniforms

Each of Contractor's Collection employees shall wear a clean uniform bearing Contractor's name.

#### 10.2 Identification of Employees

Contractor shall provide business cards or similar devices, for all of its employees, and all authorized subcontractors, who may make personal contact with Customers. City may require Contractor to notify Customers yearly of the form of said identification.

#### 10.3 Driver's License

Each employee operating a vehicle as part of his or her duties shall, at all times, carry a valid operator's license for the type of vehicle he or she is operating. All employees who may have contact with Customers in the course of performing their duties shall possess the ability to communicate effectively with Customers.

#### 10.4 Screening of Field Employees

Contractor shall make reasonable efforts to determine if its employees working in the field (i.e., drivers of Collection Vehicles, and employees otherwise involved in Collection at Customer Premises) have been convicted of a felony, and shall identify any such employees known to it to City. City shall have the ability to require that any employee so identified by Contractor not work in the field within City.

#### 10.5 Discontinued Use of Unsatisfactory Employees

No employee shall continue to have any involvement whatsoever with regard to any work in anyway relating to or arising from this Agreement if City gives notice to Contractor that such employee is determined by City to be discourteous, disorderly, inefficient, or otherwise objectionable (provided the term "otherwise objectionable" shall not permit City to "ban" an employee for reasons that violate public policy; and, further, City shall give a reason for requesting the "ban" of any employee from engaging in work related to this Agreement).

## 10.6 Training and Legal Compliance

Contractor shall provide operating and safety training that meets minimum CalOSHA standards for all personnel, and shall comply with all laws and regulations applicable to its employees and personnel.

## 10.7 Customer Service

### 10.7.1 Office Hours

Contractor shall maintain an office for communication with the public that at a minimum, will be open from 8:00 a.m. to 5:00 p.m. Monday through Friday. At least one responsible and qualified representative of Contractor, capable of communicating in English and Spanish, shall be present and available during all times that an office is required to be open as noted above ("Office Hours"), for personal communication with the public regarding Billing, the payment of Bills, complaints, customer service inquiries, etc., and a similarly qualified Person shall be available for communication with the public by phone during any time other than Office Hours when Collection is occurring.

### 10.7.2 Telephone Customer Service Requirements

#### 10.7.2.1 Toll Free Number

Contractor shall maintain a local and toll-free telephone number that rings at an office within Riverside or Orange County or third-party calling center (which may be located outside of the United States) at all times during Office Hours. Both English and Spanish speaking personnel will be available during Office Hours to assist Customers with telephonic inquiries. Contractor shall have the ability (through the use of outside resources or otherwise) to communicate with Customers who only speak Spanish to ensure their inquiries, questions, complaints and other matters are dealt with in a reasonably timely fashion. All such personnel shall be polite and responsive, and shall be sufficiently knowledgeable, and have the authority to respond and/or advise Customers seeking assistance. Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Contractor shall provide City with a 24-hour emergency number to a live Person, not voice-mail.

#### 10.7.2.2 Call Responsiveness

Contractor shall make reasonable attempts to answer all phone calls within five (5) rings. If a call has been placed on hold for three (3) minutes, the caller will either be switched to a message center which shall be responsible to obtain the caller's address and phone number, or a Customer service representative will obtain the Customer's address and a number at which the call can be returned. Contractor shall make at least three (3) attempts within the next twenty-four (24) hour period to return the call, with the first such attempt not more than one (1) hour after the caller leaves the message. If Contractor is unsuccessful in contacting the Customer after following this procedure, it shall send a letter to the caller indicating its efforts.

#### 10.7.2.3 Complaint Documentation

All service complaints shall be directed to Contractor. Contractor shall log all complaints received and said log shall include the date and time the complaint was received, the name, address and telephone number of the complaining party, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. All written Customer complaints and inquiries shall be date-stamped when received. All complaints shall be initially responded to within one (1) business day (Monday through Friday) of receipt. Contractor shall log action taken to respond to and remedy the complaint. Daily logs of complaints shall be retained for a minimum of twenty-four (24) months. All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints. Contractor shall provide to City on a monthly, quarterly, and annual basis, a complaint log, in a form satisfactory to the City, that includes all of the complaints logged pursuant to this Section, the complainant and the resolution.

#### 10.7.3 Resolution of Customer Complaints

Disputes between Contractor and its Customers regarding the services provided in accordance with this Agreement may be resolved by the City. The City's decision shall be final and binding. Should Contractor and Customers not be able to establish a mutually acceptable fee to be charged for special services as set forth in Section 8.10, the matter shall be dealt with pursuant to this Section, be determined by the City, and the City's decision shall be final. Intervention by the City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this Section is intended to affect the remedies of third parties against Contractor.

#### 10.7.4 Government Liaison

Contractor shall designate in writing a "Government Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer complaints. City shall have the right to approve Contractor's choice for a liaison.

### 10.8 Community Outreach and Education

#### 10.8.1 General

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of the Applicable Laws, and all subsequent legislation. Accordingly, Contractor agrees to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and recycle Solid Waste and to cooperate fully with City in this regard. Contractor shall comply with the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H.



#### 10.8.2 Sustainability Representative

Contractor shall provide one (1) half-time equivalent Sustainability Representative dedicated to promoting high participation by Customers and high diversion from disposal for Contractor's-provided Recyclables and Organic Waste programs, including conducting site visits and provide outreach and education in support of meeting Franchise and CalRecycle Diversion requirements and to meet State mandates associated with the Applicable Laws and all amendments and related subsequent legislation. Contractor's Sustainability Representative shall be responsible for implementation of the Source Separation Program Implementation Plan included as Exhibit F, the Sustainability and Diversion Plan included as Exhibit G, and the Community Outreach and Education Plan included as Exhibit H. Contractor's Sustainability Representative shall be available as needed to meet with the CITY, and/or the City's designated representative, Riverside County staff, and CalRecycle representative.

Contractor shall maintain a program of providing information relevant to the need and the methods to reduce, reuse and recycle Solid Waste, and Contractor, upon request from City, may include such information along with Bills provided to Customers. All public education materials shall be provided in English and Spanish, and approved in advance by City. Contractor shall keep a record of all promotional and public education materials utilized, and shall provide quarterly reports summarizing its public outreach and education efforts.

#### 10.8.3 Public Outreach

At a minimum, Contractor shall conduct school assemblies and promote recycling through presentations and educational materials to the Chamber of Commerce, homeowners associations, construction contractors and other civic groups. Contractor shall also provide articles on recycling for local newsletters.

#### 10.8.4 On-going Education Requirements

In order to promote public education, in addition to any other materials it develops, Contractor shall create the following public education materials and programs at its expense, which will be distributed as indicated below. All of these materials and programs shall be produced and/or available in both English and Spanish languages, and all written materials shall be approved by City in advance of distribution, and shall bear the City seal, unless otherwise approved by the City.

##### 10.8.4.1 Annual Notices

Not less than once each year during the Term of this Agreement, Contractor shall prepare and distribute to each Customer a brochure providing relevant information about Contractor's services, including, at a minimum: information regarding access to and use of available services; Collection schedules; holiday Collection schedules; Contractor's Customer service numbers; procedures to begin and terminate services; and information promoting and explaining available programs, such as Source Separated Recyclables Collection, Source Separated Organic Waste Collection, Holiday Tree and Bulky Item Collections, the availability of Household Hazardous Waste and E-waste Collection, and the proper handling and disposal of such wastes.

#### 10.8.4.2 How-To Brochure

Contractor will prepare and distribute a brochure packet to new Customers when they start service. This packet will contain updated information on how to use the Contractor-provided Carts, when, where and how to place Solid Waste for Collection, and who to contact with service or Billing questions.

#### 10.8.4.3 Corrective Action Notice

Contractor shall develop a corrective action notification form for use in instances where a Customer sets out inappropriate materials for Collection, that explains the appropriate manner for disposal of such items.

#### 10.8.4.4 Contractor Representative

Contractor shall retain on its staff an individual who shall as part of his or her job function routinely visit civic groups, school assemblies, and homeowners' associations, to promote and explain the recycling options and other programs that Contractor offers, and participate in demonstrations and civic events.

#### 10.8.4.5 Web Site Page

Contractor shall dedicate one page of its web site to City services, which shall include at least the following information: a listing of contact numbers for Customer Service; information on Bulky Items Collection; Collection schedules, including holiday schedules; and the procedures to begin and terminate services. During the first six months following the implementation of new services hereunder, this web page shall also provide information explaining the new service, and the proper use of Carts.

### **SECTION 11. CITY'S CONSIDERATION**

In addition to any other consideration set forth herein, as part of its consideration for entering this Agreement, for the exclusive franchise, right and privilege to provide Solid Waste Handling Services within City as specified herein, and in mitigation of costs that will be incurred by City directly related to the Solid Waste Handling Services, Contractor shall pay to City, or collect and remit to City, as the case may be, the following:

#### 11.1 One Time Payments

##### 11.1.1 Reimbursement of Negotiation & Drafting Costs

Contractor shall pay to City a one-time lump sum payment in an amount equal to City's reasonable out-of-pocket costs (including specifically consultant and legal fees and related costs) incurred in connection with the negotiation, drafting and approval of this Agreement. Contractor shall make such payment within thirty (30) days of execution of the Agreement provided City has delivered a letter to Contractor stating the amount of the out-of-pocket costs.

#### 11.1.2 Periodic One-Time Impact Mitigation Fees.

Contractor shall make the following one-time payments to City:

- a. Within ten (10) calendar days of the City Council of City approving the Agreement, Contractor shall pay to City in good and sufficient funds the sum of One Million Four Hundred Thousand Dollars and No Cents (\$1,400,000.00).
- b. On or before December 31, 2029, Contractor shall pay to City in good and sufficient funds the sum of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00).
- c. On or before December 31, 2037, Contractor shall pay to City in good and sufficient funds the sum of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00).
- d. The above one-time payments shall not be offset against or reduced by any other monies due to Contractor by City or otherwise under this Agreement and shall not be adjusted by the rate adjustment methodology provided in Section 24 of this Agreement.

#### 11.2 Administrative Cost Reimbursement

On or before July 1, 2023, and on or before July 1 each year thereafter, Contractor shall make a payment to City in the amount more fully set forth in this paragraph intended to defray its costs directly related to administration of this Agreement (the “Administrative Cost Reimbursement”). The amount of the annual Administrative Cost Reimbursement shall be Fifty Thousand Dollars (\$50,000.00) adjusted annually by the rate adjustment methodology provided in Section 24 of this Agreement. If any Administrative Cost Reimbursement payment is not paid by Contractor within 10 days of due date, and in addition to any other remedy provided by law, Contractor shall pay to City a penalty in an amount equal to ten percent (10%) per month, or portion thereof, of the amount owing until paid.

#### 11.3 AB 939 and SB 1383 Support and Outreach Fees

Commencing July 1, 2023, City intends to levy a fee on all Customers receiving Solid Waste Handling Services from Contractor in amounts approved, from time to time, by Resolution of the City Council of City intended to defray its administrative costs related to City support and outreach, and use of City staff or third parties to ensure, document and determine City compliance with and enforcement of AB 939, SB 1383 and other Applicable Law (the “AB 939 Support and Outreach Fee”). The AB 939 Support and Outreach Fee shall be adjusted annually by the same rate adjustment methodology provided in Section 24 of this Agreement. Contractor shall include the AB 939 Support and Outreach Fee in its monthly billings to Customers and remit all amounts collected to City on a monthly basis. The City reserves the right to subsequently impose additional fees to defray costs of services as may be authorized by law.

#### 11.4 Street Sweeping Mitigation Fee

11.4.1. Street sweeping is a service vital to reducing the health impact of spilled Solid Waste on City streets and gutters and prevent such from flowing into storm drains. In consideration of Contractor discontinuing this service in its combined services areas within the

City as of December 31, 2023, Contractor will pay City on or before July 1, 2023 and annually each July 1<sup>st</sup> thereafter during the Term of this Agreement, the sum of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00) which sum will be adjusted annually by the rate adjustment methodology provided in Section 24 of this Agreement.

11.4.2. Commencing July 1, 2023, City intends to levy a fee on all Customers receiving Solid Waste Handling Services from Contractor in amounts approved, from time to time, by Resolution of the City Council of City intended to defray its cost to provide additional necessary street sweeping services in areas not previously covered by Contractor ("Street Sweeping Fee"). The Street Sweeping Fee shall be adjusted annually by the same rate adjustment methodology provided in Section 24 of this Agreement. Contractor shall include the Street Sweeping Fee in its monthly billings to Customers and remit all amounts collected to City on a monthly basis.

11.4.3. Contractor agrees to assume the cost for disposal of Solid Waste, debris and other non-hazardous materials collected through City's street sweeping activities whether conducted by City with its own forces or one or more third party service providers.

#### 11.5 Franchise Fee

Commencing July 1, 2023, Contractor shall pay to City a franchise fee equal to ten percent (10 %) of Contractor's annual Gross Receipts each year, or a portion thereof, less disposal costs, during the entire Term of this Agreement (the "Franchise Fee"). Said Franchise Fee shall be paid to City monthly on or before the thirtieth (30th) day of each month. Should any such due date fall on a weekend or holiday in which the City's business offices are closed, payment shall be due on the first day thereafter in which the City's business offices are open. The amount of each payment shall be equal to ten percent (10%) of Contractor's Gross Receipts in the calendar month preceding the date payment was due. The Franchise Fee due hereunder shall apply to Gross Receipts of Contractor collected after the expiration of the Term hereof relating to Contractor's performance during the Term hereof. Franchise Fees shall be accompanied by a statement certified by an officer of Contractor attesting to the accuracy of the amounts paid, and setting forth the basis for their calculation in a manner acceptable to City. The Contractor and City agree that the Franchise Fee and other payments in this Section 11 are negotiated amounts that are reasonably related to the value of the rights granted to Contractor under this Agreement. City reserves the right to increase the Franchise Fee from time to time should City's City Council determine that such an increase is necessary to further defray costs incurred by the City in the administration of this Agreement or the costs referenced in sections 11.2 and 11.3 above.

### **SECTION 12. CHARGE FOR LATE PAYMENTS**

In the event Contractor fails to timely make any of the payments provided for in this Agreement (whether reimbursements, Franchise Fees, payments of funds collected in connection with Billing services, or otherwise), and unless disputed in writing by Contractor, Contractor shall pay to City, as additional consideration, a sum of money equal to five percent (5%) of the amount due. This amount is required in order to defray those additional expenses and costs incurred by City by reason of the delinquent payment including, but not limited to, the cost of administering, accounting for, and collecting said delinquent payment and the cost to City of postponing services

and projects necessitated by the delay in receiving the revenue. In addition, any amounts not paid to City by Contractor within sixty (60) days of the due date shall be subject to interest in the amount of eighteen percent (18%) per annum, or the maximum rate allowed by law if lesser, calculated on a daily basis for each day such sums remain past due.

### **SECTION 13. CONTRACTOR'S BILLING SERVICES AND SYSTEMS**

#### **13.1 Billing**

Contractor shall provide services pursuant to this Agreement at rates it sets, charges to, and collects from Customers; provided, however, Contractor's rates shall not exceed those set forth in the attached Exhibit A, which sets out the maximum rates that may be charged by Contractor for the various different service options that may occur hereunder, as such maximum rates may be adjusted from time to time pursuant to the terms hereof. Contractor shall provide all Customers with itemized Bills, detailing charges for all services, including charges for late payments, as well as the period of service to which the Bill applies. Contractor acknowledges that it, and not Customers, is to pay the one-time payments in Section 11.1, the Administrative Code Reimbursement in Section 11.2, the Street Sweeping contribution in Section 11.4.1 and street sweeping disposal costs in Section 11.4.3, and eight percent (8%) of the Franchise Fee in Section 11.5 of this Agreement. Accordingly, Contractor's Bills shall not include separate itemization of the above payments or other similar designation relating to fees which Contractor is required to pay to City. Contractor shall reproduce and include in any Billing, at no additional cost, one page informational "inserts" provided by City. However, Contractor may separately itemize and include in its Billings to Customers on behalf of City AB 939 Support and Outreach Fee in Section 11.4.2 and any percentage of the Franchise Fee over eight percent (8%) less disposal costs.

Billings may be made on a quarterly basis in advance of services being provided for all Customers at Single Family or Multi-Family Dwellings utilizing Carts for Collection, and on a monthly basis in advance for all other Customers. Premises ordering service after the first of the month or canceling service prior to the end of the month shall be charged on a prorated per-pickup basis.

##### **13.1.1 Suspension of Commercial and Roll-Off Service Due to Non-Payment**

Contractor may discontinue Commercial service (including Roll-Off Service) to any Customer as set forth in this Section. Commercial Customers may be advised that account payments are due within thirty (30) days after the date of Billing. Contractor may notify Commercial Customers, using a form approved by the City Manager, that accounts are past due thirty-five (35) days after the initial invoice date, and thereafter may send a final reminder notice forty-five (45) days after the initial invoice date. Said forms shall contain a statement that services may be discontinued sixty (60) days from the date of the initial invoice if payment is not made before that time. If payment is not made by the expiration of said sixty (60) day period, Contractor may discontinue service to that Commercial Customer upon the expiration of said sixty (60) day period. Contractor shall resume Solid Waste Collection on the next regularly scheduled Collection day for any Commercial Customer whose service is discontinued upon receipt of payment of delinquent fees and any related service restart charges in accordance with the maximum rates set

forth in Exhibit A, or at such sooner time as directed to do so by City. Contractor may not charge for service during any period in which service was suspended. Any delinquent fees or service charges to be imposed in connection with delinquent accounts shall not exceed the maximum rates set forth in Exhibit A. A deposit equal to the maximum rate for one month's service as set forth on Exhibit A, as such rates may be amended from time to time, may be required of accounts which have been discontinued for non-payment prior to re-instituting service at such accounts. Notwithstanding the above, in the event of a Billing dispute and/or to avoid negatively impacting public health or safety, Contractor shall not suspend service to any Commercial Customer without the City's prior consent, and shall continue to provide service to any Customer if directed to do so by City without regard to the status of said Customer's account. Any deviation from this sample procedure shall be submitted for approval to the City Manager. This section does NOT apply to Residential Customers for service to Multi-Family Dwellings.

#### 13.1.2 Unoccupied Premises

During any time when Contractor is made aware that a Premises (whether Residential, Multi-Family, or Commercial) is unoccupied for more than forty-five (45) days, and Collection services are not provided by Contractor, Contractor shall not Bill such Premises for Solid Waste Collection. Contractor may remove its Containers from any Premises after being notified by a Customer that service is to be cancelled as a result of the Premises being unoccupied. The Customer at any such Premises shall be responsible to provide notice to Contractor to cease service due to a vacancy, as well as reasonable evidence pursuant to such guidelines as the City Manager is hereby authorized to develop, demonstrating the Premises was vacant for the period in question. Such Customers shall be entitled to a refund from Contractor for any amounts paid to Contractor for each thirty (30) day period during which the vacancy exists. Any Customer grievance regarding a claim that a Premises was unoccupied and received no service, and hence should not be Billed for a given period pursuant to this Section, may be appealed by the Customer to the City Manager whose decision shall be final. It is the intent of the Parties that a Contractor shall not be entitled to charge for services which are not needed or used. Accordingly, the time frame set forth in this Section is not intended to suggest that Contractor may Bill Customers for up to forty-five (45) days of service in situations in which no service is needed or used due to a vacancy.

#### 13.1.3 Residential Delinquencies

(A) For health and safety reasons, Contractor shall not discontinue service to Residential Customers or a Residential property that is not Unoccupied as provided above. City is authorized to collect delinquent Solid Waste Handling fees in the manner provided by section 25831 and 38790.1 of the Government Code.

(B) Upon the written request of Contractor, the City authorizes and agrees to assist Contractor in submitting account delinquency information to the Riverside County Assessor's Office for placement on the tax roll. By submitting a written request, Contractor assigns its right to collect the delinquencies to the City.

(C) Contractor agrees not to discontinue service to Residential Customers. Residential Customers (owners or tenants) who have not remitted required payment within one hundred twenty (120) days after the date of billing shall be notified by Contractor on

forms that contain a statement that if payment is not received within fifteen (15) days from the date of the notice, a ten percent (10%) penalty and one point five percent (1.5%) monthly interest will begin to accrue and the City will be informed of the delinquency in an annual report. Contractor will deliver a report of the delinquencies by no later than April 30<sup>th</sup> of each year with a request that the City place the delinquencies on the tax roll. City is authorized to collect delinquent solid waste fees or charges in the manner provided in sections 38790.1 and 25831 of the Government Code. To implement Contractor's request, City will fix a time, date and place for hearing the report and any objections and protests to the report. As determined in the sole discretion of the City, Contractor shall mail notice of the hearing to the Residential Customers listed on the report not less than ten (10) days prior to the date of the hearing. At the hearing, City shall hear any objections or protests of Residential Customers liable to be assessed for delinquent fees. The City may make revisions or corrections to the report as it deems just, after which, by resolution, the report shall be confirmed.

(D) The delinquent fees set forth in the report as confirmed, shall constitute special assessments against the respective parcels of land and are a lien on the property for the amount of the delinquent fees. A certified copy of the confirmed report shall be filed with the Riverside County Auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. The lien created attaches upon recordation, in the office of the Riverside County Recorder, of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes. Contractor understands and agrees that the City has no obligation to foreclose on the lien for any delinquency. Contractor shall pay all fees charged by Riverside County in connection with the establishment of this secured tax roll billing and collection program and shall pay all direct and indirect costs incurred by the City in processing delinquent and unpaid assessments through the secured property tax roll procedure. City shall remit to Contractor within thirty (30) days of receipt from the Riverside County Assessor of amounts collected pursuant to this process. Contractor shall notify the City in the event any delinquency on the report or for which a lien has been created is paid or otherwise resolved.

(E) With respect to placement of account delinquencies on the tax roll made in accordance with the above provisions, Contractor, upon demand of the City, made by and through the City Attorney, shall indemnify, hold harmless, protect City and appear in and defend the City and its elected officials, officers, employees and agents, in and against any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and/or litigation challenging the placement on the tax roll, levy, collection, or remittance of any delinquent rate, fee, charge, interest, penalty, or other amount on the tax roll or any lien associated with the foregoing, as impermissible general tax, special tax, assessment, or fee requiring compliance with any provision of Article XIII of the California Constitution, the various enabling and implementing statutes, or as being an ultra vires act, or is invalid under or otherwise contrary to any federal, state, or local law, ordinance, regulation, or decision of a court of competent jurisdiction; and/or challenging the certification, implementation, imposition, adjustment, levy or collection of

any rate, fee, charge, interest, penalty or other amount under the Agreement. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement. In the event of an adverse legal determination or settlement of such action, the parties agree to cooperate and work in good faith to prepare such amendments or alternatives to the Agreement that will implement the original intent of the Parties while complying with any adverse legal determination or settlement.

### 13.2 Minimum Requirements for Billing Statements

In addition to any other pertinent data, Billing statements mailed by Contractor shall be printed to contain the following information, and the language contemplated for compliance with this requirement shall be subject to the City Manager's approval:

(A) A "statement date" indicating the date the Bill is generated and mailed.

(B) For Residential Cart service: the service address associated with the account, the Billing address, an itemized quantity of each type of service the Customer receives, the maximum rate charged for each type of service, and the bar code associated with any Carts located at the address when (if) available. Customers should be able to determine from the Bill the types of services they are receiving, and the rates charged for each individual service.

(C) A notice to Customers that payments are due upon receipt of the Bill, and considered delinquent if not paid on or before the 30th days following the invoice date, an advisement of the date and time by which payments must be received in order to avoid delinquent fees (i.e., 4:00 p.m. on the 60<sup>th</sup> day following the statement date), and a notification of the amount of fees that will be imposed and the potential for service interruptions if payments are not received by the specified date and time.

(D) An advisement to Customers that payments can be made in the following manner:

(1) by mailing payment to Contractor at such address as Contractor may designate; or

(2) by automatic withdrawal from a checking account; or

(3) by major credit card on-line (i.e., via the Internet).

(E) An advisement that inquiries relating to Solid Waste Collection should be directed to Contractor, including an address, phone number and internet site, for such inquiries.



### 13.3 Billing System

#### 13.3.1 Computerization of Account Information

Contractor shall provide and maintain, at its expense, computer equipment sufficient to operate pertinent computer programs and otherwise provide the services required by this Section. Contractor shall create, at its own expense, computer programs sufficient to operate a computerized Billing system, permanently maintain all account records and otherwise meet the requirements of this Section.

#### 13.3.2 Minimum Computer Programming Requirements

In addition to any other requirements set forth herein, the programs created by Contractor to operate and maintain the Billing system shall, at a minimum, be able to perform the following functions:

- (A) create a permanent record of any adjustment to a Customer's account;
- (B) work in connection with a backup system such that all Customer account data and records is protected from a computer failure and permanently preserved on not less than a daily basis;
- (C) allow Customers to make payments on-line (i.e., via the Internet) by a major credit card.

#### 13.3.3 Billing Inquiries

All Billing inquiries shall be entered into the computerized Billing system. Contractor's computer programs shall keep a permanent record of all Billing inquiries and all adjustments to Customer Bills resulting therefrom.

#### 13.3.4 Distribution of Public Information

If requested to do so by City, and at no charge to City, Contractor shall insert any printed material prepared by City into its Billing statements for delivery to its Customers. City shall not request Contractor to include any printed material in its Bills if such material is of a size, shape, or weight that would increase Contractor's postage costs or if such material does not fit into the envelopes utilized by Contractor to mail the Bills. Any printed material to be included in the Bills to be mailed by Contractor shall be provided to Contractor within a reasonable time in advance of Contractor's scheduled mailing date, such that the insertion of such material into Billing envelopes does not delay their scheduled mailing date.

#### 13.4 Payment, Accounting Systems

##### 13.4.1 Collection and Processing of Payments

###### 13.4.1.1 Accounting and Deposit of Funds

All payments received by Contractor shall be appropriately credited to Customer accounts, deposited in a bank account and accounted for in a businesslike manner utilizing generally accepted accounting principles. To facilitate audits and record keeping Contractor shall make all withdrawals from its bank accounts by check, ACH debit/credit or wire, regardless of whether the withdrawal is to provide funds to City, Contractor, or any permissible subcontractor of Contractor. Contractor may charge Customers for any returned checks at rates that do not exceed the maximum rates set forth on Exhibit A.

###### 13.4.1.2 Allocation of Funds

With respect to payments received from each Customer, unless a Customer specifically directs a different allocation, funds shall be allocated first to outstanding charges for Solid Waste Collection, then to any related delinquency fees or other administrative charges, up to the amount of any outstanding balance. Any overpayment shall be credited to future Bills in the same sequence, or returned to Customers as appropriate. Contractor may charge Customers for any refunds issued, where said refund is not due to errors in accounting by Contractor, at rates that do not exceed the maximum rates set forth on Exhibit A.

### **SECTION 14. FAITHFUL PERFORMANCE**

#### 14.1 Surety

Contemporaneously with execution of this Agreement, as security for Contractor's faithful performance of all obligations of this Agreement, Contractor shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Five Hundred Thousand Dollars (\$500,000.00). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirement, it shall be drawn upon a financial institution of a financial strength satisfactory to the City Attorney which has an office within one hundred (100) miles of City and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney for the City. The cost of the Surety shall be the sole responsibility of Contractor. The Surety shall be released within thirty (30) days after both (i) the expiration of the Term of this Agreement and (ii) Contractor's satisfactory performance of all obligations hereunder.

##### 14.1.1 Forfeiture of Surety

In the event Contractor shall for any reason (except as otherwise provided in this Agreement) become unable to, or fail in any way, to perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Contractor shall restore the

Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

#### 14.1.2 Use of Surety by City

Notwithstanding any provision hereof to the contrary, thirty (30) days following City providing Contractor with written notice of its failure to pay City any amount owing under this Agreement, either the letter of credit or performance bond comprising the Surety may be utilized by City for purposes including, but not limited to: (1) Payment of sums due under the terms of this Agreement which Contractor has failed to timely contest or pay to City, including specifically liquidated damages; (2) Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Contractor and notice and a cure period.

#### 14.2 Replacement Letter of Credit

City may draw upon the entire letter of credit (if any) utilized to meet Contractor's obligations pertaining to the Surety, and convert it to a cash deposit, if Contractor fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

### **SECTION 15. INSURANCE COVERAGE**

Contractor shall procure and maintain during the entire Term of this Agreement the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Contractor's performance hereunder or the actions or inactions of any of Contractor's officers, agents, representatives, employees, or subcontractors in connection with Contractor's performance. The insurance requirements hereunder in no way limit Contractor's various defense and indemnification obligations, or any other obligations as set forth herein.

#### 15.1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

(1) The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).

(2) The most recent editions of Insurance Services Office form number CA 00 01 1001 covering Automobile Liability, code 1 "any auto".

(3) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

#### 15.2 Minimum Limits of Insurance

Contractor shall maintain in force for the Term of this Agreement limits no less than:

#### 15.2.1 Comprehensive General Liability

Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per occurrence for bodily injury, personal injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

#### 15.2.2 Automobile Liability

Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per accident for bodily injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

#### 15.2.3 Workers' Compensation and Employers Liability

Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000.00) per accident.

#### 15.3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by City. If, in the reasonable opinion of the City, Contractor does not have sufficient financial resources to protect the City from exposure with respect to any deductibles or self-insured retentions Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### 15.4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provision:

##### 15.4.1 General Liability and Automobile Liability Coverage

City and its elected and appointed officials, officers, employees, agents and volunteers shall be named as additional insureds in connection with liability arising out of activities performed by or on behalf of Contractor; Premises owned, leased or used by Contractor; and vehicles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City or its elected and appointed officials, officers, employees, agents and volunteers. Contractor's insurance coverage shall be the primary insurance for the City and its elected and appointed officials, officers, employees, agents and volunteers in connection with the above enumerated categories. Any insurance or self-insurance maintained by City or its elected and appointed officials, officers, employees, agents and volunteers shall be in excess of Contractor's insurance and shall not contribute with it. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to City or its elected and appointed officials, officers, employees, agents and volunteers. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

#### 15.4.2 Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against City and its elected and appointed officials, officers, employees, agents and volunteers for losses arising from work performed by Contractor for City.

#### 15.4.3 Environmental Pollution Control Insurance

Contractor shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City as an additional insured. Said coverage shall be in the amount of not less than Five Million Dollars (\$5,000,000) per occurrence, and Five Million Dollars (\$5,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 15.4.1.

#### 15.4.4 Cyber Liability Insurance

Contractor shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering cyber liability that names the City as an additional insured. Said coverage shall be in the amount of not less than Five Million Dollars (\$5,000,000) per occurrence, and Five Million Dollars (\$5,000,000) in the aggregate, and shall substantially comply with all other provisions set forth in Section 15.4.1.

#### 15.4.5 All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

#### 15.5 Acceptability of Insurers

The insurance policies required by this Section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better, unless otherwise approved by the City Manager.

#### 15.6 Verification of Coverage

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

### 15.7 Loss or Reduction in Insurance

In the event that Contractor fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Contractor and utilize funds from the Surety defined in Section 14 to pay the cost of providing such coverage.

## **SECTION 16. ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS**

### 16.1 General

Contractor shall not assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement (collectively referred to as an "Assignment") to any other Person without the prior approval by the City Council. The City Council may, in the exercise of its reasonable discretion, approve or deny such an Assignment. Any such Assignment made without the approval by the City Council, in the exercise of its reasonable discretion, shall be void and the attempted Assignment shall constitute a material breach of this Agreement. A denial of a request by Contractor for Assignment of the Agreement shall be deemed reasonable if, without limiting other potentially reasonable bases for denial, the decision is based on significant changes in ownership or management personnel between Contractor and the Assignee.

### 16.2 Assignment to be Broadly Interpreted

For purposes of this Section the term "Assignment" shall be given the broadest possible interpretation and shall include, but not be limited to: (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of any membership interest of Contractor to a third party; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Contractor; (iv) any assignment by operation of law, including those resulting from mergers or acquisitions by or of Contractor or any of its Affiliates, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change or control of Contractor.

### 16.3 Nature of Agreement – Personal to Contractor

Contractor acknowledges that this Agreement involves rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Solid Waste Handling Services in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its

indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

#### 16.4 Procedure for Consideration of Assignment

If Contractor requests City's consideration of and consent to an Assignment, the City Council may deny, approve or conditionally approve such request in the exercise of its reasonable discretion. A denial of a request by Contractor for Assignment of the Agreement shall be deemed reasonable if, without limiting other potentially reasonable bases for denial, the decision is based on significant changes in ownership or management personnel between Contractor and the Assignee. Under no circumstances shall City be obliged to consider any proposed Assignment if Contractor is in default at any time during the period of consideration. Should the City consent to any Assignment request, such Assignment shall not take effect until all conditions relating to the City's approval have been met. Any request for an Assignment shall be made in a manner to be reasonably prescribed by the City Manager, and no request by Contractor for consent to an Assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the Assignment if approved, made reasonable assurances that it will meet) the following requirements:

(A) Contractor shall undertake to pay City its reasonable direct and indirect expenses, including administrative, investigative, consulting, and attorneys' fees and costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such Assignment (collectively the "Administrative Assignment Fee").

(B) If requested to do so, Contractor shall allow City to view audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years.

(C) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with state, federal or local laws, including the Environmental Laws and that the assignee has provided City with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, state and local laws regulating the Collection and disposal of Solid Waste including Hazardous Substances; and, (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

(D) The proposed assignee shall execute an agreement assuming all of Contractor's rights and liabilities under this Agreement.

## **SECTION 17. PERFORMANCE AND MARKET RATE REVIEW**

### **17.1 Performance Review**

(A) Commencing in or about December 1, 2025, and then not more than once every five (5) years thereafter, City may initiate a review of Contractor's performance under the Agreement ("Performance Review"). The purpose of the Performance Review is to assess Contractor's overall performance under the Agreement, areas of excellence, areas of deficiency that need correction or improvement, and areas in which changes in the Applicable Law, advances in technology, market changes, or similar factors suggest changes are necessary or desirable. The City will have the right to determine the scope of any Performance Reviews, which may include in addition to the foregoing, but are not limited to, determining if the Contractor is: operating safely and effectively with good customer service, excessive or persistent customer complaints, complying with all contractual requirements; correctly billing accounts; and correctly paying franchise fees and other fees required under this Agreement. Contractor shall fully cooperate with any performance reviews.

(B) City shall notify Contractor of its intent to initiate a Performance Review at least thirty (30) days in advance thereof. City and Contractor shall meet and confer during this thirty (30) day period to mutually select a qualified consulting firm ("Consultant") which will undertake the Performance Review. If the Parties are unable to select a mutually agreeable consulting firm within the above period, then the City shall select a firm. The Parties agree to share the cost of the Consultant equally, each bearing fifty percent (50%) of the total cost. Consultant shall prepare a draft written report with findings, including the factors noted above and deliver a copy to each party forty-five (45) days after the Consultant is selected.

(C) City and Contractor agree to cooperate with the Performance Review by providing requested information in a timely manner without undue delay. Contractor shall prepare and provide to Consultant such information as has been reasonably requested by City and/or the Consultant. Contractor may submit other relevant performance information and reports for consideration.

(D) The Consultant shall prepare a draft written report with findings and recommendations and deliver a copy to Party. Contractor and City shall each have forty-five (45) days to review the report and to provide comments or questions to the Consultant with a copy to the other Party. The Consultant will prepare a revised draft in response to the comments and questions, as necessary, and provide a copy to both City and Contractor who shall then meeting and confer in good faith over the succeeding sixty (60) days regarding the implementation of any corrections or recommendations mutually agreed upon by the Parties.



## 17.2 Market Rate Review

(A) Commencing in or about December 1, 2027, and then not more than once every five (5) years thereafter, the City shall have the right to conduct a Market Rate Review (MRR) for purposes of comparing the City's Residential and Commercial rates, net of franchise fees, to the jurisdictions set forth below which have been agreed upon by the Parties:

- Temecula
- Lake Elsinore
- County Areas 5, 6, 7 & 9
- Perris
- San Jacinto
- Hemet
- Calimesa
- De Luz
- Canyon Lake

(B) Within sixty (60) days of Contractor's receipt of a letter from City initiating the MRR, Contractor will gather the necessary records and will perform the following calculations and report the results to the City. Contractor shall make all records used to make the calculation available for review and verification by City or City's consultant.

## 17.3 Residential Weighted Average Rate Comparison

1. Adjust the residential rates for the City and the Comparative Jurisdictions to back out the portion of the rates associated with franchise fees.
2. Calculate the weighted average residential rate for the City and the Comparative Jurisdictions.
3. Compare the City's weighted average residential rate to the weighted average residential rates of the Comparative Jurisdictions.
4. If the City's weighted average residential rate is less than or equal to the weighted average residential rate of the Comparative Jurisdictions then the City's residential rate may be adjusted as authorized provided for in this Agreement.
5. If the City's weighted average residential rate is more than the weighted average residential rate of the Comparative Jurisdictions then City's residential rates may not be adjusted as otherwise provided for in this Agreement until the City's weighted average residential rate is less than or equal to the weighted average residential rate of the Comparative Jurisdictions.

#### 17.4 Commercial 3-Yard Bin Serviced One Time per Week Rate Comparison

1. Compare the City's rate for a 3-yard trash bin serviced one time per week to the rate for a 3-yard trash bin serviced one time per week in each of the Comparable Jurisdictions.

2. If the City's rate for a 3-yard trash bin serviced one time per week is less than or equal to the highest rate for a 3-yard trash bin serviced one time per week in the Comparative Jurisdictions then City's commercial rates may be adjusted as otherwise provided for in this Agreement.

3. If the City's rate for a 3-yard trash bin serviced one time per week is more than the highest rate for a 3-yard trash bin serviced one time per week in the Comparative Jurisdictions then City's Commercial rates may not be increased as otherwise provided for in this Agreement until the City's rate for a 3-yard trash bin serviced one time per week is less than or equal to the highest rate for a 3-yard trash bin serviced one time per week in the Comparative Jurisdictions.

### **SECTION 18. CITY'S REMEDIES; DEFAULT AND TERMINATION**

#### 18.1 Notice of Default

If the City Manager determines that Contractor has defaulted in the performance of any material or significant obligation hereunder, or that Contractor's performance pursuant to this Agreement with respect to such matters has not been in conformity with reasonable industry standards which are obtained in similar cities in Southern California, the provisions of this Agreement, the requirements of the Municipal Code, the requirements of CalRecycle, including, but not limited to, requirements for source reduction and recycling or any other applicable federal, state, or local law or regulation, including but not limited to the laws governing transfer, storage, or disposal of Special Wastes, or Hazardous Waste, the City Manager may provide written notice to Contractor of such default. The City Manager may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer or shorter time is otherwise specified by the City Manager, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

#### 18.2 Failure to Cure

If Contractor fails to correct, to the satisfaction of the City Manager, all deficiencies contained in the written notice thereof within the specified time, or if it is not reasonably possible to correct such deficiencies within the specified time, and Contractor fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter, then the City Manager may refer the matter to the City Council for review, or review the matter himself.

#### 18.3 Review by City Manager

If the City Manager reviews the matter and determines that Contractor has failed to properly or adequately cure any default set forth above, the City Manager, in the exercise of his discretion, may terminate this Agreement, or take such other action as he deems appropriate to

pursue any remedy available to City. A decision or order of the City Manager shall be final and binding on Contractor unless Contractor files a "Notice of Appeal" with the City Clerk within five (5) business days of the date the notice of the City Manager's decision is given. The City Manager shall schedule any appeal for consideration by the City Council at the earliest feasible City Council Meeting following the date a Notice of Appeal is given to City.

#### 18.4 City Council Review

In the event an appeal of a decision of the City Manager is filed, or if the City Manager refers the matter to the City Council without rendering a decision, the City Council shall set the matter for consideration before the City Council as a regular agenda item. In reviewing the matter, the City Council may consider any information reported by the City Manager regarding the deficiencies, and shall give Contractor, or its representatives and any other interested Person, a reasonable opportunity to be heard. The City Council shall determine whether Contractor has failed to properly or adequately perform as set forth above, and if so whether to terminate the Agreement, or to pursue any other remedy available to City.

#### 18.5 Performance During Reviews

Contractor's performance under this Agreement is not excused during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

#### 18.6 Termination without Right to Cure

The above right of termination as a result of Contractor's failure to timely cure any deficiency is in addition to City's right to terminate this Agreement without affording Contractor an opportunity to cure in circumstances where Contractor is determined by City to have materially breached this Agreement. City shall thus be afforded the right to terminate this Agreement in the event of any material breach hereof by Contractor without affording Contractor the right to cure as a result of any action, inaction or circumstance which is a legally defined material breach, or is defined herein as a material breach, and/or under any of the following circumstances which are hereby specifically defined as material breaches:

(A) If Contractor practices, or attempts to practice, any fraud or misrepresentation upon City.

(B) If Contractor becomes insolvent, unable, or unwilling to pay its debts, or upon listing of an order for relief in favor of Contractor in a bankruptcy proceeding.

(C) If Contractor willfully violates any orders or rulings of any regulatory body having jurisdiction over Contractor relative to this Agreement. So long as City's rights are not prejudiced during the pendency of any challenge to such orders or rulings by Contractor, Contractor may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no material breach of this Agreement shall be deemed to have occurred until a final ruling has been rendered.

(D) If Contractor ceases to provide Solid Waste Handling Services as required under this Agreement over all or any portion of the Franchise Area for a period of two (2) days or more, for any reason not specified as a force majeure event hereunder.

(E) If Contractor fails to materially comply with any insurance or indemnification requirement set forth in this Agreement.

(F) If City is required to pay any fine or penalty, which is not paid on its behalf by Contractor or which Contractor fails, refuses, neglects or is unable to pay or indemnify City against, relating to any diversion or other requirement of Applicable Law.

(G) If Contractor, or any management level employee of Contractor is convicted of a Criminal Matter (as defined herein). For purposes of this Section the term Criminal Matter refers to any felony or misdemeanor offense having any relationship to either Solid Waste Handling Services or public corruption (including, without limitation, bribery, conflict of interest related allegations, vote selling, or any similar type charges).

## 18.7 Alternative Enforcement Process -- Liquidated Damages

### 18.7.1 General

(A) The Alternative Enforcement Process may be pursued by the City either concurrently with the enforcement procedure set forth in Section 18.1 through 18.6 above are as an alternative thereto.

(B) The City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Contractor of certain specific obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that the services that are the subject of this Agreement might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such specific breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

(C) The parties further acknowledge that consistent, reliable Solid Waste Handling Service is of utmost importance to City and that City has considered and relied on Contractor's representations as to its quality of service commitment in entering this Agreement with it. The parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The parties further recognize that if Contractor fails to achieve the

performance standards, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City will suffer. Therefore, without prejudice to City's right to treat such breaches as an event of default, the parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Contractor	City
Initial Here _____	Initial Here _____

#### 18.7.2 Alternative Process – Notice of Non-Compliance

##### 18.7.2.1 Notice of Non-Compliance

In the event the City identifies a term or condition of the franchise agreement that it believes the Contractor is not, or has not complied with, it may issue a written Notice to the Contractor of its findings ("Notice"). That Notice shall specify the specific section or sections of the franchise agreement that the City believes the Contractor is not in compliance with and the basis for its determination of non-compliance. The Notice shall also set a reasonable time within which correction of such event of non-compliance shall be made. Unless a longer or shorter time is otherwise specified by the City Manager or his/her designee, a reasonable time for correction shall be forty-five (45) days from the date such written notice is given.

Within fifteen (15) business days of receipt of the City's Notice, Contractor may provide a written request for a meeting with the City Manager or his/her designee, to present evidence that it is in fact in compliance, present evidence of extenuating circumstances, or otherwise discuss the Notice. If the Contractor requests a meeting with the City Manager, it shall have forty-five (45) days from the date of such meeting to correct the event of non-compliance, unless otherwise agreed to by the City Manager or his/her designee.

##### 18.7.2.2 Failure to Cure

If Contractor fails to correct, to the reasonable satisfaction of the City Manager or his/her designee, all deficiencies contained in the written Notice thereof within the specified time, or if it is not reasonably possible to correct such deficiencies within the specified time, and Contractor fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter, then the City Manager may assess liquidated damages of fifty dollars and no cents (\$50.00) per incident or event per day.

In the event that the identified area of non-compliance is a past event that cannot be cured (e.g., failure to submit reports as required, overweight vehicles, etc.), any such similar

future event identified by the City shall be subject to liquidated damages of one hundred dollars and no cents (\$100.00) per incident or event, at the City Manager's discretion.

## **SECTION 19. CONTRACTOR'S REMEDIES; ADMINISTRATIVE HEARING**

### **19.1 Administrative Hearing**

Should Contractor contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the City Manager. The hearing officer shall make an advisory ruling on Contractor's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the parties so agree in writing within thirty (30) days of the date notice of the decision is given to both parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

### **19.2 Other Remedies; Claims**

Contractor shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Contractor shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Contractor has given timely written notice to the other that it will not accept the hearing officer's decision.

### **19.3 Actions for Damages**

As a prerequisite to the filing and maintenance of any action for damages by Contractor against City arising out of this Agreement, Contractor shall present a claim to City, as required by Government Code section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages. Contractor shall have no right to assert a claim for damages related to City's failure to approve or delay in considering a rate adjustment. In such cases, City may file a petition for writ of mandate.

## **SECTION 20. CITY'S ADDITIONAL REMEDIES**

In addition to any other remedies set forth herein, City shall be entitled to any or all of the following rights and remedies in the event of a breach of this Agreement by Contractor:

(A) Provided that the City (i) agrees to maintain the equipment in accordance with Section 9.3, (ii) provides proof of insurance comparable to the insurance provided by Contractor in accordance with Section 15 naming Contractor as an additional insured, and (iii) uses only fully qualified and licensed personnel to operate the equipment: the City's right to use Contractor's equipment for the purpose of Collecting, transporting, and/or disposing of Solid Waste, including Recyclable Material, for a period not to exceed six (6)

months. In the case of equipment not owned by Contractor, Contractor shall assign to City, to the extent Contractor is permitted to do so under the instruments pursuant to which Contractor possesses such equipment, the right to use and possess the equipment. If City exercises its rights under this Section, City shall pay to Contractor the reasonable rental value of the equipment for the period of City's possession thereof (although payment may, if appropriate, occur in the form of a setoff against damages otherwise owed by Contractor pursuant to the terms hereof);

(B) The right to license others to perform the services otherwise to be performed by Contractor hereunder, or to perform such services itself; and

(C) The right to obtain damages and/or injunctive relief. Both parties recognize and agree that in the event of a breach of this Agreement by Contractor, City will suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to specifically enforce the provisions of this Agreement, and to enjoin the breach hereof.

## **SECTION 21. RIGHTS OF CITY TO PERFORM DURING EMERGENCY**

### **21.1 Provision of Service**

Should Contractor, for any reason whatsoever, refuse or be unable to provide Solid Waste Handling Services for a period of more than seventy-two (72) hours, and if as a result thereof, Solid Waste should accumulate in City to such an extent or in such a manner that the City Manager finds that such accumulation endangers or menaces the public health, safety, or welfare, City shall have the right, upon twenty-four (24) hours prior written notice to Contractor, during the period of such emergency, to temporarily (1) contract with a third party for Solid Waste Handling Services on such terms as the City Manager determines to be reasonable under the circumstances; or (2) subject to the terms of Section 21.2 below take possession of any or all equipment and facilities of Contractor previously used in providing Collection, transportation, and disposal of Solid Waste and provide, through its own forces or otherwise, Solid Waste Handling Services which Contractor otherwise would be obligated to provide pursuant to this Agreement. Contractor agrees that in such event it shall fully cooperate with City to affect such a transfer of possession for City's use.

### **21.2 Possession of Equipment**

Provided that the City (i) agrees to maintain the equipment in accordance with Section 9.3, (ii) provides proof of insurance comparable to the insurance provided by Contractor in accordance with Section 15, naming Contractor as an additional insured, and (iii) uses only fully qualified and licensed personnel to operate the equipment, Contractor agrees, that in the event of circumstances described in Section 21.1 above, City may take temporary possession of and use all of said equipment and facilities without paying Contractor any rental or other charge. Upon Contractor giving City notice that it is able to resume its normal responsibilities under this Agreement City shall either relinquish possession of all of the above-mentioned property to Contractor.

### 21.3 Exclusions from Right to Possession of Equipment without Compensation

Specifically excluded from the circumstances in which City may possess and utilize Contractor's equipment without compensation are circumstances in which Contractor fails or refuses to provide Solid Waste Handling Services hereunder for any reason which is not a force majeure event as defined herein. In such circumstances City's right to utilize and possess Contractor's equipment shall be subject to the provisions of the above Section 20.

## **SECTION 22. PRIVACY**

Contractor shall strictly observe and protect the privacy rights of Customers. Information identifying individual Customers or the composition or contents of a Customer's Solid Waste stream, or any of the Billing information pertaining to any Customers, shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, ordinance, or regulation of a governmental agency having jurisdiction, or upon valid authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste audits which may be required by the Applicable Law, or this Agreement. Contractor shall not market or distribute, outside the normal course of its business, mailing lists with the names and addresses of Customers. The rights afforded Customers pursuant to this Section shall be in addition to any other privacy right afforded Customers pursuant to federal or state law.

## **SECTION 23. REPORTS AND ADVERSE INFORMATION**

The parties acknowledge that City will require reporting at various intervals by which information important to City can be compiled and analyzed. Throughout the Term the parties agree to work together to address City's needs with respect to the information to be contained in reports prepared by Contractor to facilitate compliance with the Applicable Laws. The following is intended as a starting point in order to have established an objective baseline for reporting, but the frequency and content of the reports called out below may be changed by agreement of the parties; provided any such change is approved by the City Manager in writing. Records related to performance of this Agreement shall be maintained by Contractor in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. The format of each report shall be approved by City. Contractor agrees to submit all reports in an electronic format approved by the City, compatible with City's software/computers at no additional charge.

### 23.1 Quarterly Reporting

(A) General. Quarterly reports must be submitted no later than 5 p.m. PT on the thirtieth (30th) day following the last month of the quarter. If the thirtieth (30th) day falls on a day that City is closed or a holiday, then the report will be due on the next business day. The Quarterly Report must include all items listed below.

(B) Gross Receipts Reporting. Contractor must include an accounting of Contractor's gross receipts collected during the preceding quarter.



(C) Franchised Tonnage Data. Contractor must report the tonnage of Refuse, Recyclable Materials and Organic Waste collected, processed for diversion, residual amounts and landfilled for broken down by Single Family, Multi-Family, and Commercial Customers.

(D) Collection Overage Charges. The quarterly report must include each Customer incurring a charge for a Solid Waste Overage in the previous quarter.

(E) Customer Complaint Log. The quarterly report must include the Customer call log collected from the previous quarter as required in Section 13 (Billing) of this Agreement.

(F) Contamination Reporting. The quarterly report must include a summary of all instances of contamination under the procedures in Section 8.1.11 (Recyclables and Organics Contamination). This summary must include the total number of accounts where contamination occurred, the total number of Contamination Violation Notices issued by Contractor to Customers, and the total number of instances where Collection Cart or Bins size or Collection frequency was increased specifically due to contamination. Within twenty (20) work days of request by City, Contractor will provide copies of the Contamination Violation Notices and the digital documentation of contamination.

## 23.2 Annual Reporting

(A) General. An annual report must be submitted no later than 5:00 p.m. PT on April 1, 2024 and each April 1st thereafter for the previous Calendar Year. If April 1st falls on a day that City is closed, then the report will be due on the next business day. Annual reports must be provided electronically in software acceptable to the City. The Annual Report must include all items listed below.

(B) Public Education Summary. Public education and information activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to the provision of Collection Services. This report will discuss the impact of these activities on Recyclables and Organic Waste program participation.

(C) Summary of Programs. An analysis of any Recyclables and Organic Waste programs, processing and marketing issues or conditions (such as participation, setouts, contamination, etc.) and possible solutions, discussed separately for Single Family Dwelling, Multi-Family Dwelling, and Commercial programs.

(D) Solid Waste Data. Gross tons collected for the Calendar Year for Single Family, Multi-Family, and Commercial Customers. The number of Single Family, Commercial.

(E) Recyclables Data. Gross tons processed and recovered for the Calendar Year for Single Family, and Commercial Recyclables service. Indicate, by material type (and grade where appropriate). Include the number of route reviews conducted for prohibited contaminants and the number of Contamination Notices issued.

(F) Organic Waste Data. Gross tons of Organic Waste processed and recovered for the calendar year for Single Family and Commercial Organic Waste service. Include the total number of generators that receive each type of Organic Waste Collection Service provided by the Contractor. Include the number of route reviews conducted for prohibited contaminants and the number of Contamination Notices issued.

(G) AB 341 and AB 1826 Outreach Report. A summary report card of the total number of covered generators (Multi-Family and Commercial Customers) status of Contractor's outreach efforts at each account, and the current level of Recyclables and Organic Waste program participation for the City.

(H) AB 341, AB 1826, and SB 1383 Compliance Data. Contractor must report the total number of Residential and Commercial Customers serviced. Contractor must also provide the following information separately.

(1) The total number of Multi-Family and Commercial Customers that fall under the AB 341 or AB 1826 thresholds, and the total number of those Residential, Multi-Family and Commercial Customers that are not receiving Contractor's required services to Recyclables and/or Organic Waste service under SB 1383.

(2) A summary of the type of follow-up outreach that was provided to those Customers that are not subscribed to Recycling Collection Service or Organic Collection Service.

(I) Customer Service Log. A summary of the type and number of complaints and their resolution, including calls related to missed pickups and responses to such calls. (with three-year retention)

(J) Overweight Vehicle Data. A summary of all instances of overweight collection vehicles. This summary must also include the number of overweight vehicle instances as a percentage of the total number of collection vehicle loads transported during the Calendar Year.

(K) Summary Narrative. A summary narrative of problems encountered with Collection and processing activities and actions taken.

(L) Vehicle Inventory. An updated complete inventory of Collection vehicles including for each vehicle: truck number, date purchased, vehicle type, tare weight, license plate number, and vehicle make and model.

(M) Implementation Record Reporting.

(1) Contamination Minimization Records – The following required records referenced in SB 1383 section 18984.6. Recordkeeping Requirements for Contamination Minimization. (Page 73):

(a) A description of the Contractor's process for determining the level of container contamination.

(b) Documentation of all Route Reviews conducted.

(c) Copies of all notices issued to generators with prohibited container contaminants.

(d) Documentation of the number of containers where the contents were disposed due to observation of prohibited container contaminants.

(2) Education and Outreach – All applicable Contractor records referenced in SB 1383 section 18985.3. Recordkeeping Requirements for Jurisdiction's Compliance with Education and Outreach Requirements. (Page 81.)

(a) Copies of all Contractor SB 1383 related education and outreach materials, including: flyers, brochures, newsletters, invoicing messaging, and website and social media posts. This is to include copies of all education and outreach material provided to Commercial Edible Food Generators as specified in Section 8.14.C.

(b) The date, and to whom the information was disseminated or direct contact made. If the Contractor provides mass distribution through mailings, or bill inserts, it shall provide the date, a copy of the information, and the type and number of accounts receiving the information.

(c) If information is submitted electronically, include a copy, with the dates posted, of social media posts, emails, or other electronic messages.

(3) Recovered Organic Waste Procurement Target Records – All applicable Contractor records referenced in SB 1383 section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target. (Page 98.)

(a) Contractor shall provide an accounting of the number of gallons of RNG Fuel used to power the City's franchised vehicles for the prior calendar year, along with copies of all invoices or similar records evidencing all procurement.

(b) Contractor shall also provide an accounting of the quantities of any other Organic Waste Products it has provided to the City in the prior calendar year. along with copies of all invoices or similar records evidencing all procurement.

- (4) Inspection, Route Review, and Compliance Review Documentation
  - All applicable Contractor records referenced in SB 1383 section 18995.1(d). Implementation Record and Recordkeeping Requirements. (Page 105.)

- (a) Copies of all documentation of Route Reviews, Compliance Reviews, and inspections.

### 23.3 Diversion Data

By 5:00 p.m. PT on March 31, 2023, and annually thereafter during the term of this Agreement, Contractor must deliver to City diversion data for the specific services performed under this Agreement in the format specified by City.

### 23.4 CalRecycle Reports

Contractor will provide reasonable assistance to City in preparing annual reports to CalRecycle, including but not limited to supplying required data for preparation of the reports.

In the event that CalRecycle requires City to submit a correction plan, or implementation schedule to comply with the Applicable Laws, Contractor will provide reasonable assistance to City in preparing a report, including Contractor's policies and procedures related to compliance with the Applicable Laws and how recycling or organics are collected, a description of the geographic area, routes, list of addresses served and a method for tracking contamination, copies of route audits, copies of notice of contamination, copies of notices, violations, education and enforcement actions issued, and copies of educational materials, flyers, brochures, newsletters, website, and social media.

### 23.5 Additional Reporting

Contractor must furnish City with any additional reports as may reasonably be required by City to comply with any CalRecycle reporting requirement, or any request for information or compliance letter submitted to City by CalRecycle, or that City reasonably requires to assess the adequacy of Contractor's performance under the Agreement, such reports to be prepared within a reasonable time following the reporting period.

### 23.6 Adverse Information

(A) Contractor shall provide City two copies of all reports and other material adversely affecting this Agreement submitted by Contractor to the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Contractor's filing of such matters with said agencies. Contractor's routine correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon written request.

(B) Contractor shall submit to City copies of all pleadings, applications, notifications, communications, and documents of any kind submitted by Contractor to, as well as copies of all decisions, correspondence, and actions by, any federal, state, and local

courts, regulatory agencies, and other government bodies relating in any manner to Contractor's performance of services pursuant to this Agreement. To the degree authorized by law, any confidential data exempt from public disclosure shall be retained in confidence by City and its authorized agents and shall not be made available for public inspection.

(C) Contractor shall submit to City such other information or reports in such forms and at such times as City may reasonably request or require.

(D) All reports and records required under this or any other Section hereof shall be furnished at the sole expense of Contractor.

#### 23.7 Disaster Plan

Within sixty (60) days from a request by City, Contractor shall prepare a draft disaster plan that sets forth procedures for maintaining regular Collection service and Collection of debris following a major natural disaster such as an earthquake, fire or other similar emergency event (not including labor disputes). The disaster plan shall address arrangements to provide needed vehicles and personnel, priorities for cleanup at critical facilities, and procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Contractor shall coordinate the plan with City's emergency service teams. The draft plan shall be presented to the City Manager for consideration and approval. The final plan shall be distributed to those employees of Contractor and City who would have a role in implementing it in the event of a disaster.

In addition, at City's request, Contractor shall assist the City with such emergency Collection service and Collection of debris following a major natural disaster such as an earthquake, fire or other similar emergency event. In the event of such a request, Contractor and City shall meet and confer in good faith to determine a fair and reasonable rate to compensate Contractor for providing such assistance.

#### 23.8 Failure to Report

The refusal of Contractor to file any of the reports required, or the inclusion of any materially false or misleading statement or representation made knowingly by Contractor in such report, shall be deemed a material breach of this Agreement and shall subject Contractor to all remedies, legal or equitable, which are available to City under this Agreement or otherwise.

### **SECTION 24. COMPENSATION**

#### 24.1 Contractor Rates

Contractor shall provide services to Customers pursuant to this Agreement at rates it sets, charges to, and collects from Customers, which rates shall not exceed those set forth in the attached Exhibit A, which sets out the maximum rates that may be charged by Contractor, as such maximum rates may be adjusted from time to time pursuant to the terms hereof. The maximum rates set forth in Exhibit A are inclusive of all services to be provided, including transportation, disposal, and

Container costs, and no other charges shall be imposed by Contractor for such services except as otherwise provided in this Agreement.

#### 24.2 Resolution of Disputes Regarding Rate Adjustments

Any dispute regarding an adjustment to the maximum rates Contractor may charge, or the computation thereof, shall be discussed in good faith by both parties in an effort to find a reasonable solution. The rates in effect at the time such dispute is submitted to the City Manager shall remain in effect pending resolution of such dispute. The effective date of the adjusted maximum rate following the resolution of any such dispute, whether retroactive or prospective, shall be agreed upon by City Manager and Contractor.

#### 24.3 Annual Consumer Price Index Adjustments

Contractor shall provide City and shall attach to this Agreement a rate sheet for all services in all areas of the City that will become effective January 1, 2023 and remain effective until July 1, 2023 with the maximum Residential Service Rate not to exceed thirty-one dollars and 39 cents (\$31.39) per month during this period.

Except as otherwise provided herein, commencing on July 1, 2023, the maximum rates as set forth in Exhibit A may be adjusted, and such rates may be adjusted annually thereafter on each subsequent July 1st during the Term hereof (the "Adjustment Dates"), by multiplying each rate by the greater of two percent (2%) or the percentage equal to the change in the Consumer Price Index ("CPI") for All Urban Consumers, not seasonally adjusted, all items index (CPI-U) – Riverside-San Bernardino-Ontario average for the thirty-six (36) month period ending on the date of December 31 immediately prior to the applicable Adjustment Date. At least ninety (90) days prior to charging Customers any rate increased due to an increase in the CPI, Contractor shall obtain the City Manager's approval to do so. The City Manager shall approve such a request unless it is determined, based upon substantial evidence, that the requested adjustment to the maximum rate does not meet the requirements as set forth herein.

#### 24.4 Limitations to Annual CPI Adjustments

Notwithstanding anything to the contrary in Section 24.3 above, the maximum annual adjustment occurring pursuant to Section 24.3 shall be limited by the provisions set forth below.

##### 24.4.1 Eight Percent (8%) Cap

Any maximum rate may not be increased in any given year by more than eight percent (8%) without regard to any higher increase which may otherwise be justified by the formula set forth in Section 24.3, except as provided in Section 34.4.2 as provided below

##### 24.4.2 Commercial Rates in Prior Waste Management Service Area

Commercial Rates in the former Waste Management service area are subject to an additional three percent (3%) recovery rate ("Recovery Rate") until such time as Commercial Rates are normalized between the former CR&R and Waste Management service areas and therefore the maximum Commercial Rate in the former Waste Management service area may

exceed the eight percent (8%) cap as otherwise provided in Section 24.4.1. For example if in on July 1, 2023 the thirty-six (36) month average CPI is six percent (6%), and the Recovery Rate and additional 3%, the resulting cumulative rate increase of nine (9%) would be permissible under this Agreement.

#### **24.5 Discretionary Adjustments**

Contractor may request an adjustment to the maximum rates set forth in Exhibit A at reasonable times other than as set forth in Section 24.3 for changes in the cost of providing service under this Agreement, including but not limited to those for providing additional programs requested by the City Manager or required by Applicable Law. For each request for an adjustment to the maximum rates brought pursuant to this Section, Contractor shall prepare a schedule documenting the additional costs. Such request shall be prepared in a form acceptable to City Manager with support for assumptions made by Contractor in preparing the estimate. City Manager shall review Contractor's request and, in the exercise of the City Council's reasonable discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment. City Manager may consider increases or decreases in Contractor's total revenues and total cost of services when reviewing such rate adjustment request. Contractor may not request an extraordinary increase in the maximum rates as a result of: changes in fees or taxes such as Social Security, disability or income tax; or inaccurate estimates by Contractor of its cost of operations.

#### **24.6 Proposition 218**

Contractor understands and agrees that City may elect to or be required to comply with California Constitution Article XIII D (Proposition 218) or other Applicable Law before approving any new maximum service rate or any maximum service rate increase. City shall not be in breach of this Agreement if its residents lawfully delay or prevent City from raising or imposing the rates. In such event, City and Contractor shall meet in good faith to consider alternatives and options, which may include permitting Contractor to terminate the Agreement without cause. All costs incurred in providing notices required under California Constitution Article XIII D or other applicable law in connection with a rate adjustment shall be paid by Contractor.

### **SECTION 25. IDENTIFICATION OF CONTRACTOR**

Contractor has agreed to use the name "CR&R Incorporated" and "CR&R Environmental Services" to identify itself to the public as the specific organization that shall provide all services under this Agreement. Unless otherwise approved in writing by City, this name shall be used for all correspondence, Billing statements, City Manager listings, references, signs, and vehicle and Bin identification.

### **SECTION 26. FLOW CONTROL; COUNTY AGREEMENT**

Contractor shall have the option to direct and/or approve which Transformation facility, recycling facility, material recovery facility, landfill, or other facility Contractor shall use to retain, recycle, process, and dispose of Solid Waste and construction materials generated within the

Franchise Area as required to enable City to comply with the County Agreement. City expressly consents to Contractor's ability to direct the location for disposal of Solid Waste hereunder, and waives any and all rights to challenge Contractor's ability to do so, including without limitation any rights under the Commerce Clause of the United States Constitution. The foregoing provision shall not apply in the event the County agreement expires without renewal for a period of more than four months or the County otherwise discontinues operation of landfills with sufficient disposal capacity to allow Contractor to comply with the terms of this Agreement or for City or Contractor to comply with the Applicable Law.

## **SECTION 27. INDEMNIFICATION**

### **27.1 General**

(A) Contractor hereby agrees to and shall indemnify and hold harmless City, its elected and appointed boards, commissions, officers, employees, and agents (collectively the "Indemnities") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with this Agreement including: (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, and/or subcontractors to comply in all respects with the provisions of this Agreement, all Applicable Law (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution), except for any challenge to fees, including the Franchise Fee, imposed by City directly on Customers as provided for in this Agreement. Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys acceptable to City) City, its elected and appointed boards and commissions, officers, employees, and agents against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events and to reimburse City for any and all costs and expenses City incurs in providing any such defense before the time Contractor elects to provide such defense, during such time Contractor does not diligently conduct such defense.

(B) Contractor, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend City and its elected officials, officers, employees and agents, in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste," "Recyclable Material," or "Organic Waste" the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by



other Persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

(C) The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

## 27.2 Hazardous Substances Indemnification

(A) Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, to the extent allowed by Applicable Law, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City) reimburse, indemnify, and hold City and its past and present officers, council members, employees, consultants and agents (hereinafter "Indemnified Parties") harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

(1) results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnified Party is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or

(2) relates to material Collected, transported, recycled, processed, treated or disposed of by Contractor.

(B) Contractor's obligations pursuant to this Section shall apply, without limitation, to:

(1) any Claims brought pursuant to or based on the provisions of the Environmental Laws, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., the Carpenter-Presley-Tanner Hazardous Substances Account Act, California Health & Safety Code section 25300 et seq., the California Hazardous Waste Control Laws, California Health and Safety Code section 25100 et seq., the California Porter-Cologne Act, California Water Code section 13000 et seq., and any and all amendments and regulations thereto, and any other federal, state, regional or local environmental statutory or regulatory provision;

(2) any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation by Contractor of any facility;

(3) any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Contractor; and

(4) any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

(C) The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate of Contractor.

(D) For purposes of this Agreement, the term "Hazardous Contaminant" shall mean any "hazardous material," as that term is defined under California Health & Safety Code Section 25501(o); any "hazardous substance," as that term is defined herein or under California Health & Safety Code sections 25281(h), 25501(p), 25501.1 and under Title 42, section 9601(14) of the United States Code; any "hazardous waste," as that term is defined herein and under Title 42, section 6903(5) of the United States Code and under California Health & Safety Code section 25501(q); any chemical which the Governor has identified as a chemical known to the State to cause cancer or reproductive toxicity pursuant to California Health & Safety Code section 25249.8; any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

(E) The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

### 27.3 Referendum Petition

In the event that the City's residents submit a valid referendum petition challenging award of this Agreement, City may elect to conduct an election on such award. If so, Contractor shall reimburse City for all costs associated with conducting such election within thirty (30) days of receipt of an invoice from City.

## **SECTION 28.**

### **CONTRACTOR'S BOOKS AND RECORDS; AUDITS**

#### 28.1 Maintenance and Inspection of Records

Contractor shall maintain all records relating to the services provided hereunder, including but not limited to Customer lists; Billing records; accounts payable records; maps; AB 939, AB 341, AB 1826, and SB 1383 compliance records; records reflecting the number and type of routes

and route hours by service category (such as residential, multi-family, commercial, roll off, and special services); records demonstrating facilities, equipment and personnel used to perform services; Refuse, Recyclables, and Organic Waste Containers in service by frequency of Collection for each Customer group (such as single family, multi-family, commercial, roll off); records reflecting the number of Roll Off Box pulls; and such other documents and materials which reasonably relate to Contractor's compliance with the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Contractor's regular place of business, but in no event outside the County of Orange. Nothing in this Section shall override Contractor's attorney-client privilege unless waived by Contractor. Records must be made available for CalRecycle within ten (10) business days upon request from the City.

## 28.2 CERCLA Defense Records

City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's Risk Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Contractor shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

## 28.3 Audits

### 28.3.1 Examination of Services

From time to time, anticipated to be at least once every other year, City may request Contractor to make available any or all of its records related to performance hereunder available to an independent auditor or examiner, to be selected by the City, for auditing and examination purposes (a "Discretionary Audit"). City shall bear the cost of any Discretionary Audit except as otherwise provided herein. Should any Discretionary Audit reveal an underpayment of any Franchise Fee required pursuant to this Agreement, the amount of such underpayment shall become due and payable to City not later than fifteen (15) days after written notice of such underpayment is sent to Contractor by City, complete with any additional late charges as set forth herein. If a Discretionary Audit reveals inaccuracies or inconsistencies in more than five percent (5%) of all Customer accounts, either with Contractor's operations or Billing systems, or an underpayment of Franchise Fees of more than three percent (3%), Contractor shall bear the entire cost of such Discretionary Audit.

## **SECTION 29. TRANSITION OBLIGATIONS**

At the end of the Term, or in the event this Agreement is terminated for cause prior to the end of the Term, Contractor shall cooperate fully with City and any subsequent Solid Waste enterprise it designates to assure a smooth transition of services. Contractor's cooperation shall include, but not be limited to, providing route lists, Billing information and other operating records needed to service all Premises covered by this Agreement. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Contractor shall provide any new Solid Waste enterprise with all keys, security codes and remote controls used to access garages, gates and bin enclosures. Contractor shall be responsible for coordinating transfer immediately after its final Collection activities, so as to not disrupt services. Contractor shall provide City with detailed route sheets containing service names and addresses, Billing names and addresses, monthly rate and service levels (number and size of Containers and pickup days) at least ninety (90) days prior to the transition date, provide an updated list two weeks before the transition, and a final updated list with any changes the day before the transition. Contractor shall provide means of access to the new Solid Waste enterprise at least one full business day prior to its first day of Collection, and within sufficient time so as to not impede in any way the new Solid Waste enterprise from easily servicing all Containers.

## **SECTION 30. GENERAL PROVISIONS**

### **30.1 Force Majeure**

Contractor shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services or Temporary Services, in compliance with its obligation to do so hereunder, is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, civil disturbances, insurrections, pandemics or pandemic related issues, strikes or other labor disturbances lasting fifteen (15) days or less, explosion, natural disasters such as floods, earthquakes, landslides, and fires, or "other catastrophic events" which are beyond the reasonable control of Contractor. The term "other catastrophic events" does not include: (i) the financial inability of Contractor to perform; (ii) failure of Contractor to obtain any necessary permits or licenses from other governmental agencies; (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Contractor; or (iv) strikes or other labor disturbances lasting longer than ten (10) days.

### **30.2 Independent Contractor**

Contractor is an independent contractor and not an officer, agent, servant, or employee of City. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, and subcontractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Contractor. Neither Contractor nor its officers, employees,

agents, or subcontractors shall obtain any rights to retirement or other benefits which accrue to City employees.

30.3 Pavement Damage

Contractor shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the services required hereunder.

30.4 Property Damage

Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Contractor to private or public property shall be promptly repaired or replaced at Contractor's.

30.5 Right of Entry

Contractor shall not have the right, until Contractor receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Temporary Services and/or Solid Waste Handling Services pursuant to this Agreement.

30.6 Law to Govern; Venue

The laws of the State of California shall govern this Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Riverside.

30.7 Amendment

This Agreement is intended to carry out City's obligations to comply with the provisions of the Applicable Laws as implemented by regulations of CalRecycle, as currently drafted. In the event that, after the Effective Date of this Agreement, other state or federal laws or regulations are enacted and prevent or preclude compliance with one or more provisions of this Agreement, such provisions (including those relating to rates set forth in Exhibit A) shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except as otherwise expressly stated herein, no other amendment of this Agreement shall be valid unless it is in writing and duly executed by the Parties.

30.8 Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States certified mail, postage prepaid, return receipt requested, and addressed as follows:

To City:

City of Wildomar  
Attn: City Manager  
23873 Clinton Keith Road, Suite 201  
Wildomar, CA 92595

To Contractor:

CR&R Incorporated  
Attn: Sr. Regional V.P.  
P.O. Box 1208  
Perris, CA 92572  
Telephone: 951.943.1991  
E-mail: [alex@crmail.com](mailto:alex@crmail.com)

With copy to:

CR&R Incorporated  
Attn: President  
P.O. Box 125  
Stanton, CA 90680  
Telephone: 714.826.9049  
Telecopier: 714.890.6347

or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

### 30.9 Savings Clause

If any non-material provision of this Agreement is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

### 30.10 Exhibits Incorporated

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Exhibits A through I are attached to and incorporated in this Agreement by reference. In the event of a conflict between the provisions of this Agreement and such Exhibit, the terms of this Agreement shall govern.

### 30.11 Joint Drafting

This Agreement shall be interpreted as if it were drafted jointly by the Parties to the Agreement.

### 30.12 Attorneys' Fees and Litigation Costs

In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including without limitation, expert witness fees, consultant fees and costs. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

### 30.13 City's Authorized Agent

Notwithstanding anything contained herein to the contrary, and excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the City Manager is designated as the City's authorized agent to take any action with regard to any matter, or enforce any right, set forth herein requiring action by the City.

### 30.14 Integrated Agreement

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

### 30.15 Section Headings

The section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

### 30.16 Compliance with Law


In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all Applicable Law, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended; provided, however, if the Contractor incurs additional costs as a result of a change of Applicable Law after the date hereof, Contractor and City shall meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth on Exhibit A in order to compensate Contractor for implementing such services as set forth in Section 24.5 (Discretionary Adjustment) of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]


“City”

CITY OF WILDOMAR

By:   
Ben J. Benoit  
Mayor

By:   
Dan York  
City Manager

ATTEST:

By:   
Janet Morales  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Thomas D. Jex  
City Attorney



“Contractor”

CR&R INCORPORATED

By: \_\_\_\_\_  
Clifford Ronnenberg  
Chairman and CEO

By: \_\_\_\_\_  
David Ronnenberg  
President and Secretary



“City”

CITY OF WILDOMAR


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City Attorney

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By: \_\_\_\_\_

Janet Morales  
City Clerk



APPROVED AS TO FORM:

By: \_\_\_\_\_

Thomas D. Jex  
City Attorney

"Contractor"

CR&R INCORPORATED

By: \_\_\_\_\_

Clifford Ronnenberg  
Chairman and CEO

By: \_\_\_\_\_

David Ronnenberg  
President and Secretary

**EXHIBIT A**  
**MAXIMUM RATE SCHEDULE FOR SOLID WASTE HANDLING SERVICES**

	Unit Measure	Rate	
Residential Services			
Standard service - grantee	per month	\$	31.39
Standard service - parcel	per month	\$	31.39
Senior Citizen	per month	\$	27.76
Hard to Service	per month	\$	38.44
Additional Trash Cart	per month	\$	9.47
Additional Recycling Cart	per month	\$	3.41
Additional Green Waste Cart	per month	\$	9.47
Additional Bulky pick up	per occurrence	\$	26.23
Temporary Services			
Temporary 3 cubic yard bin	per load	\$	169.29
Extra Temp or regular svc p/u	per pick up	\$	170.40
Re-deliver and re-instatement	per occurrence	\$	34.31
Temporary Rolloff All sizes - MSW (includes 4 tons)	per load	\$	503.22
All sizes - Mixed C&D (includes 4 tons)	per load	\$	669.40
Rolloff Services			
Roll-off delivery/reloc/trip fee	per load	\$	89.42
Perm "On Call" Roll Off - Lowboy	per load	\$	290.10
Perm "On Call" Roll Off - 40 Yd	per load	\$	290.10
Roll-off compactor rate	per load	\$	459.49
Roll-off AD Disposal Fee	per ton	\$	101.14
Minimum Pull Fee		\$	292.56
Relocate/Trip Fee		\$	106.45
Industrial Set Up Fee		\$	37.78
Commercial Services		West of I-15	East of I-15
Refuse Bin rate - 1 1/2 cubic yard			
1 x week	per month	\$ 136.17	\$ 108.80
2 x week	per month	\$ 271.23	\$ 217.60
3 x week	per month	\$ 406.39	\$ 326.40
4 x week	per month	\$ 541.53	\$ 435.20
5 x week	per month	\$ 676.66	\$ 544.00
6 x week	per month	\$ 811.79	\$ 652.80

#### Residential Refuse Bin rate - 1 1/2 cubic yard

1 x week	per month	\$ 129.52	NA
2 x week	per month	\$ 258.04	NA
3 x week	per month	\$ 386.60	NA
4 x week	per month	\$ 515.09	NA
5 x week	per month	\$ 643.64	NA
6 x week	per month	\$ 772.12	NA

#### Refuse Bin rate - 2 cubic yard

1 x week	per month	\$ 149.74	\$ 132.15
2 x week	per month	\$ 298.54	\$ 264.31
3 x week	per month	\$ 447.37	\$ 396.47
4 x week	per month	\$ 596.07	\$ 528.62
5 x week	per month	\$ 744.84	\$ 660.76
6 x week	per month	\$ 893.59	\$ 792.92

#### Commercial Services (continued)

##### Residential Refuse Bin rate - 2 cubic yard

		West of I-15	East of I-15
1 x week	per month	\$ 137.93	NA
2 x week	per month	\$ 274.84	NA
3 x week	per month	\$ 411.74	NA
4 x week	per month	\$ 548.66	NA
5 x week	per month	\$ 685.53	NA
6 x week	per month	\$ 822.50	NA

#### Refuse Bin rate - 3 cubic yard

1 x week	per month	\$ 184.33	\$ 164.57
2 x week	per month	\$ 367.54	\$ 396.47
3 x week	per month	\$ 550.83	\$ 493.72
4 x week	per month	\$ 734.06	\$ 658.27
5 x week	per month	\$ 917.32	\$ 822.86
6 x week	per month	\$ 1,100.55	\$ 987.42

#### Residential Refuse Bin rate - 3 cubic yard

1 x week	per month	\$ 152.64	NA
2 x week	per month	\$ 291.65	NA
3 x week	per month	\$ 430.63	NA
4 x week	per month	\$ 569.65	NA
5 x week	per month	\$ 708.65	NA
6 x week	per month	\$ 847.65	NA

#### Commercial Cart Recycling - 96 Gallon

1x week	per month	\$ 63.98	NA
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#### Recycle Bin rate - 3 cubic yard

1 x week	per month	\$ 96.61	\$ 84.43
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2 x week	per month	\$ 193.26	\$ 168.83
3 x week	per month	\$ 289.86	\$ 253.26
4 x week	per month	\$ 386.53	\$ 337.69
5 x week	per month	\$ 483.11	\$ 422.10
6 x week	per month	\$ 579.76	\$ 506.51

#### Refuse Bin rate - 4 cubic yard

1 x week	per month	\$ 206.74	\$ 209.49
2 x week	per month	\$ 412.56	\$ 419.00
3 x week	per month	\$ 618.30	\$ 628.50
4 x week	per month	\$ 824.06	\$ 838.00
5 x week	per month	\$ 1,029.77	\$ 1,047.50
6 x week	per month	\$ 1,235.52	\$ 1,257.00

#### Residential Refuse Bin rate - 4 cubic yard

1 x week	per month	\$ 165.23	NA
2 x week	per month	\$ 329.46	NA
3 x week	per month	\$ 493.70	NA
4 x week	per month	\$ 657.93	NA
5 x week	per month	\$ 822.19	NA
6 x week	per month	\$ 986.44	NA

#### Other Bin Service Rates

##### Compactor Trash - 2 cubic yard

1 x week	per month	\$ 175.94	
2 x week	per month	\$ 351.89	
3 x week	per month	\$ 527.83	
4 x week	per month	\$ 703.79	
5 x week	per month	\$ 879.71	
6 x week	per month	\$ 1,055.65	

##### Compactor Trash - 3 cubic yard

1 x week	per month	\$ 230.24	
2 x week	per month	\$ 527.83	
3 x week	per month	\$ 690.76	
4 x week	per month	\$ 921.01	
5 x week	per month	\$ 1,151.26	
6 x week	per month	\$ 1,381.52	

##### Compactor Trash - 4 cubic yard

1 x week	per month	\$ 297.09	
2 x week	per month	\$ 594.15	
3 x week	per month	\$ 891.23	
4 x week	per month	\$ 1,188.32	
5 x week	per month	\$ 1,485.38	
6 x week	per month	\$ 1,782.47	

Manure Collection - 2 cubic yard		
1 x week	per month	\$ 183.54
2 x week	per month	\$ 357.56
3 x week	per month	\$ 531.56
Manure Collection - 3 cubic yard		
1 x week	per month	\$ 229.34
2 x week	per month	\$ 449.13
3 x week	per month	\$ 668.91
Other Residential Service Rates		
Residential Account Setup Fee		\$ 26.48
Cart Exchange in excess of 1x per year		\$ 20.97
Residential Reactivation Fee (bad debt)		\$ 26.23
Residential Redelivery Fee (bad debt)		\$ 26.23
Cart Repair		\$ 147.82
Lost or Stolen Cart		\$ 144.33
Tax Roll Administration Fee		\$ 37.81
Contamination Fee		\$ 15.69
Scheduled Extra Green Waste pick up (up to 10 bags):		\$ 11.00
Non-Scheduled Extra Green Waste pick up (up to 10 bags):	per occurrence	\$ 27.49
Other Commercial Service Rates		
Comm Bin Account Setup Fee		\$ 34.42
Comm Bin Delivery Fee		\$ 66.23
Comm Overflow Fee		\$ 66.23
Rolloff Account Setup Fee		\$ 34.42
Daily Rolloff Inactivity Fee	after 7 days	\$ 13.24
Recycle Bin Contamination Fee		\$ 59.59
Temporary Bin Inactivity Fee		\$ 6.63
Other Assoc Wrk for Street Sweep		\$ 112.55
Other Commercial Service Rates (continued)		
Bulky Items	first item	\$ 62.33
Bulky Items	additional items	\$ 27.06
Locking Lids	per month	\$ 21.65
Replacement Lock Fee	per occurrence	\$ 45.11
Replacement Key	per occurrence	\$ 9.02
Reactivation/Resume Fee	per occurrence	\$ 27.06
Redelivery Fee	per occurrence	\$ 135.31
Push Out Fee (per day per container)	26-50 ft	\$ 12.63
Push Out Fee (per day per container)	51-75 ft	\$ 16.24

Push Out Fee (per day per container)	76-100 ft	\$	18.05
Scout Service	per mo., per bin	\$	90.20
Overage Fee	per bin	\$	62.33
Bin Exchange (in excess of 1 per year)	per occurrence	\$	106.46
Tax Roll Fee	per parcel	\$	37.81
Set Up Fee	per occurrence	\$	37.78
Lost or Stolen Bin	per occurrence	\$	902.07
Burned Bin	per occurrence	\$	505.16
Recycle Contamination Fee	per pickup	\$	88.20
Commercial Can	per month	\$	53.54
Haul or Call Fee	per occurrence	\$	33.17
Tire Haul Charge	per pickup	\$	464.29
Commercial Delivery/Removal/Service Change Fee	per bin	\$	31.16
Unscheduled Extra Bin Dump While on Site	per bin, per p/u	\$	61.14
Unscheduled Extra Bin Dump Separate Trip	per bin, per p/u	\$	88.20
Unscheduled Compactor Pick-ups	per bin, per p/u	\$	115.34
Organic (AD) Services			
Non-Food Bin rate - 2 cubic yard			
1 x week	per month	\$	199.47
2 x week	per month	\$	398.21
3 x week	per month	\$	596.97
4 x week	per month	\$	795.68
5 x week	per month	\$	994.45
6 x week	per month	\$	1,193.18
Food Bin rate - 2 cubic yard			
1 x week	per month	\$	261.45
2 x week	per month	\$	522.22
3 x week	per month	\$	782.99
4 x week	per month	\$	1,043.74
5 x week	per month	\$	1,304.52
6 x week	per month	\$	1,565.27
Non-Food Bin rate - 3 cubic yard			
1 x week	per month	\$	269.46
2 x week	per month	\$	538.08
3 x week	per month	\$	806.71

4 x week	per month	\$ 1,075.35
5 x week	per month	\$ 1,343.99
6 x week	per month	\$ 1,612.65

#### Organic (AD) Services (continued)

##### Food Bin rate - 3 cubic yard

1 x week	per month	\$ 369.44
2 x week	per month	\$ 738.03
3 x week	per month	\$ 1,106.68
4 x week	per month	\$ 1,475.28
5 x week	per month	\$ 1,843.90
6 x week	per month	\$ 2,212.53

##### Non-Food Cart rate - 64 gal cart

1 x week	per month	\$ 39.27
2 x week	per month	\$ 78.52
3 x week	per month	\$ 117.78
4 x week	per month	\$ 157.02
5 x week	per month	\$ 196.28
6 x week	per month	\$ 235.55

Additional pickup non-food cart	per pickup	\$ 28.09
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##### Food Cart rate - 64 gal cart

1 x week	per month	\$ 44.57
2 x week	per month	\$ 96.89
3 x week	per month	\$ 145.33
4 x week	per month	\$ 193.80
5 x week	per month	\$ 242.22
6 x week	per month	\$ 290.67

Additional pickup food cart	per pickup	\$ 35.60
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**EXHIBIT B**  
**LIST OF CITY BUILDINGS AND FACILITIES**

The following are the addresses for which City Waste Hauling Services are to be provided for no charge by Service Provider. City may amend this List from time to time as the name, location or number of facilities change during the Term.

Wildomar Fire Station #61  
32637 Gruwell St.  
Wildomar, Ca 92595

Wildomar Baseball Field  
21400 Palomar St.  
Wildomar, CA 92595

Wildomar Auxiliary Facility (Empty Lot)  
21400 Palomar St.  
Wildomar, CA 92595

Wildomar Cemetery District  
21400 Palomar St.  
Wildomar, CA 92595

**EXHIBIT C**  
**LIST OF CITY SPONSORED EVENTS**

Eggtravaganza  
Teen Egg Hunt  
Astronomy Night  
Community Health and Fitness Fair  
Picnic in the Park  
Popsicles in the Park/ Meet before it Melts  
Memorial Day Event  
Movies in the Park  
Market Place  
Camp Out in the Park  
City Birthday  
National Night Out  
Mariachi Night  
State of the City  
Trunk or Treat  
Veterans Day Concert  
Breakfast with Santa

City has right to amend (add events to or delete events from) the List of City Sponored Events annually without undertaking the amendment process provided for amendments to this Agreement. City shall provide Contractor with a copy of any amended List by August 1<sup>st</sup> of each year.

**EXHIBIT D**  
**LIST OF CONTRACTOR'S FACILITIES**

Facility Summary Table							
Facility / Address	Relationship	Dates of Use	Processed Material				
			Commingled Recycling	Green Waste-Wood	Mixed C&D	Food waste	Manure Landfill
<b>CR&amp;R Recycling (Western)</b> Stanton, CA 90680 Clean MRF	Owned and operated by CR&R	In use and will continue	X				
<b>BP John</b> Menifee, CA 92555 SWIS # 33-AA-0321	Independently Owned and Operated	In use and will continue		X			
<b>Perris MRF and AD Facility</b> Perris, CA 92570 SWIS # 33-AA-0239	Owned and operated by CR&R	In use and will continue		X		X	
<b>South County C&amp;D Material Recovery Facility</b> Wildomar SWIS # 30-AB-0395	Owned and operated by CR&R	As needed			X		
<b>RWP Recycled Wood Products Ontario 2</b> Pomona, CA SWIS # 36-AA-0477	Operated by Recycled Wood Products.	As needed					X
<b>CRT</b> Stanton, CA SWIS # 30-AB-0463	Owned and operated by CR&R	As needed	X				
<b>Riverside County Landfill System</b> – El Sobrante, Badlands, Lambs Canyon	Owned and operated by County of Riverside and WM, Waste Disposal Agreement with County and WM	In use and will continue.					X
<b>SoCal Landscape</b> 17520 Bridge St. San Jacinto, CA 92555 SWIS # 33-AA-0326	Independently owned and operated	In use and will continue		X			
<b>So Cal Mulch</b> 30115 Scott Road Menifee, CA 584	Independently owned and operated	In use and will continue		X			
<b>East Valley Recycling &amp; Transfer</b> 1150 & 1250 South Tippecanoe Ave San Bernardino, CA 92408 SWIS # 36-AA-0453	Owned and Operated by Burrtec.	In use and will continue			X		
<b>Robert Nelson Transfer</b> 1830 Agua Mansa Rd Riverside, CA 92509 SWIS # 33-AA-0258	Owned and Operated by Burrtec.	In use and will continue			X		
<b>Potential Industries</b> 922 East E. St. Wilmington, CA 90744 SWIS # 19-AR-1243	Owned and Operated by Potential Industries	In use and will continue	X				
<b>South Yuma County Landfill</b> Organics Composting Yuma, AZ	Owned and Operated by CR&R	Alternative as needed				X	

**EXHIBIT E**  
**LIST OF SUBCONTRACTORS**

Fleetgenius, LLC  
2525 Tarpon Rd  
Naples FL 34102  
714-912-8353 Ext 101  
[www.fleetgenius.com](http://www.fleetgenius.com)

Contact: Steve Fenzl

Certified MBE

Provide bulky collections

**EXHIBIT F**  
**SOURCE SEPARATION PROGRAM IMPLEMENTATION PLAN**

PUBLIC OUTREACH & TRANSITION PLAN													
Tasks	Agency Responsible	Year: 2022-2023											
		Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct
New Contract Begins	City		X										
Introductory transition information delivered to WM customers	CR&R	X											
Letter from City (Mayor) announcing new hauler(optional)	City	X											
Temporary Email and Phone number established exclusively for Wildomar customers through January 31, 2023	CR&R	X											
Develop New Residential Recycling Brochure	CR&R	X											
City Review of Brochures	City	X	X										
Wildomar City Newsletter articles (optional)	CR&R and City		X										
Train Customer Service on new contract deliverables	CR&R	X											
Update City Specific CR&R Website Pages	CR&R	X	X										
Continue Recycling Outreach & Field Surveys	CR&R	X	X	X	X	X	X	X	X	X	X	X	X
Annual SB 1383 Public Education	CR&R												X
Chamber of Commerce interaction	CR&R	X	X	X	X	X	X	X	X	X	X	X	X
Distribute New Residential Carts to WM Customers	CR&R						X	X					
Distribute new carts as needed	CR&R	X	X	X	X	X	X	X	X	X	X	X	X
Begin switching out and replacing all WM commercial bins	CR&R		X	X	X	X	X	X	X	X	X	X	X
Begin source separated commercial organics program	CR&R							X					

## **EXHIBIT G SUSTAINABILITY AND DIVERSION PLAN**

### **Residential Green Waste:**

CR&R is currently utilizing a source separated residential organic collection program which includes both yard waste and food scraps. This program will now be provided Citywide in an effort to bring the City of Wildomar into full compliance with SB 1383 requirements. The City's curbside organic material will consist of co-collected green waste and food scraps. This material will be taken to our Perris Anaerobic Digester facility. Outreach to existing WM customers will take place within 60 days of the proposed transition date. In addition, CR&R will make a kitchen pail available to all Wildomar residents at two upcoming City events. CR&R will work with City staff to coordinate these events.

### **Commingled Recyclables:**

Commingled recyclables collected from the residential program or source separated commercial and multi-family customers are currently processed at our Western Ave processing facility as well as at 3<sup>rd</sup> party processors. We will continue using these facilities for commingled recyclables.

### **Commercial Food Scraps:**

Source separated food scraps collected from businesses are currently processed at either the Perris AD facility or at our Yuma composting yard, depending upon contamination levels. CR&R will continue to use these facilities. South Yuma County Landfill is located in Yuma, Arizona and fully permitted to compost food scraps in addition to green waste.

### **C&D Material:**

C&D material collected from temporary roll off activity will continue to be processed at the Perris Yard to ensure compliance with the City's C&D ordinance as well as state green building requirements.

### **Manure:**

CR&R will continue to process clean manure at our Perris AD facility. Alternative locations can be sourced if necessary.

### **Landfill and Residual Waste:**

CR&R will continue to use the County of Riverside landfill system for waste collected as trash. Use of the County landfill system is specified under the County waste disposal agreement (WDA) and a separate disposal agreement with El Sobrante Landfill, part of the Riverside County Landfill System. The primary landfill used for the City of Wildomar will be El Sobrante Landfill.

## **EXHIBIT H**

### **COMMUNITY OUTREACH AND EDUCATION PLAN**

Contractor has a proven outreach and education plan which has already been implemented in our existing service area west of the 15 freeway. We plan to use similar programs as we roll out the new service area. We will focus on introducing the new processing and recycling programs and additional service enhancements to the public (i.e. additional bulky item pick-ups, etc.). The information delivery will coincide with the implementation of our services and provide ongoing promotion of the recycling programs. Following the transition, via educational and public outreach, Contractor will continue to keep Wildomar residents and businesses informed about new services, laws, and advancements.

Due to the condensed transitional timeline, Contractor will arrange to mail out important information to our new customers east of the 15 freeway as soon as City Council approves the new franchise agreement. In addition to the new services, customers may also see a change in their service day. This is because WM serviced all residential customers on one day (Wednesday) and we will need to spread some of these customers out over the week. A new route plan is being developed and will be ready to roll out on December 1, 2022. CR&R will meet with designated City Staff and key members of the transition team following the award of this franchise agreement in order to review the routing and transition plan. Together we will review the material for distribution and the anticipated schedules for introduction to residents and businesses. Each item will be customized to uniquely represent Wildomar and emphasize our service commitment to the community.

Contractor has a successful history of providing smooth and seamless service transitions for the jurisdictions we presently serve. In the City of Wildomar, we will plan to deploy the following public education transition methods that have been successful in other communities. Again, due to the condensed transition timeline, we will begin rolling out this plan soon after the contract has been approved by City Council.

#### **Phase I – Introduction**

- Contractor will mail a letter to all residential and commercial customers introducing the transition plan and programs.
  - A detailed brochure will be included with the letter which describes the various services and types of materials to be recycled.
  - As an extra level of communication, Contractor will include a bill insert with the same letter and brochure in the first CR&R billing to these new residential and commercial customers.
  - A dedicated email address and phone line will be set up for Wildomar customers to contact CR&R during the first 60 days of the transition.
- Brochures will also be made available to residents and businesses throughout the agreement term and placed at designated community locations such as City Hall and other City facilities.

- The City of Wildomar will have a separate page on Contractor's website which outlines our services. Contractor will ensure any updates relating to the new franchise agreement will be implemented for Wildomar. Contractor's IT group can also work with the City to provide a link from the City's website to our website.
- If available, Contractor can work with the local cable provider in order to provide a Public Service Announcement outlining future services as well as our contact information.
- Upon completion of these tasks, Contractor executes the second phase of the community education process.

## **Phase II – On-going Education**

Once Contractor transitions the services for the City, Contractor will continue to implement a full range of public relations strategies to encourage participation in both the residential and commercial integrated waste management programs. Upon completion of our initial meeting with the City Staff, several alternatives may be used to promote the collection of solid waste, organic and recycling services.

- Contractor may also provide a wide array of multilingual outreach materials as requested. These materials are used as handouts at speaking engagements, special events, or placed in public information areas within the city. We also employ a number of bilingual Customer Service Representatives which can help answer questions and provide information to our diverse customer base.
- Contractor will provide Environmental News publications containing information about programs and upcoming events. This may be inserted into the quarterly residential billing. In addition, we can provide multi-family customers with the same publication through their Property Management for reproduction as needed. The material may be provided in PDF format for reproduction into community newsletters.
- Business recycling guides are also provided to customers to encourage participation in a source separated recycling programs.

### **On-going Education Items:**

- Contractor's primary goal will be to ensure all commercial and multi-family customers are in compliance with AB 341, AB 1826, and SB 1383. We plan to follow-up with all non-compliant customers who did not initially start a recycling program during the transition period and continuously encourage expansion of current recycling programs where available.
- In addition to these public education avenues, Contractor will continuously work towards engaging and educating the public through community and social media outreach.
- Corrective Action "Red-Tag" Notices – Notification system for use when inappropriate items are placed out for collection or placed in the wrong container.
- Newsletters distributed as bill inserts.
- Support of articles and press releases for City publications.
- Website will include information about "Reduce, Reuse, Recycle", recycling guidelines, holiday schedules, HHW collection, Composting workshops, and other helpful



information. Additionally, Contractor will provide the City with assistance on updating City's website with required information on regulations, programs, events, and other information for public review to assure compliance with CalRecycle.

- Support of Edible Food Recovery program including educating commercial edible food generators on SB 1383 requirements, provide records of site visits, conduct outreach and education efforts, and list available food recovery organizations in outreach materials.

### **Community Outreach**

Contractor's team of professionals play a key role in promoting the integrated waste management programs within the cities it serves by actively involving themselves in the activities and fund-raising needs of the community.

Community involvement has always been an important part of Contractor's commitment to the cities it serves. This is accomplished in several ways such as attendance and participation in key organizations and special events within the community. Examples of these events will include:

- Easter Egg Hunt
- Trunk or Treat
- Coffee with the Mayor
- Community Clean Up Events
- Chamber of Commerce Events
- Campout in the Park
- City's Birthday Celebration
- City's Movie in the Park
- Fourth of July Celebration
- Mariachi Night
- Brewfest in the Park
- Monetary contributions in support of worthy local causes
- School activities and assemblies
- Board and committee participation on local Chamber of Commerce

Contractor recognizes that public outreach and education is on-going, and we are committed to updating information as necessary to promote program participation.

### **Proposals for Service**

Contractor's Sustainability Coordinator and sales personnel will meet with commercial and multifamily customers in an effort to educate them on recycling requirements. After consultation of agreed upon service needs, CR&R personnel will outline complete descriptions of the current service, including type of container(s) and cost as well as the new proposed services that will be in full compliance with State regulations.

Once a proposal has been provided and approved by the customer, Contractor will provide answers to questions and also a method for Commercial and Multi-Family owners or managers to ask and receive answers to follow-up questions about the program via telephone, e-mail, or text. It is the goal of the Sustainability Coordinator to on board customers with a sustainable recycling programs and to provide appropriate outreach and education to implement the most beneficial Recycling program(s) for that Customer.

### **Program Tracking**

Contractor's Sustainability Coordinator creates, maintains, and updates a Report Card Tracking Methodology. The Report Card is updated every quarter and stored in a public folder accessible to both City Staff and Contractor. The purpose of the Report Card is to document all contacts made with Customers concerning implementation of Diversion programs, and Contractor's completion of the program implementation tasks. Each Diversion program that is fully implemented and operating at a Customer's premises will be tracked by the Contractor. Each Customer premises that does not have each specific required Diversion Program will be identified and visited in person by CR&R staff. Contractor will keep required notes in our internal billing/service system (CRM) about all Customer contacts (telephone, mail, e-mail, on-site meetings, observations, and inspections) and all pertinent information on issues, problems, troubleshooting and solutions concerning program implementation at each Customer's location(s).

Over time, new businesses will open, and existing businesses will close or may change locations. As this occurs, Contractor updates its Report Card and internal tracking systems by noting thereon, the change in location, business, owner/manager, and new contact information. The information from the Report Card is constantly reviewed and discussed internally.

Accounts in the City are sorted based on cubic yards generated per week from greatest generator to lowest. For organics, this is further broken down to identify level of compliance by tier with the minimum threshold of 2 cubic yards of waste. The same method is applied to commercial customers for AB341 compliance. Multi-family complexes are identified based on number of units. If the property has five or more units, it will meet the threshold to comply with AB341, AB1826 and SB 1383.

Customers that meet any of the thresholds identified by AB341, AB1826 or SB 1383 are targeted for participation in recycling programs starting with the largest generators. Waste audits and assessments are conducted to determine the amount of organic material or recycling material in the waste bin(s) and help develop a recycling program if the customer is not already participating.

The owner and/or property manager is informed about the requirements of AB1826, AB341 and SB 1383 as well as the benefits of participating in a recycling program. These benefits include the possibility of a cost savings incentive for the customer or personal satisfaction of doing their part to help protect the environment.

During the outreach and evaluation process, the owner and/or property manager is asked if there are any internal organic programs or recycling programs at the location. These programs can help determine the types of organic recycling services that can be offered to the customer or make adjustments to service recommendations. Internal customer recycling programs are noted in customer's account in Contractor's customer relationship management (CRM) software.

The owner and/or property manager is contacted in order to determine their individual organic and/or recycling needs. If needed, a CR&R representative will personally visit the customer's site

and begins the process of outreach and potential service changes necessary for the proposed recycling and/or organics services. Once the new services are implemented, the coordinator will make periodic site visits to follow up on the program and ensure it is running smoothly. The customer's account is then documented as being in compliance with AB341, AB1826 and SB 1383.

### **Monitoring of Service**

Contractor's Sustainability Coordinator continuously monitors recycling programs for both participation and contamination. When we find a customer account that is not participating, the Sustainability Coordinator and or Sales Representative will leave or direct mail the customer education materials describing the programs and how to participate. This may also include a hang-tag on a bin or cart that will alert them about acceptable materials for the program. The Sustainability Coordinator also rechecks the customers that were tagged within ninety (90) days to see if the contamination has been reduced or eliminated. The notices of contamination are entered into the customer account notepad which are available for query to create a full list of accounts requiring follow up and for City reporting purposes.

### **Status Meetings with the City**

Upon City's request, Contractor will arrange a meeting with the designated City Staff and Contractor's City Liaison, Sustainability Coordinator, Senior Sustainability Manager at least seven to eight weeks before the implementation of any new residential or commercial integrated waste management and recycling programs. Together we will review the program requirements anticipate potential customer impact as well as any concerns that may be anticipated for the start-up.

Contractor also plans on holding as needed meetings with City Staff for at least the first six (6) months after the transition period to review recycling programs, diversion goals, and any issues that arise.

### **Continued Monitoring**

Accounts in the City are sorted based on cubic yards generated per week from greatest generator to lowest. For organics, this is further broken down to identify level of compliance by tier with the minimum threshold of 2 cubic yards of waste. The same method is applied to commercial customers for AB341 compliance. Multi-family complexes are identified based on number of units. If the property has five or more units, it will meet the threshold to comply with AB341, AB1826 and SB 1383.

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## **EXHIBIT I**

### **CONTAINER/BIN SPECIFICATIONS**

- Contractor may use the Containers approved for use pursuant to the Prior Agreement. All Containers utilized by Contractor shall meet the standards of the industry and shall perform to the reasonable satisfaction of the City Manager in order to be utilized in City. Container sizes specified within this Agreement may vary by manufacturer type and specifications up to fifteen (15%) more or less in volume than that identified.
- Each Cart utilized by Contractor shall be labeled in English with graphics so as to: (1) explain/depict the items for which it is designated to Collect, and (2) identify the name of Contractor and Contractor's phone number for service related issues, including complaints.
- Any Cart distributed by Contractor in City after the Effective Date shall be newly manufactured and have never previously been used for the Collection of Solid Waste; excepting that Carts which have been refurbished such that they are "like new" may be used so long as their condition is satisfactory as determined by the City Manager.
- All Carts distributed pursuant to this Agreement may have an identifying serial number hot stamped into the Cart body.
- Upon request of any Customer, Contractor shall provide Bins with lids that close securely and which are capable of being locked at rates that do not exceed those set forth in Exhibit A.
- Contractor shall be responsible to provide Carts, Bins, and Roll off Boxes in colors and labeling that meet SB 1383 regulatory requirements, and Contractor shall not receive additional compensation for providing Carts, Bins and Roll off Boxes that comply with SB 1383 regulatory requirements.