

RESOLUTION NO. 2023-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, APPROVING AN AMENDED AND RESTATED FRANCHISE AGREEMENT FOR SOLID WASTE COLLECTION SERVICES WITH CR&R INCORPORATED AND ADOPTING MAXIMUM PERMITTED SERVICE CHARGES

THE CITY COUNCIL OF THE CITY OF STANTON DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, CR&R Incorporated ("CR&R") a California corporation, provides refuse, recyclables, and organic waste (including green waste and food waste) (collectively, "solid waste") collection, transportation, recycling, processing, composting, and disposal services to the City of Stanton ("City") pursuant to an exclusive franchise agreement with the City ("Agreement"); and

WHEREAS, CR&R is required to provide such solid waste services ("Services") as set forth in the Agreement; and

WHEREAS, the City desires to amend and restate the Agreement with CR&R to provide for additional services and updated rates for Services; and

WHEREAS, the rate structure for solid waste collection is based on the container size, number of containers, type of materials accepted in the containers, and frequency of collection; and

WHEREAS, the City has determined that it is necessary to impose new, increased or modified rates for its solid waste service charges (collectively herein, the "Charges"); and

WHEREAS, the amount of the Charges will not exceed the proportional cost of the service attributable to each parcel upon which they are proposed for imposition; and

WHEREAS, the Charges will not be imposed on a parcel unless the services are actually used by, or immediately available to, the owner or tenant of the parcel; and

WHEREAS, California Constitution article XIII D, section 6 ("Article XIII D") requires that prior to imposing any increase to the Charges, the City shall provide written notice (the "Notice") by mail of: (1) the proposed increases to such Charges to the record owner of each parcel upon which the Charges are proposed for imposition and any tenant directly liable for payment of the Charges; (2) the amount of the Charges proposed to be imposed on each parcel; (3) the basis upon which the Charges were calculated; (4) the reason for the Charges; and (5) the date, time, and location of a public hearing (the "Hearing") on the proposed Charges; and

WHEREAS, pursuant to Article XIII D such Notice is required to be provided to the affected property owners and any tenant directly liable for the payment of the Charges not less than 45 days prior to the Hearing on the proposed Charges; and

WHEREAS, the Notice was mailed in accordance with Article XIII D; and

WHEREAS, the Hearing was held on this day, September 12, 2023; and

WHEREAS, at the Hearing the City Council heard and considered all oral testimony, written materials, and written protests concerning the establishment and imposition of the proposed Charges, and at the close of the Hearing the City did not receive written protests against the establishment and imposition of the proposed rate increases for the Charges from a majority of the affected property owners upon which the Charges are proposed for imposition or any tenants directly liable for the payment of the Charges; and

WHEREAS, the City Council now desires to establish and impose the proposed Charges. The City is voluntarily complying with Proposition 218 as noted above in an abundance of caution and without conceding the applicability of Proposition 218.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1: That the foregoing Recitals are true and correct and are incorporated herein by this reference.

SECTION 2: The City Council hereby approves the Charges, effective September 1, 2023, for solid waste service at the maximum rates as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION 3: Beginning September 1, 2024, and each September 1 thereafter for a five-year period, through and including July 1, 2028, the solid waste Charges shall be adjusted by an amount not to exceed the actual 12-month annual average percentage change (April through March of the prior year) in the Consumer Price Index for All Urban Consumers (CPI-U), Not Seasonally Adjusted, All Items, Los Angeles-Long Beach-Anaheim, CA ("CPI"), as maintained and published by the United States Department of Labor, U.S. Bureau of Labor Statistics. In no event may an annual adjustment exceed the City's cost of providing solid waste services.

SECTION 4: All residential and commercial rates shall be equal to or less than the 50th percentile of comparable rates for solid waste service, as of July 1 each year, charged by the following Anaheim, Brea, Buena Park, Cypress, Fountain Valley, Fullerton, Garden Grove, La Habra, La Palma, Los Alamitos, Placentia, Seal Beach, and Westminster (Midway Sanitary District). Comparable rates shall be the rates charged to ratepayers, less any amount attributable to fees paid to or collected by each of the jurisdictions (with the exception of Administration and Environmental Impact Fees), and less any amount for non-solid waste related services. The 50th percentile of each of the rates shall be

determined by examining the comparable rates of the above-listed jurisdictions, and, for each type of rate, identifying the rate of the seventh-ranked jurisdiction. Notwithstanding any rate adjustment resulting from the annual CPI adjustment in Section 3, City shall apply the competitive rate guarantee so that the solid waste service Charges shall not exceed the median of the rates for similar services among the thirteen (13) north Orange County cities. In other words, the maximum solid waste service rates will be adjusted by the annual CPI adjustment, with specific rates reduced if the 50th percentile of comparable rates among the 13 cities in north Orange County listed above are less than the CPI-adjusted rate. The rates would be adjusted each September 1 to account for both the CPI adjustment and any rate reduction under this section.

SECTION 5: To the extent any Charges established by this Resolution are inconsistent with any Charges previously adopted by the City Council, it is the explicit intention of the City Council that the Charges adopted pursuant to this Resolution shall prevail.

SECTION 6: The City Council hereby approves the Amended and Restated Franchise Agreement between the City of Stanton and CR&R Incorporated for Solid Waste Collection Services with CR&R Incorporated, attached hereto as Exhibit B and incorporated herein by this reference.

SECTION 7: In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the City Council has determined that the increases in solid waste service Charges are not a project subject to CEQA pursuant to Section 15378(b)(4) because the Charges constitute the creation of a funding mechanism or other governmental fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. In addition, even if the action is considered a "project" subject to CEQA, it is exempt under Section 15273 of the CEQA Guidelines and Public Resources Code section 21080(b)(8) because the increased charges are for the purpose of meeting operational and maintenance expenses of the aforementioned Services. The documents and materials that constitute the record of proceedings on which these findings have been based are located at 7800 Katella Avenue, Stanton, CA 90680. The custodian for these records is the City Clerk of the City.

SECTION 8: If any section, subsection, subdivision, sentence, clause, or phrase in this Resolution or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Resolution or any part thereof. The City Council hereby declares that it would have adopted each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 9: This Resolution shall take effect immediately upon its adoption.

SECTION 10: The City Clerk shall attest and certify to the passage and adoption thereof.

ADOPTED, SIGNED AND APPROVED this 12th day of September, 2023.



DAVID J. SHAWVER, MAYOR

APPROVED AS TO FORM:



HONGDAO NGUYEN, CITY ATTORNEY

ATTEST:

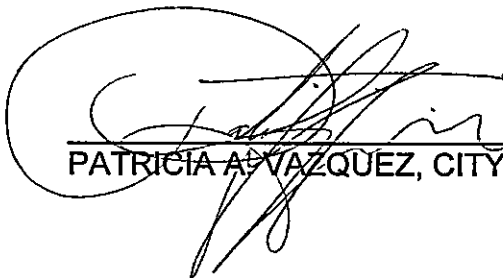
I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2023-25 has been duly signed by the Mayor Pro Tem and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on September 12, 2023, and that the same was adopted, signed, and approved by the following vote to wit:

AYES: Shawver, Taylor, Torres, Van, Warren

NOES: None

ABSENT: None

ABSTAIN: None



PATRICIA A. VAZQUEZ, CITY CLERK

Exhibit A

Maximum Solid Waste Service Charges

MONTHLY RATES

Residential Service	Current	Proposed	Commercial Service	Current	Proposed
90 gallon cart set	\$25.35	\$26.28	4 yard compactor 1x a week	\$380.39	\$412.08
Addl. 65 gal. recycle cart	\$0.00	\$0.00	4 yard compactor 2x a week	606.40	656.91
Addl. 65 gal. organics cart	\$0.00	\$0.00	4 yard compactor 3x a week	838.55	908.40
Addl 90 gallon refuse cart	\$21.73	\$22.52	4 yard compactor 4x a week	1,070.57	1,159.75
65 gallon senior discount	\$23.18	\$24.03	4 yard compactor 5x a week	1,302.80	1,411.32
Additional Pickup per Cart	\$20.56	\$21.31	4 yard compactor 6x a week	1,534.98	1,662.84
Cart redelivery/Re-start	\$13.24	\$13.72	2 yard recycle 1x a week	106.87	115.77
Cart replacement: lost	\$66.27	\$68.69	2 yard recycle 2x a week	172.58	186.96
Addl cart exch. 1x/yr.: per cart	\$43.38	\$44.96	2 yard recycle 3x a week	239.75	259.72
Cart Exchange/Damaged	\$64.55	\$66.91	2 yard recycle 4x a week	305.32	330.75
			2 yard recycle 5x a week	374.08	405.24
			2 yard recycle 6x a week	441.27	478.03
Commercial Service	Current	Proposed	3 yard recycle 1x a week	130.85	141.75
1 yard 1x a week	\$98.62	\$106.84	3 yard recycle 2x a week	226.79	245.68
1 yard 2x a week	159.93	173.25	3 yard recycle 3x a week	315.02	341.26
1 yard 3x a week	221.25	239.68	3 yard recycle 4x a week	403.24	436.83
1 yard 4x a week	281.50	304.95	3 yard recycle 5x a week	491.39	532.33
1 yard 5x a week	343.80	372.44	3 yard recycle 6x a week	579.66	627.95
1 yard 6x a week	435.76	472.06	4 yard recycle 1x a week	173.75	188.22
2 yard 1x a week	142.49	154.36	4 yard recycle 2x a week	259.02	280.60
2 yard 2x a week	230.11	249.28	4 yard recycle 3x a week	344.27	372.95
2 yard 3x a week	319.66	346.29	4 yard recycle 4x a week	429.48	465.26
2 yard 4x a week	407.09	441.00	4 yard recycle 5x a week	514.77	557.65
2 yard 5x a week	498.77	540.32	4 yard recycle 6x a week	600.05	650.04
2 yard 6x a week	588.36	637.37	2 yard organics 1x a week	106.87	115.77
3 yard 1x a week	174.47	189.00	2 yard organics 2x a week	172.58	186.96
3 yard 2x a week	302.38	327.57	2 yard organics 3x a week	239.74	259.71
3 yard 3x a week	420.03	455.02	2 yard organics 4x a week	305.32	330.75
3 yard 4x a week	537.65	582.44	2 yard organics 5x a week	374.08	405.24
3 yard 5x a week	655.19	709.77	2 yard organics 6x a week	441.27	478.03
3 yard 6x a week	772.88	837.26	3 yard split bin 1x a week	189.81	205.62
4 yard 1x a week	231.66	250.96	3 yard split bin 2x a week	307.86	333.50
4 yard 2x a week	345.36	374.13	3 yard split bin 3x a week	425.88	461.36
4 yard 3x a week	459.03	497.27	3 yard split bin 4x a week	541.91	587.05
4 yard 4x a week	572.64	620.34	3 yard split bin 5x a week	661.87	717.00
4 yard 5x a week	686.36	743.53	3 yard split bin 6x a week	838.81	908.68
4 yard 6x a week	\$800.07	\$866.72	4 yard split bin 1x a week	249.36	270.13
2 yard compactor 1x a week	\$201.24	\$218.00	4 yard split bin 2x a week	402.69	436.23
2 yard compactor 2x a week	341.54	369.99	4 yard split bin 3x a week	559.41	606.01
2 yard compactor 3x a week	483.56	523.84	4 yard split bin 4x a week	712.41	771.75
2 yard compactor 4x a week	623.80	675.76	4 yard split bin 5x a week	872.85	945.56
2 yard compactor 5x a week	768.62	832.65	4 yard split bin 6x a week	1,029.63	\$1,115.40
2 yard compactor 6x a week	910.56	986.41			

Exhibit A

Maximum Solid Waste Service Fees

MONTHLY RATES

Commercial Service	Current	Proposed	Commercial Service	Current	Proposed
35 gallon organics 1x a week	\$31.44	\$34.06	95 gallon recycling 1x a week	NA	\$39.00
35 gallon organics 2x a week	57.44	62.22	95 gallon recycling 2x a week	NA	78.00
35 gallon organics 3x a week	83.43	90.38	95 gallon recycling 3x a week	NA	117.00
35 gallon organics 4x a week	109.30	118.40	95 gallon recycling 4x a week	NA	156.00
35 gallon organics 5x a week	135.43	146.71	95 gallon recycling 5x a week	NA	195.00
35 gallon organics 6x a week	165.89	179.71	95 gallon refuse 1x a week	NA	52.00
65 gallon organics 1x a week	58.37	63.23	95 gallon refuse 2x a week	NA	104.00
65 gallon organics 2x a week	106.66	115.54	95 gallon refuse 3x a week	NA	156.00
65 gallon organics 3x a week	154.96	167.87	95 gallon refuse 4x a week	NA	208.00
65 gallon organics 4x a week	202.96	219.87	95 gallon refuse 5x a week	NA	260.00
65 gallon organics 5x a week	251.51	272.46			
65 gallon organics 6x a week	308.10	333.76			

Temporary Commercial Services

	Current	Proposed
Extra Pick up Fee	\$76.61	\$82.99
3yd Clean Up Bin per pickup: 7 day rental	206.02	223.18
3yd Clean Up Bin - Each Addt'l Day	6.68	7.24
3yd Clean Up Bin - Trip Charge	66.27	71.79
3yd Clean Up Bin - Overweight fee	80.47	87.17
Convert to locking lid bin	33.43	36.21
Locking Lid fee, monthly	6.62	7.17
Bin Steam Cleaning	99.41	107.69
Add'l Bin Exchange: After 1x/yr	80.59	87.30
Bin Exchange Stolen/Burnt (customer damage)	525.00	568.73
Bulky Item Pickup - Commercial	66.44	71.97
Bulky Item Pickup - Multi-family	20.56	22.27
Additional Bulky Items 4+ on same visit	22.16	24.01

Temporary Rolloff Services

	Current	Proposed
10 Yard Roll-off - per pull (max. of 10 tons)	\$860.51	\$932.19
20 Yard Roll-off - per pull (max. of 5 tons)	578.52	626.71
40 Yard Roll-off - per pull (max. of 8 tons)	867.12	939.35
Compactor - per pull (max. of 8 tons)	867.12	939.35
Per ton Fee (for all tons over the max.)	74.41	80.61
Rolloff Delivery Fee	58.27	63.12
Rolloff Cleaning Fee	99.41	107.69
Additional Day	13.25	14.35
Relcoation	99.39	107.67
False Run	\$99.39	\$107.67



**Amended and Restated
Franchise Agreement
Between**

**the City of Stanton
And**

**CR&R Incorporated
For
Solid Waste Collection Services**

September 12, 2023

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for Solid Waste Collection Service

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**AMENDED AND RESTATED AGREEMENT FOR
SOLID WASTE COLLECTION SERVICES**

This AMENDED AND RESTATED AGREEMENT FOR SOLID WASTE COLLECTION SERVICES (“Agreement”) is entered into this 12th day of September, 2023 (“Effective Date”), by and between the City of Stanton (“City”), a California municipal corporation and CR&R Incorporated, a California corporation (“CR&R” or “Contractor”), for the collection, transportation, recycling, processing, composting, and disposal of solid waste, recyclables and organic materials.

RECITALS

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 (“AB 939”) (California Public Resources Code Section 40000 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and,

WHEREAS, the City is obligated to protect the public health and safety of the residents and businesses, and collection of solid waste should be undertaken in a manner consistent with the exercise of the City's obligations to protect public health and safety; and,

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2), the City has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified contractor for the collection, transportation, recycling, processing, and disposal of solid waste and other services; and,

WHEREAS, state laws including, but not limited to: AB 939, which require local jurisdictions to implement programs to divert at least 50% of the waste generated in the jurisdiction; AB 341, which mandates that commercial waste generators arrange for recycling services; AB 1826, which mandates that commercial waste generators recycle their organic waste; AB 1594, which excludes organic material from being used as Alternative Daily Cover (ADC); and SB 1383, which requires jurisdictions to take significant measures to divert organic materials (including recoverable edible food) from being landfilled; and,

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WHEREAS, Contractor represents and warrants to City that it has the experience, responsibility and qualifications to perform Solid Waste Collection Services to meet the City's obligations under all applicable federal, state, and local laws; and,

WHEREAS, the City's primary goals in entering into this agreement are to ensure that solid waste collection in the City is of the highest caliber, that customer satisfaction remains at the highest level, that the environment is protected, that maximum diversion levels are achieved, and that materials collected are put to the highest and best use; and,

WHEREAS, the Contractor and the City have determined that it is in their mutual best interest to enter into this Agreement.

NOW, THEREFORE, the Parties do hereby agree as follows:

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1 Definitions

Whenever any term used in this Agreement has been defined by the provisions of the Stanton City Code or by Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or the Public Resources Code shall apply unless the term is otherwise defined in this Agreement, in which case this Agreement shall control.

Except as provided in this Article 1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following meanings:

1.1 AB 341

"AB 341" means Assembly Bill 341 (Chapter 476, Statutes of 2011), as amended from time to time and which places requirements on commercial businesses and Multi-Family property owners that generate a specified threshold amount of solid waste to arrange for recycling services and requires cities to implement a mandatory commercial and Multi-Family recycling program.

1.2 AB 939

"AB 939" or "Act" means the California Integrated Waste Management Act of 1989 codified in part at Public Resources Code Sections 40000 et seq., as it may be amended.

1.3 AB 1826

"AB 1826" means Assembly Bill 1826 (Chapter 727, Statutes of 2014) as amended from time to time and which requires commercial businesses and Multi-Family property owners that generate a specified threshold amount of solid waste, recyclable materials, and organic materials per week to arrange for recycling services, and requires cities to implement a mandatory commercial and Multi-Family organic waste recycling program.

1.4 Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to the Contractor by virtue of direct or indirect ownership interest or common management. An Affiliate shall include a business in which the Contractor owns a

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direct or indirect ownership interest, a business which has a direct or indirect ownership interest in the 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 the 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.

1.5 Agreement

"Agreement" means this Amended and Restated Franchise Agreement Between the City of Stanton and CR&R Incorporated for Solid Waste Collection Services including all exhibits and attachments.

1.6 Applicable Law

"Applicable Law" means all Federal, State, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, Processing, and Disposal of discarded materials that are in force on the Effective Date and as may be enacted, issued, or amended during the Term of this Agreement. Applicable Law includes, but is not limited to, AB 939, AB 341, AB 1594, AB 1826, and SB 1383, and their corresponding regulations.

1.7 Back-haul

"Back-haul" means Transporting Recyclable Materials or Organic Waste to a destination owned and operated by the Waste Generator using the Waste Generator's own employees and equipment.

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1.8 BASIC Score

“BASIC Score” means the Behavior Analysis and Safety Improvement Category percentile score assigned to motor carriers and determined by the Federal Motor Carrier Safety Administration’s Safety Measurement System to assess a carrier’s safety risk. BASIC Scores are also known as “CSA Scores.” BASIC scores are calculated on a zero to 100 percentile scale, with 100 indicating the worst performance and zero indicating the best performance.

1.9 Billings

“Billings” means any and all statements of charges for Solid Waste Collection Services performed by Contractor billed to Persons responsible for arranging for Solid Waste removal.

1.10 Bin

“Bin” means a metal Container with hinged lids and wheels serviced by a front-end loading truck with a capacity of 1.5 to 8 cubic yards.

1.11 Bin Collection Service

“Bin Collection Service” means using Bins to provide Solid Waste Collection Services to Residential, Commercial, and industrial facilities that require Bin Collection service on a regular and ongoing basis.

1.12 Blue Container

“Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

1.13 Bulky Waste

“Bulky Waste” or “Bulky Goods” means and includes, but not by way of limitation, large and small household appliances, furniture, carpets, mattresses, White Goods, tires and oversized yard waste such as tree trunks and large branches no larger than four inches in diameter and four feet in length, discarded from Residential Premises.

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1.14 C&D

“C&D” means Construction and Demolition Debris.

1.15 C&D Processing Facility

“C&D Processing Facility” means any Facility that is designed, operated and legally permitted for the purpose of receiving and Processing Construction and Demolition Debris.

1.16 CalRecycle

“CalRecycle” means the California Department of Resources Recycling and Recovery, which is the department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations.

1.17 California Code of Regulations or CCR

“CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

1.18 Cart

“Cart” means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated side-loading truck with a capacity no less than 35- and no greater than 101-gallons.

1.19 Cart Collection Service

“Cart Collection Service” means Solid Waste Collection Service using Carts. This includes service provided to Single-Family Premises (excluding those Single-Family Customers that elect to use Bin Collection Service), Commercial Customers that generate small quantities of Solid Waste and elect to use Cart Collection Service, and Multi-Family Customers with individual storage capacity to store Carts with access to curbside service from side-loading Collection vehicles.

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1.20 City

“City” means the City of Stanton, a California municipal corporation, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term of this Agreement.

1.21 City Enforcement Official

“City Enforcement Official” means the City Manager or his or her Designee partially or wholly responsible for enforcing this Agreement.

1.22 City Manager

“City Manager” means a Person having that title in the employ of the City.

1.23 City Code

“City Code” means the Stanton Municipal Code.

1.24 Collect/Collection

“Collect” or “Collection” means the act of collecting Solid Waste, Recyclable Materials, Green Waste, Organic Waste, C&D, Bulky Waste, and other material from the designated Collection location in the City and delivering that material to a Disposal Facility, Material Recovery Facility, Organics Processing Facility, or other approved Facility pursuant to this Agreement.

1.25 Commercial Business or Commercial

“Commercial” or “Commercial Business” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, a Multi-Family Residential Dwelling, or as otherwise defined in 14 CCR section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business.

1.26 Commercial Premises

“Commercial Premises” means all premises in the City, other than Residential Premises, where Solid Wastes are generated or accumulated. The term “Commercial Premises” is a reference to location, and not to ownership. The term includes, but is not limited to, stores; offices; federal, State, county and local governmental

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institutions, including, but not limited to, schools, school districts, special districts and water districts, to the extent authorized by law; restaurants; rooming houses; hotels; motels; offices; manufacturing, processing, or assembling shops or plants; hospitals; clinics; nursing homes; convalescent centers; dormitories; barracks; and card rooms.

1.27 Commercial Edible Food Generators

“Commercial Edible Food Generator” includes a Tier One Commercial Edible Food Generator or a Tier Two Commercial Edible Food Generator as in 14 CCR section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR section 18982(a)(7).

1.28 Community Composting

“Community Composting” means any activity that Composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.

1.29 Compactor

“Compactor” means any Bin or Roll-off Box that has a compaction mechanism, whether stationary or mobile.

1.30 Complaint

“Complaint” means a communication received by Contractor from a Customer or City indicating services have not been performed in accordance with this Agreement, or otherwise expressing dissatisfaction with service.

1.31 Compliance Reviews

“Compliance Reviews” means reviews of records by the City to determine compliance with this Agreement or the Code.

1.32 Compost

“Compost” means the product resulting from the controlled biological decomposition of organic Solid Wastes that are Source Separated from the municipal Solid Waste

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stream, or which are separated at a centralized Facility, or as otherwise defined in 14 CCR section 17896.2(a)(4).

1.33 Compostable Plastics

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

1.34 Construction and Demolition Debris

“Construction and Demolition Debris” means used or discarded materials removed from Premises during construction, renovation, remodeling, repair, or demolition operations on any pavement, Residential building, Commercial or industrial building, or other structure and shall include, but is not limited to concrete, asphalt paving, asphalt roofing, lumber, gypsum board, rock, soil and metal.

1.35 Containers

“Containers” means any and all types of Solid Waste receptacles, including Carts, Bins, Roll-off Boxes, and receptacles provided by Customers.

1.36 Container Contamination

“Container Contamination” or “Contaminated Container” means a Container that contains Prohibited Container Contaminants.

1.37 Contamination Fee

“Contamination Fee” shall mean an amount charged by Contractor to Customers to offset Contractor’s additional costs or diminished revenue due to Container Contamination.

1.38 Contractor

“Contractor” means CR&R Incorporated, a corporation organized and operating under the laws of the State of California and its officers, directors, employees, agents, companies, Affiliates and Subcontractors.

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1.39 Contractor Compensation

“Contractor Compensation” means the revenue received by the Contractor from Billings in exchange for providing services in accordance with this Agreement.

1.40 CPI

“CPI” means the Consumer Price Index for All Urban Consumers, Series ID: CUURS49ASA0, Not Seasonally Adjusted, All items, Los Angeles-Long Beach-Anaheim, CA, as maintained and published by the Bureau of Labor Statistics, United States Department of Labor.

1.41 Customer

“Customer” means the Person who receives the Contractor’s Solid Waste Collection Services and to whom the Contractor submits its billing invoice to and collects payment from for Collection services provided to a Premise. The Customer may be either the occupant, Owner, or property manager of the Premises.

1.42 Designee

“Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities as authorized in 14 CCR section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities. Designee may also mean a person authorized by the City Manager to administer provisions of this Agreement.

1.43 Disaster

“Disaster” means a sudden regional, statewide, nationwide, or worldwide event, such as an accident or a natural catastrophe, that causes great damage or loss of life, and that significantly stops, or impacts the normal ongoing operations of Solid Waste Collection in the City. Disaster does not include labor unrest as described in Section 11.5.

1.44 Disposal

“Disposal” means the ultimate disposition of Solid Waste Collected by the Contractor, at a Landfill fully compliant with regulations.

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1.45 Disposal Site(s)

“Disposal Site(s)” mean the Solid Waste handling Facility or facilities utilized for the ultimate Disposal of Solid Waste Collected by the Contractor. The Orange County Landfill System shall be the designated Disposal Site as of the Effective Date of this Agreement.

1.46 Diversion

“Diversion” means any combination of Recycling and Composting activities conducted that reduces waste disposed of at a Landfill.

1.47 Edible Food

“Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR section 18982(a)(18), ‘Edible Food’ is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

1.48 Effective Date

“Effective Date” means the date on which the Agreement becomes binding upon the parties.

1.49 Electronic Waste

“Electronic Waste” means discarded electronic goods that are conditionally exempt from classification as Hazardous Waste pursuant to 22 CCR) Section 66261.9, including but not limited to computers and peripherals, printer, cathode ray tube monitors, televisions, electronic equipment, and cathode ray tubes.

1.50 Environmental Laws

“Environmental Laws” means all federal, state, and local laws 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 § 6902 et seq.; the Federal Clean Water Act, 33 USC § 1251 et seq.; the Toxic Substances Control Act, 15 USC § 1601 et seq.; the Occupational Safety and Health Act, 29 USC §

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651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code § 25100 et seq.; the California Toxic Substances Control 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 supporting rules and regulations.

1.51 Excluded Waste

“Excluded Waste” means Hazardous Substance, Hazardous Waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that approved/designated Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of local, State, or Federal law, including: land use restrictions or conditions, waste that cannot be disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in Contractor’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or City to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, household batteries, Universal Waste, and/or latex paint when such materials are defined as allowable materials for Collection through this Agreement and the Waste Generator or Customer has properly placed the materials for Collection pursuant to instructions provided by the City or Contractor as set forth in this Agreement.

1.52 Facility

“Facility” means any plant or site, owned or leased and maintained, operated or used by the Contractor for purposes of performing services under this Agreement.

1.53 Food Recovery

“Food Recovery” means actions to Collect and distribute food for human consumption which otherwise would be disposed.

1.54 Food Recovery Organization

“Food Recovery Organization” means an entity that primarily engages in the Collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- 1) A food bank as defined in Section 113783 of the Health and Safety Code;
- 2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety Code; and,
- 3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

1.55 Food Recovery Service

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator.

1.56 Food Scraps

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

1.57 Food Service Provider

“Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

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1.58 Food Soiled Paper

“Food-Soiled Paper” means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

1.59 Food Waste

“Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.

1.60 Franchise

“Franchise” means the exclusive right and privilege to provide Solid Waste Collection Services within the City granted by City to Contractor pursuant to the City’s authority under Article XI, Section 7 of the State of California Constitution, and Section 40059 of the Public Resources Code.

1.61 Franchise Fee

“Franchise Fee” means the fee imposed by the City on the Contractor for the privilege of providing Solid Waste Collection Services as a franchisee within the City.

1.62 Black Container

“Black Container” has the same meaning as in 14 CCR section 18982.2(a)(28) and shall be used for the purpose of storage and Collection of Black Container Waste.

1.63 Black Container Waste

“Black Container Waste” means Solid Waste that is collected in a Black Container that is part of a three-container organic waste Collection service that prohibits the placement of Organic Waste and Recyclable Materials in the Black Container as specified in 14 CCR Sections 18984.1(a) and (b). Black Container Waste shall have the same meaning as Refuse.

1.64 Green Container

“Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and Collection of Source Separated Green Container Organic Waste.

1.65 Green Waste

“Green Waste” (also sometimes referred to as “yard waste”) means a form of Solid Waste composed of leaves, grass clippings, brush, branches and other forms of organic matter generated from maintenance or alteration of landscapes or gardens, including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush and weeds and incidental pieces of scrap lumber, Source Separated from other forms of Solid waste. Green Waste includes Christmas trees but does not include stumps or branches exceeding four inches in diameter or four feet in length, dirt, palm fronds, yucca or cactus.

1.66 Green Waste Processing Facility

“Green Waste Processing Facility” means any facility that is designed, operated and legally permitted for the purpose of receiving and processing Green Waste.

1.67 Grocery Store

“Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

1.68 Gross Receipts

“Gross Receipts” means any and all revenue receipts, or compensation in any form of Contractor or subsidiaries, parent companies or other affiliates of Contractor, for customer services provided pursuant to this Agreement, in accordance with Generally Accepted Accounting Principles, including, but not limited to customer fees, without subtracting Franchise Fees or any other cost of doing business. Revenue from the sale of Recyclable Materials is excluded from Gross Receipts for purposes of calculating Franchise Fees.

1.69 Hauler Route

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s Collection service area.

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1.70 Hazardous Substance

“Hazardous Substance” shall mean 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. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, 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 §7901 et seq.; or (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 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.

1.71 Hazardous Waste

“Hazardous Waste” means 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.

1.72 Household Hazardous Waste (HHW)

“Household Hazardous Waste” means hazardous waste generated at Residential Premises.

1.73 Household Sharps Waste

“Household Sharps Waste” means home-generated sharps, as defined in Section 117671 of the California Health & Safety Code, including hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate

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the skin for the delivery of medications, which are generated by a Single-Family residence. Household Sharps Waste does not include any business generated waste or Medical Waste.

1.74 Landfill

“Landfill” means a “solid waste landfill” as defined by Public Resources Code Section 40195.1.

1.75 Large Event

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

1.76 Large Venue

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

1.77 Local Education Agency

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of City or county regulations related to Solid Waste.

1.78 Material Recovery Facility

“Material Recovery Facility” means a Facility licensed or permitted in accordance with AB 939 which separates Recyclable Materials, and processes them for sale to brokers and end users.

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1.79 Mulch

“Mulch” means a layer of material applied on top of soil, and, for the purposes of the Agreement, mulch shall conform with the following conditions, or conditions as otherwise specified in 14 CCR Section 18993.1(f)(4):

- 1) Meets or exceeds the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR Section 17852(a)(24.5)(A)(1) through (3).
- 2) Was produced at one or more of the following types of Facilities:
 - a) A compostable material handling operation or Facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under 14 CCR, Division 7, other than a chipping and grinding operation or Facility as defined in 14 CCR Section 17852(a)(10);
 - b) A Transfer/Processing Facility or Transfer/Processing operation as defined in 14 CCR Section 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR, Division 7; or,
 - c) A Solid Waste Landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 CCR, Division 2.

1.80 Multi-Family Residential Dwelling, Multi-Family Residential, or Multi-Family

“Multi-Family Residential Dwelling” “Multi-Family Residential” or “Multi-Family” means of, from, or pertaining to Residential Premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are Commercial Businesses.

1.81 Non-Collection Notice

“Non-Collection Notice” means a form developed by Contractor, and approved by City, to notify customers of the reason for non-collection of materials set out by the Customer for Collection.

1.82 Non-Compostable Paper

“Non-Compostable Paper” includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the composting process.

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1.83 Non-Organic Recyclables

“Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes, including but not limited to bottles, cans, metals, plastics and glass.

1.84 Notice of Violation

“Notice of Violation” means a notice that a violation of the Solid Waste provisions of the Code or SB 1383 Regulations has occurred.

1.85 Orange County Landfill System

“Orange County Landfill System” means any Landfill, or Landfills, owned or operated by the County of Orange, including Olinda Alpha Landfill, Frank R. Bowerman Landfill, and Prima Deshecha Landfill.

1.86 Organic Waste

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, Green Waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Papers, manure, biosolids, digestate, and sludges. Biosolids and digestate are defined by 14 CCR Section 18982(a).

1.87 Organic Waste Generator

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste.

1.88 Owner

“Owner” means the person holding the legal title to the real property constituting the Premises to which Solid Waste Collection Services are to be provided under this Agreement or the person holding legal title to the disposal site, depending upon the context used in this Agreement.

1.89 Permanent Roll-off Box Service

“Permanent Roll-off Box Service” means the Collection of Solid Waste generated from ongoing operations at a Customer’s place of business using Roll-off Boxes or large compactors. This includes, for example, the Collection of Solid Waste from

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Commercial Premises that would otherwise be Collected using Bin Collection Service if the volume of Solid Waste generated were less. This does not include Roll-Off Box service used for occasional higher volumes of waste due to special clean-up or other projects, or on C&D sites.

1.90 Person

“Person” means any individual, firm, association, organization, partnership, corporation, business trust, or joint venture.

1.91 Premises

“Premises” means any land, or building in the City, where Solid Waste is generated or accumulated.

1.92 Process, Processed, or Processing

“Process”, “Processed”, or “Processing” means the controlled separation, Recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of Recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment.

1.93 Prohibited Container Contaminants

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Green Container; (iii) discarded materials placed in the Black Container that are identified as acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any Container.

1.94 Rate Year

“Rate Year” means the twelve-month period from July 1 to June 30, for each year of this Agreement.

1.95 Recovered Organic Waste Product

“Recovered Organic Waste Product” means products made from California, landfill-diverted recovered organic waste processed in a permitted or otherwise authorized Facility.

1.96 Recovery

“Recovery” means any activity or process described in 14 CCR section 18983.1(b).

1.97 Recycling

“Recycling” means any process by which materials which would otherwise become Solid Waste are Collected (Source Separated, comingled, or as mixed waste), separated and/or processed and returned to the economic mainstream in the form of raw materials or products or materials which are otherwise salvaged or recovered for reuse.

1.98 Recyclable Materials or Recyclables

“Recyclable Materials” or “Recyclables” means those materials which are capable of being recycled and which would otherwise be processed or disposed of as Refuse. Recyclable Materials include those materials defined by the City, including newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, 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 forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including tin cans, aerosol cans (empty, non-toxic products); bimetal containers; #1-7 plastics regardless of form or mold (including, but not limited to, plastic containers, bottles, wide mouth tubs, film plastic, and polystyrene), aseptic containers, aluminum foil and pans; and those materials added by Contractor from time to time.

1.99 Recycled Content Paper

“Recycled-Content Paper” means paper products and printing and writing papers that consists of at least 30 percent, by fiber weight, postconsumer fiber.

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1.100 Refuse

“Refuse” means putrescible and non-putrescible solid waste or debris, except sewage, whether combustible or non-combustible. Refuse includes rubbish, and shall have the same meaning as Black Container Waste.

1.101 Renewable Natural Gas

“Renewable Natural Gas” or “RNG” means gas derived from Organic Waste that has been diverted from a Landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste.

1.102 Residential or Residential Premises

“Residential” or “Residential Premises” includes Single-Family residences and Multi-Family residences, including apartments and condominiums (in which each unit has separate cooking and bathing facilities) of five (5) or fewer units. The terms “Residential” or “Residential Premises” do not include hotels, motels, rooming houses, hospitals, nursing homes, convalescent centers, dormitories or barracks or other group living places using Commercial Bins for the temporary accumulation and Collection of Solid Waste.

1.103 Roll-off Box

“Roll-off Box” means an open-top Container serviced by a Roll-off truck with a capacity of 10 to 40 cubic yards.

1.104 Roll-off Collection Service

“Roll-off Collection Service” means providing Solid Waste Collection Services using Roll-off Boxes or Roll-off Compactors.

1.105 Roll-off Compactor

“Roll-off Compactor” means an enclosed container equipped with a hydraulic packing ram with a capacity from 10 to 40 yards, which is designed to be pulled onto a roll-off vehicle.

1.106 Route Review

“Route Review” means a visual inspection of Containers along a Hauler Route for the purpose of determining whether Prohibited Container Contaminants are in a Container, and may include mechanical inspection methods such as the use of cameras.

1.107 SB 1383

“SB 1383” means Senate Bill 1383 (Chapter 395, Statutes of 2016) , establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended from time to time.

1.108 SB 1383 Regulations

“SB 1383 Regulations” or refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

1.109 Scavenging

“Scavenging” means the unauthorized removal of Recyclable Materials that have been set out for Collection.

1.110 Self-hauler (or Self-haul)

“Self-hauler” or “Self-haul” means a Person who hauls Solid Waste, Organic Waste, or recovered material he or she has generated to another Person. Self-hauler also includes a Person who Back-hauls waste, or as otherwise defined in 14 CCR section 18982(a)(66).

1.111 Service Level

“Service Level” refers to the number and size of a Customer’s Container(s) and the frequency of Solid Waste Collection Services, as well as ancillary services such as lock/unlock service, Container push/pull service, etc.

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1.112 Single-Family Residential Dwelling, Single-Family Residential” or “Single-Family”

“Single-Family Residential Dwelling,” “Single-Family Residential,” or “Single-Family” means of, from, or pertaining to any Residential Premises with fewer than five (5) dwelling units.

1.113 Solid Waste

“Solid Waste” has the same meaning as defined in Public Resources Code section 40191, and means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including trash, Refuse, rubbish, Recyclable Materials, Organic Waste, ashes, industrial wastes, C&D, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

- 1) Hazardous Waste, as defined in the Public Resources Code Section 40141.
- 2) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health & Safety Code).
- 3) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health & Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste Landfill, as defined in Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the Public Resources Code.

1.114 Solid Waste Facility

“Solid Waste Facility” means a Solid Waste transfer or Processing station, a Composting Facility, a gasification Facility, a Transformation Facility, or a Disposal Site.

1.115 Solid Waste Collection Services

“Solid Waste Collection Services” means the Collection, Transportation, storage, Transfer, Processing, and Disposal of all Solid Waste, including Refuse, Recyclables and Organic Waste.

1.116 Source Separated

“Source Separated” means materials, including commingled Recyclable Materials or Organic Waste, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing those materials for Recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). Source Separated shall include separation of materials by the Waste Generator, Owner, Owner’s employee, property manager, or property manager’s employee into the appropriate Containers in which the materials may be deposited for the purpose of Collection.

1.117 Source Separated Blue Container Organic Waste (SSBCOW)

“Source Separated Blue Container Organic Waste” or “SSBCOW” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables.

1.118 Source Separated Green Container Organic Waste (SSGCOW)

“Source Separated Green Container Organic Waste” or “SSGCOW” means Source Separated Organic Waste that can be placed in a Green Container, excluding SSBCOW, carpets, Non-Compostable Paper, and textiles.

1.119 Source Separated Recyclable Materials

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW.

1.120 State

“State” means the State of California.

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1.121 Term

“Term” means the term of this Agreement, including any agreed upon extension periods, as provided for in Section 2.3.

1.122 Tier One Commercial Edible Food Generators

‘Tier One Commercial Edible Food Generator’ means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982: Supermarket.

- 1) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- 2) Food Service Provider.
- 3) Food Distributor.
- 4) Wholesale Food Vendor.

1.123 Tier Two Commercial Edible Food Generators

‘Tier Two Commercial Edible Food Generator’ means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- 1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- 2) Hotel with an on-site food facility and 200 or more rooms.
- 3) Health facility with an on-site food facility and 100 or more beds.
- 4) Large Venue.
- 5) Large Event.
- 6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- 7) A Local Education Agency with an on-site food facility.

1.124 Temporary Bin Collection Service

“Temporary Bin Collection Service” means Collection of occasional accumulations of Solid Waste from Bins that is not generated from ongoing activities or operations, but which is either a) Solid Waste resulting from construction, remodeling, repair, demolition, site preparation, or grading; or b) other temporary Solid Waste Collection where a Bin is provided for no more than 30 consecutive days, or no more than 60 days in any 90-day period.

1.125 Temporary Roll-off Box Collection Service

“Temporary Roll-off Collection Service” means Collection of occasional accumulations of Solid Waste from Roll-off Boxes that is not generated from ongoing activities or operations, but which is either a) Solid Waste resulting from construction, remodeling, repair, demolition, site preparation, or grading; or b) other temporary Solid Waste Collection where a Roll-off Box is provided for no more than 30 consecutive days, or no more than 60 days in any 90-day period.

1.126 Transfer

“Transfer” means the act of transferring Solid Waste Collected by Contractor from Contractor’s Collection vehicles into larger vehicles at a Transfer Facility for Transport to other Facilities for Processing or Disposal of such materials.

1.127 Transformation

“Transformation” means incineration, pyrolysis, distillation, gasification, or biological conversion other than Composting. Transformation does not include Composting.

1.128 Transportation or Transport

“Transportation” or “Transport” means the act of conveying Collected materials from one location to another.

1.129 Transformation Facility

“Transformation Facility” means a facility whose principal function is to convert, combust, or otherwise Process Solid Waste by incineration, pyrolysis, distillation, or biological conversion other than Composting. A Transformation Facility does not include a Composting Facility or a biomass conversion Facility.

1.130 Universal Waste

“Universal Waste” shall mean those Hazardous Wastes identified as universal wastes in 22 CCR Section 66261.9, including; but not limited to, fluorescent 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 a Single-Family or Multi-Family residence. Universal Waste does not include any business generated waste.

1.131 Waste Evaluation

“Waste Evaluation” means a procedure in which representative samples of Refuse, Recyclable Materials, and Organic Waste are taken from vehicle loads and sorted at a permitted Facility to determine the degree to which the materials are contaminated.

1.132 Waste Generator

“Waste Generator” means the Owner, Customer, or occupant of a Premise whose act initially produces Solid Waste that is subject to collection under federal, State, or local law.

1.133 White Goods

“White Goods” means discarded enameled household appliances, such as refrigerators, freezers, stoves, washer/dryers, water heaters, dishwashers, trash compactors and similar items.

1.134 Work Day

“Work Day” means any day Monday through Saturday, which is not a holiday designated in Section 4.7.3 of this Agreement.

2 Grant and Acceptance of Franchise

2.1 Grant and Acceptance of Franchise

City hereby grants to Contractor an exclusive Franchise to Collect, Transfer, Transport, Recycle, Process, and Dispose of all Solid Waste accumulated in the City. This right shall include all Temporary and Permanent Roll-off Box and Cleanup Bin service. Contractor hereby accepts the Franchise pursuant to the terms and conditions set forth in this Agreement.

2.2 Exclusive Nature of Franchise

During the Term, except as otherwise provided in Section 2.5, federal or State law, the rights granted to Contractor under this Agreement shall be exclusive to Contractor. The City shall protect Contractor's exclusive rights by ordinance. Contractor is responsible for taking legal action against third parties as it deems appropriate to protect the exclusive nature of its Franchise. Should the City elect to take administrative, law enforcement, or other legal action against any Person that infringes on Contractor's exclusive rights, Contractor shall reimburse the City for its administrative, law enforcement, or other legal costs related to any such action.

2.3 Term and Extension of this Agreement

The Term of this Agreement shall commence on the Effective Date and expire at midnight on October 31, 2037. Provided, however, that commencing November 1, 2023, and every year on November 1st thereafter, the existing Term shall automatically be extended by one (1) year so that the remaining Term shall remain between fourteen (14) and fifteen (15) years.

Should either party desire that this automatic one-year renewal and extension provision be terminated, that party must give the other party written notice of such termination at least thirty (30) days prior to November 1st of any year during the Term of the Agreement. Such notice shall terminate the automatic one-year term renewal and extension provision, and the Agreement shall remain in effect for the remainder of the then-existing Term.

2.4 Administration of Agreement

The City Manager or his or her Designee, shall be the authorized representative of City for the purpose of administering the provisions of this Agreement. If, at any time

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during the Term, the City Manager issues any interpretation of this Agreement or any order or direction to Contractor that Contractor believes is not within the scope of the services required by this Agreement, Contractor may appeal the propriety of such interpretation, direction or order to the City Council of City for a resolution of such disagreement. The City Council, upon receipt of a written request for the resolution of such a dispute between Contractor and the City Manager shall review all relevant written material submitted by the Contractor and the City Manager, and resolve the dispute. A copy of such written determination by the City Council shall be served on Contractor and the City Manager promptly by the City Council. The determination of the City Council shall be final.

2.5 Limitations on Scope of Franchise

The exclusive Franchise, right and privilege to provide Solid Waste Collection Services at all Premises within City granted to Contractor by this Agreement specifically excludes the following services, which may be provided by Persons other than Contractor or which may be the subject of other permits, licenses, franchises or agreements issued or entered into by City:

- 1) The sale or donation of source-separated Recyclable Materials by the Waste Generator or Customer to any Person other than Contractor; provided, however, to the extent permitted by law, if the Waste Generator or Customer is required to pay monetary consideration for the Collection, Transportation, Transfer, or Processing of Recyclable Material that results in a net payment to that Person, then it shall not be considered a sale or donation.
- 2) The removal of Solid Waste, including Recyclable Materials and Organic Waste, from any Premises by the Waste Generator, and which is transported personally by such Waste Generator (or by his or her employees) to a processing Facility or Disposal Site in a manner consistent with all applicable laws and regulations.
- 3) The donation of Recyclable Materials, Organic Waste or Bulky Items that are Source Separated at any Premises by the Waste Generator.
- 4) The delivery of Recyclable Materials to a recycling center or drop-off station by the Waste Generator for Recycling under the California Beverage Container Recycling and Litter Reduction Act, pursuant to Public Resources Code Section 14500 et seq.

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- 5) The incidental removal of Bulky Waste from a Single-Family Residential Premise by a property cleanup or maintenance company as part of the overall cleanup or maintenance service provided rather than as a separate hauling service.
- 6) The removal of Green Waste from a Premise by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a separate hauling service.
- 7) The collection of animal by-products, fats, oils, or grease to be rendered and used as tallow.
- 8) The collection or processing of byproducts of sewage treatment, including sludge, sludge ash, grit and screenings.
- 9) The collection, transfer, transport, recycling, processing, or disposal of Hazardous Substances, Hazardous Waste, untreated Medical Waste, and radioactive waste regardless of its source.
- 10) The collection of C&D Debris by a duly-licensed Building Moving/Demolition Contractor (e.g., with a C-21 license issued by the Contractors State License Board) as part of a total service offered by said licensed contractor, where the licensed contractor utilizes its own loaders and dump trucks, and C&D Debris is not stored in Containers or Roll-off Boxes (e.g., the C&D Debris is loaded directly into a dump truck by a skip loader, etc.).
- 11) The collection, transfer, transport, recycling, processing, and disposal of Solid Waste by City through City officers or employees in the normal course of their City employment.
- 12) The collection of Solid Waste from governmental agencies other than City, which may have facilities in City, but which City has no jurisdiction over in connection with the regulation of Solid Waste.
- 13) The Self-Hauling of Solid Waste, Recyclable Materials, or Organic Materials by a business or Waste Generator that is generated in or on their own Premises.
- 14) The collection or transportation of Edible Food from a Waste Generator by other Person(s), such as a Food Recovery Organization or Food Recovery

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Service, for the purposes of Food Recovery; regardless of whether the Waste Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the Edible Food.

15) The collection of Food Scraps discarded for lawful use as animal feed.

16) The collection or transportation of Organic Waste used in Community Composting.

The exclusive franchise, right and privilege to provide Solid Waste Collection 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. The scope of this Agreement shall be limited by all applicable current and future laws and regulations. In the event that future interpretations of current law, future enactments or developing legal trends limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth in this Agreement, the scope of this Agreement shall 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 resulting from any change in law.

2.6 City's Right to Direct Changes

2.6.1 General

City may direct the Contractor to perform additional services (including new programs, etc.) or modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services that may entail new Collection methods, different kinds of services and/or new requirements for Customers, and alternative rate structures are included among the kinds of changes which the City may direct. The Contractor shall be entitled to an adjustment in its Contractor compensation for providing such additional or modified services pursuant to Section 2.6.2.

2.6.2 New Programs

In the event that the City desires to implement new programs, Contractor shall present, within 30 days of a request to do so by the City, a proposal to provide additional or expanded services. The proposal shall contain a complete description of the following:

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- 1) Collection methodology to be employed (equipment, manpower, etc.).
- 2) Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- 3) Labor requirements (number of employees by classification).
- 4) Type of materials Containers to be utilized.
- 5) Provision for program publicity/education/marketing.
- 6) Three-year projection of the financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.

City and Contractor shall meet and confer regarding the Contractor's proposal, and determine the terms and conditions under which the new services shall be provide, and determine the total cost and the corresponding change to Billings.

2.6.3 City's Right to Acquire Services

The Contractor acknowledges and agrees that the City may permit other Persons besides the Contractor to provide additional Solid Waste services not otherwise contemplated under this Agreement. If Contractor and the City cannot agree on terms and conditions of such additional or expanded services within ninety (90) days from the date when the City first requests a proposal from the Contractor to perform such services, Contractor acknowledges and agrees that the City may permit Persons other than Contractor to provide such services. In the event that City exercises its right to permit third party Persons to provide such services, and if such a decision reduces or eliminates Contractor's Solid Waste Collection Services as contemplated under this Agreement, Contractor shall reduce its Billings proportionately.

2.7 Contractor Status

Contractor represents and warrants that it is duly organized, validly existing and in good standing under Applicable Law. It is qualified to transact business in the State and has the power, qualifications and resources to provide the services required by this Agreement.

2.8 Contractor Authorization

Contractor and its signatories have the authority to enter into and perform its obligations under this Agreement. The Board of Directors or partners of Contractor (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement.

2.9 Annexations

This Agreement extends to any territory annexed to the City during the Term except to the extent that Collection by the Contractor within that annexed territory would violate the provisions of Public Resources Code Section 49520. In such event, this Agreement shall become effective as to such area at the earliest possible date permitted by law, and the City shall cooperate with Contractor to fulfill any requirement necessary for Contractor to serve the annexed area consistent with this paragraph.

3 Fees Paid to City by Contractor

In addition to any other consideration set forth in this Agreement, and for the exclusive Franchise right and privilege to provide Solid Waste Collection Services as specified in this Agreement, Contractor shall pay to City the following fees:

3.1 Franchise Fee

A Franchise Fee in the amount of ten percent (10%) of the Gross Receipts of Contractor (including any subcontractor of Contractor) from the Residential and Commercial services provided in the Agreement.

Contractor shall pay the Franchise Fee to City within thirty (30) days of the end of each month during the Term. With each Franchise Fee payment, Contractor shall provide to the City: 1) a schedule showing the Contractor's Gross Receipts, and showing the calculation of the Franchise Fees, and, 2) a written statement certifying that the Gross Receipts and Franchise Fees are accurate.

The failure of Contractor to provide payment of the Franchise Fee will be considered a material non-performance and the Agreement will be subject to termination pursuant to Section 11.2 of the Agreement.

3.2 Solid Waste Administration and Environmental Impact Fee

In consideration of the exclusive Franchise provided in this Agreement, and in conjunction with Contractor's operation of the Solid Waste transfer station and Materials Recovery Facility ("Contractor's Transfer Station") within the City, Contractor shall pay to City an Administration and Environmental Impact Fee (the "AEI Fee") per ton on all Solid Waste tons delivered to the Contractor's Transfer Station, to be calculated as follows, as to the first 2,475 tons per day.

Commencing on the Effective Date, a per ton fee equal to One Dollar and Seventy-Eight Cents (\$1.85).

Effective July 1, 2024, the AEI Fee shall be adjusted based on the annual percentage change in the Consumer Price Index (CPI) (April of the prior year through March of the current year).

Every July 1st thereafter during the term of this Agreement, the AEI Fee shall be increased based on the annual percentage change in the CPI, up to a maximum of

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three dollars (\$3.00) per ton. When the maximum AEI Fee has been reached, the AEI Fee shall remain at \$3.00 per ton for the remainder of the Term. For the purpose of this Section, Solid Waste shall mean any and all Commercial and Residential Solid Waste regardless of the characterization of its generation, including, but not limited to, Commercial or Residential Solid Waste, Recyclable Materials, Organic Waste, and C&D Debris.

When the capacity at the Contractor's Transfer Station exceeds 2,475 tons of Solid Waste per day, the AEI Fee shall be increased as agreed upon by both parties prior to the Contractor's Transfer Station accepting additional tons.

Contractor shall pay the AEI Fee to City within thirty (30) days of the end of each month during the Term. With each AEI Fee payment, Contractor shall provide to the City: 1) a schedule including the Contractor's monthly tons, and showing the calculation of the AEI Fees, and, 2) a written statement certifying that the monthly tons and AEI Fees are accurate.

The failure to provide payment of the AEI Fee will be considered a material non-performance and the Agreement will be subject to termination pursuant to Section 11.2 of the Agreement.

3.3 Program Fee

Contractor shall pay to City an annual Program Fee in an initial amount equal to One Hundred and Fifty Thousand Dollars (\$150,000). Contractor shall pay the first Program Fee payment within fifteen (15) days of the Effective Date. Thereafter, Contractor shall pay the Program Fee each July 1st during the Term. Beginning on July 1, 2024, and thereafter on each July 1st during the Term, the amount of the Program Fee shall be adjusted by the annual percentage change in CPI (April of the prior year through March of the current year).

3.4 Annual Report Preparation Fee

Contractor shall pay to City an Annual Report Preparation Fee to reimburse City for the cost of preparing the CalRecycle electronic annual report (EAR). Contractor shall remit to City the first Annual Report Preparation Fee in the amount of Seven Thousand Dollars (\$7,000.00) within fifteen (15) days of the Effective Date. Beginning on July 1, 2024, and thereafter on each July 1st during the Term, the amount of the Annual Report Preparation Fee shall be adjusted by the annual percentage change in CPI (April of the prior year through March of the current year).

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3.5 Other Fees

The City shall reserve the right to set other fees, as it deems reasonably necessary. In the event that City sets new fees on Contractor's rates, City shall approve adjustments to Contractor's rates to compensate Contractor for the cost of any new fees.

4 Direct Services

4.1 General

Contractor shall furnish of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required by this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve the Contractor of the duty to furnish all others, as may be required, whether or not they are enumerated elsewhere in the Agreement.

The work to be performed by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents and businesses within the City are provided reliable, courteous and high-quality Solid Waste Collection at all times.

4.2 Refuse Collection Services

4.2.1 Automated Residential Cart Collection

Contractor shall Collect Refuse from all Single-Family Customers, and Multi-Family Customers utilizing Cart Collection service. Contractor shall furnish each Customer with a 96-gallon black Refuse Cart which shall be maintained and, if needed, replaced by Contractor. Contractor shall Collect all Refuse that is properly placed for Collection at least once per week on the same day of the week that Contractor Collects Recyclable Materials and Organic Waste. If there is a dispute between a Customer and Contractor regarding the location for the proper placement of any Carts (Refuse, Recycling, or Organic Waste) for Collection, the City shall make the final determination.

Contractor may charge the Customer based on each Customer's size and number of Refuse Carts according to the monthly rates shown in Exhibit 1. Contractor shall furnish additional Carts upon request at the monthly rates for extra Carts shown in Exhibit 1.

4.2.2 Automated Commercial Cart Collection - Refuse

Contractor shall offer automated Refuse Cart Collection Service to Commercial Customers that do not have space for, or do not generate enough waste to require, Bin Collection Service. Contractor shall provide Refuse Cart Collection Service at least once per week at the rates shown in Exhibit 1.

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4.2.3 Refuse Overage

Residential Cart Customers may periodically generate more Refuse than will fit in the Refuse Cart(s). Residential Customers are entitled to two pickups per calendar year of material that does not fit in the Refuse Cart(s) at no additional cost. One pickup shall consist of up to the equivalent of three (3) large 32-gallon bags, boxes or barrels of Refuse. Contractor shall Collect all Refuse put out for Collection in addition to the foregoing two (2) pickups to be provided at no charge. Residential Customers may be charged per pickup in accordance with the approved rate schedule for overage pickups exceeding the two (2) free pickups per year. In addition to the two (2) free pickups, Contractor shall Collect all additional Refuse placed out for Collection in the Residential Customer's own Containers (bags, barrels, etc.) at no additional charge for two weeks beginning each December 26. This service is limited to Refuse that could otherwise be placed in the Refuse Cart, and not Bulky Items.

Commercial Customers may request Cart overage Collections in accordance with the rates in Exhibit 1 but are not entitled to free overage Collections.

4.2.4 Commercial Bin Collection - Refuse

Contractor shall use front-loading Bin service to Collect Refuse from all Commercial Customers, and from all Multi-Family Customers without Cart service. Contractor shall Collect all Refuse that is properly placed in Bins from all Commercial and Multi-Family Customers at least once per week, or more frequently if needed to handle the amount of Refuse generated at the Premises, or to safeguard public health and safety. Contractor shall determine the location of Bins to ensure that the flow of traffic is not impeded. If Contractor and Customer have a disagreement regarding the location of any Bin (Refuse, Recycling, Organic Waste, etc.), or if City determines the Collection location is a nuisance or safety concern, City shall make the final determination as to where Bins shall be stored, and from where they will be Collected. Contractor shall provide the size and quantity of Bins or Carts requested by Customer, but may determine the size and quantity of Containers if the Customer's requested Service Level is insufficient to Collect the volume of Refuse generated.

4.2.5 Temporary Bin and Roll-off Box Service

Contractor shall offer Temporary Bin Collection Service and Permanent and Temporary Roll-off Box Collection Service to Single-Family, Multi-Family, and

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Commercial Premises for the Collection of Refuse or C&D Debris. Contractor shall deliver and Collect Temporary Bins and Roll-off Boxes at the direction of the Customer. Temporary Bins and Roll-off Boxes shall be free of graffiti and in good repair, and must be clearly marked and identifiable as belonging to the Contractor. In placing Temporary Bins and Roll-off Boxes, the Contractor shall not impede the flow of traffic. The designated Collection location, if disputed by the Customer or the Contractor, shall be determined by the City. Additionally, if in the City's opinion, the location of an existing Collection location is inappropriate for aesthetic or safety reasons, the City may require the Customer and/or Contractor to relocate the Collection location.

Contractor shall deliver all Permanent Roll-off Box Refuse loads to a Diversion Facility for Processing. Contractor shall deliver loads of concrete, dirt or any other recoverable material to Facilities that recover such materials. Mixed Refuse loads shall be delivered to a Materials Recovery Facility, City may instruct Contractor to deliver loads directly to a Landfill if Processing is not cost effective due to low anticipated Recovery. Contractor must obtain written approval from the City before directing specific loads, or loads from a specific Customer, to a Landfill without Processing. Contractor may charge no more than the per pull charge plus the actual Processing/Disposal cost per ton (net of any rebate for Recyclables), not to exceed the rates set forth in Exhibit 1.

4.2.6 On-Call Bulky Waste Pickup

Contractor shall provide for the unlimited Collection of Bulky Waste for Residential Premises that use curbside Solid Waste Collection on an on-call basis at no extra charge. Contractor shall provide for the free Collection of four (4) items per pickup of Bulky Waste for multi-family premises that do not have curbside service for Solid Waste Collection on an on-call basis, with subsequent pickups charged at the rates specified in Exhibit A. Bulky Waste shall include, but not be limited to, refrigerators, mattresses, rugs, water heaters and other items which can be handled by a two-man crew and which would otherwise not be accommodated within the automated Collection Container furnished by CR&R. Customers shall contact Contractor at least two business days in advance of their regular Collection day. Contractor shall Collect Bulky Items on the next regular Collection day after receiving a request from Customer. Contractor shall prepare, keep current, and provide to the public, information specifically describing the Bulky Waste Collection service.

4.2.7 Disposal of Electronic Waste

Contractor shall divert Electronic Waste or “e-waste,” Collected in accordance with Sections 4.2.6 (On-Call Bulky Waste Pickup) or 4.5.2 (Bulky Item Drop Off Event), or by other means under this Agreement, by taking these goods to a properly permitted Facility, and not by Landfilling.

4.3 Recycling Services

4.3.1 Automated Cart Collection - Recyclables

Contractor shall Collect Recyclable Materials from all Single-Family Customers, and Multi-Family Customers using Cart Collection Service. Contractor shall furnish each Customer with a 96-gallon automated Recycling Cart which shall be maintained and, if needed, replaced by Contractor. Contractor shall Collect all Recyclables that are properly placed for Collection at least once per week on the same day of the week that Contractor Collects Refuse and Organic Waste and transport Collected Recyclable Materials to a Materials Recovery Facility.

Upon Customer request, Contractor shall furnish up to one (1) additional Recycling Cart at no additional charge. For Customers that request and use more than a total of two (2) Recycling Carts, Contractor may charge the monthly rate shown in Exhibit 1 for each extra Recycling Cart. Customers may exchange their Cart sizes at no cost.

4.3.2 Commercial Bin Collection – Recyclables

Contractor shall use front-loading Bin service to Collect Recyclables from all Commercial Customers, and Multi-Family Customers without Recycling Cart Collection Service, unless they have been granted a waiver by the City. Contractor shall Collect all Recyclable Materials that are properly placed in Bins from all Commercial and Multi-Family Customers at least once per week, or more frequently if needed to handle the amount of Recyclable Materials generated at the premises, or to safeguard public health and safety. Contractor shall provide the size and quantity of Bins or Carts as requested by Customer. Contractor shall transport Collected Recyclable Materials to a Materials Recovery Facility.

Automated Commercial Cart Collection - Recyclables

Contractor shall offer automated Recyclables Cart Collection Service to Commercial Customers that do not have space for, or do not generate enough Recyclable

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Materials to require Bin Collection Service. Contractor shall provide Recycling Cart service shall be provided at least once per week at the rates shown in Exhibit 1.

4.3.3 Multi-Family and Commercial Site Visits

Contractor will visit each Multi-Family and Commercial Customer within six months of the start of service under this Agreement for the purpose of establishing a recycling program. Contractor will provide a monthly log to the City, including the name and address of the Customer, the date of the visit, and the contact's name and phone number, demonstrating that the required visits have been made. At the end of the first six months of service, Contractor will provide City with two lists, one of Multi-Family and Commercial Recycling program participants and one of Multi-Family and Commercial Customer non-participants. Each list shall include Customer names and addresses, contact names and phone numbers, Refuse and Recycling Service Levels, including number and size of Containers and number of weekly pickups. Contractor will continue to conduct on-site visits to Multi-Family and Commercial Customers throughout the Term to implement and optimize Recycling programs for each Customer.

4.3.4 Construction Waste Recycling

Contractor shall make reasonable efforts to prevent C&D Debris that is suitable for Recycling from being taken to the Landfill by Transporting it to an alternate Facility where it will be Processed for reuse. Such efforts include, but are not limited to, contacting and educating building contractors about available Recycling and C&D services. City will provide Contractor with a list of building contractors to contact.

4.3.5 Warning Notice

Contractor shall issue warning notices to Customers and Waste Generators who have Prohibited Container Contaminants in their Containers. After two written warnings, if the Container continues to be contaminated, Contractor may charge Customers a Contamination Fee. The Contractor shall report monthly to the City any warning notices issued.

4.3.6 Marketing and Sale of Recyclable Materials

Contractor shall be responsible for the marketing and sale of all Recyclable Materials Collected pursuant to this Agreement. Contractor shall retain proceeds from the sale of Recyclable Materials.

4.4 Organic Waste and Green Waste Program

4.4.1 Automated Cart Collection – Organic Waste

Contractor shall Collect Organic Waste from all Single-Family Customers, and Multi-Family Customers without using Cart Collection Service. Contractor shall furnish each Customer with a 96-gallon automated Organic Waste Cart which shall be maintained and, if needed, replaced by Contractor. Contractor shall Collect all Organic Waste properly placed for Collection at least once per week on the same day of the week that Contractor Collects Refuse and Recyclables. Contractor shall transport Collected Organic Waste to an Organic Waste Processing Facility.

Upon Customer request, Contractor shall furnish up to one (1) additional Organic Waste Cart at no additional charge. For Customers that request and use more than a total of two (2) Organic Waste Carts, Contractor may charge the monthly rate shown in Exhibit 1 for each extra Organic Waste Cart. Customers may exchange their Cart sizes at no cost.

4.4.2 Automated Commercial Cart Collection – Food Waste

Contractor shall Collect Food Waste from all Commercial Customers that generate Food Waste using automated Cart service. Contractor shall furnish each Commercial Food Waste Customer with a 35- or 65-gallon automated Food Waste Cart which shall be maintained and, if needed, replaced by Contractor. Contractor shall Collect all Food Waste that is properly placed for Collection at least once per week on the same day of the week that Contractor Collects Refuse and Recyclables at the rates set in Exhibit 1. Contractor shall transport Collected Food Waste to an Organic Waste Processing Facility.

4.4.3 Commercial Bin Collection – Organic Waste

Contractor shall use front-loading Bin service to Collect Organics from all Commercial Customers, and Multi-Family Customers without Cart Collection Service, unless they have been granted a waiver by the City. Contractor shall Collect all Organic Waste that are properly placed in Bins from all Commercial and Multi-Family Customers at least once per week, or more frequently if needed to handle the Organic Waste generated at the Premises, or to safeguard public health and safety. Contractor shall provide the size and quantity of Bins or Carts as requested by Customer, but Contractor may determine the size and quantity of Containers if the Customer's requested Service Level is insufficient to Collect the volume of Organic Waste

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generated. Contractor shall transport Collected Organic Waste to an Organic Waste Processing Facility.

4.4.4 Holiday Tree Collection Program

For the first two regularly scheduled pickup days after New Year's Day, Contractor shall, free of charge, pick up holiday trees placed out for Collection by Residential customers. Such trees shall be delivered to a proper Facility for Processing, rather than Disposal.

4.5 City Services

4.5.1 City Facilities Collection

Contractor shall provide Containers and receptacles, and Collect and Dispose of all Refuse, Recyclables, and Organic Waste from any and all City-owned or operated facilities and public parks, that currently exist or that may be acquired or developed in the future, at no charge.

4.5.2 Bulky Item Drop Off Event

Contractor shall provide, upon City request, in coordination with the City as to time and location, two Bulky Item drop-off events annually at no charge to City residents. Contractor shall request proof of City residency in the form of driver's license, utility bill or other such document sufficient to verify residency.

4.5.3 Abandoned Item Collection

Contractor shall provide for the Collection and Disposal of Bulky Waste and other trash or waste such as; furniture, appliances, tires and miscellaneous household items in streets, parkways, alleys and other public rights-of-way in the City on an on-call basis at no extra charge. Contractor shall respond to City requests for Collection of Bulky Waste or trash in the public rights-of-way within twenty (24) hours.

Contractor shall not be required to Collect abandoned vehicles and objects or appliances larger than conventional household furniture or appliances, or hazardous, special, and medical wastes. However, Contractor shall promptly report these exempt items found to be in the public rights-of-way to the City.

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4.5.4 Emergency Collection and Disposal Service

Contractor will assist City at the City's request with emergency Collection and Disposal service (in the event of a major Disaster, such as an earthquake, storm, riot or civil disturbance), or as otherwise determined necessary by the City, by providing Collection vehicles and drivers normally assigned to the City, at the rate set forth in Exhibit 1.

4.5.5 Household Sharps Collection

Contractor shall implement and administer during the Term a household sharps waste disposal program at no cost to the resident. Under this program, residents will contact Contractor, via Contractor's website or customer service center, and request a Household Sharps container. Within seven (7) calendar days of request, Contractor shall mail or deliver Household Sharps container with pre-paid return postage to the resident. Resident will fill the container with Household Sharps material and mail it back to the designated vendor for proper treatment and disposal. There shall be no limit on the number of Household Sharps containers the Contractor shall provide.

4.6 Diversion Requirements

Contractor shall achieve a Diversion rate for City as a result of its operations hereunder such that the Diversion requirements established by the State of California and CalRecycle (currently 50%) are at all times met. City shall evaluate Contractor's Diversion performance at the end of each year. Should the City's Diversion not meet the requirement for its entire waste stream, including Self-hauled material disposed of directly by residents or businesses in the City, and should City determine, in its sole discretion, that Contractor has not maximized Diversion as contemplated under this Agreement, Contractor shall undertake reasonable efforts at its cost to implement programs and provide equipment necessary in order for the City to meet the Diversion goal as soon as possible. In addition, if CalRecycle determines that the City must improve or increase its diversion, Contractor shall undertake efforts at its cost to implement programs and provide equipment necessary in order for the City to meet the new Diversion goals, as soon as possible, and in all cases within any time frames required by CalRecycle.

If Diversion rate requirements, as established by the State of California and CalRecycle, are not achieved, Contractor is liable for penalties as established by Section 11.4 (Liquidated Damages).

4.7 Operations

4.7.1 Minimum Standards of Service

Contractor shall ensure that the following minimum standards of service are met:

- 1) after a Container has been emptied into a refuse truck, the Container shall be replaced in an upright position at the place presented for Collection;
- 2) Containers shall not be thrown from a truck to the ground, but placed on the ground in a manner that will prevent damage to the Container. Contractor shall ensure that Containers are treated by its employees and agents in a reasonable manner to prevent damage or destruction to Containers;
- 3) Contractor shall promptly clean up all spills occurring during the Collection process;

4.7.2 Schedules

To preserve peace and quiet, no Solid Waste shall be Collected between 6:00 p.m. and 7:00 a.m. on any day from any Single-Family Residential or Multi-Family Residential Premises, and from any Commercial Premises located within 600 feet of Residential Premises. No Solid Waste shall be Collected from Commercial Premises located 600 feet or more from Single-Family or Multi-Family Residential Premises shall be made between the hours of 6:00 p.m and 6:00 a.m. Residential Solid Waste shall be Collected Monday through Friday, unless the City approves Saturday Collection on a case-by-case basis. Residential Collection routes shall be designed such that Collection activities occur within contiguous Residential regions or individual neighborhoods on only one day each week. Commercial Solid Waste Collection shall be Collected Monday through Saturday, unless the City approves Sunday Collection on a case-by-case basis.

Contractor shall be prepared to review its operations plan outlining the Collection routes, intervals of Collection and Collection times for all materials Collected under this Agreement with the City once annually upon 30 days' written notice by City. More frequent reviews may be required if operations are not satisfactory based on documented observations or reports of Complaints. If the plan is determined to be inadequate by the City, the Contractor shall revise its plan incorporating any changes into a revised plan and review the revised plan with the City within thirty (30) calendar days.

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4.7.3 Holidays

Contractor shall not Collect Solid Waste on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. In any week in which one of these holidays falls on a weekday, Collection services for the Holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week. Friday Collection services shall be performed on Saturday.

4.7.4 Missed Pickups

When notified of a missed pick-up, Contractor shall Collect Refuse, Recyclable Materials, and/or Organic/Green Waste within one (1) Work Day.

4.7.5 Vehicles

- 1) General. Contractor shall provide Collection vehicles sufficient in number and capacity to efficiently perform the work required by this Agreement. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection vehicle used to respond to Complaints and emergencies.
- 2) Specifications – Fleet and Vehicle Age. Contractor shall furnish Collection vehicles used in the City such that the maximum age of any vehicle in the fleet, shall be less than ten (10) years.
- 3) Specifications – Fuel and Emissions. All route vehicles shall be powered by natural gas, or another alternative fuel used to minimize vehicle emissions. All Contractor's vehicles shall comply with SCAQMD Rule 1193, and the Air Resource Board's emission standards for Solid Waste removal vehicles, as well as other Federal, State, or regional vehicle emission laws and regulations that may be enacted during the term of this Agreement.
- 4) Specification – Water Tight Bodies/Cameras. All vehicles shall have water-tight bodies designed to prevent leakage, spillage and overflow. All vehicles shall be equipped to provide live video display to dispatch, two to three angle time-stamped video service records and GPS.
- 5) Vehicle Identification. Contractor's name, local telephone number, and a unique vehicle identification number designed by Contractor for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less

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than (3) three inches high. The Contractor shall not place City's name and/or any City logos on the Contractor's vehicles.

6) Cleaning and Maintenance

- a) Contractor shall maintain all of its properties, vehicles, facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times; City may instruct Contractor to remove a vehicle from service until repaired for not meeting cleaning and maintenance requirements. Reasons for removal from service may include dents or rust on the vehicle and other cosmetic problems, as well as operational problems.
- b) Vehicles used in the Collection of Refuse, Recyclable Materials, and Organic/Green Waste shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. The City may inspect vehicles at any time to determine compliance with this Agreement. The Contractor shall also make vehicles available to the Orange County Health Department for inspection, at any frequency it requests. Contractor shall replace or repair to the City's satisfaction, any vehicle which the City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.
- c) Contractor shall repaint all vehicles used in the Collection of Refuse, Recyclable Materials and Organic/Green Waste within sixty (60) days' notice from the City, if the City determines that their appearance warrants painting.
- d) Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly, or vehicles in such a condition as to be unsafe or excessively noisy, shall be removed from service until repaired and operating properly. Contractor shall reasonably perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Contractor shall keep accurate records of all vehicle maintenance, recorded according to date and mileage (or hours of operation) and shall make such records available to the City upon request.
- e) Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown

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or any other cause so as to maintain all equipment in a safe and operable condition. If an item of repair is covered by a warranty, Contractor shall obtain warranty performance. Contractor shall maintain accurate records of repair, which shall include the date and mileage (or hours of operation), nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.

- f) Upon request by the City, Contractor shall furnish the City a written inventory of all equipment, including Collection vehicles, used in providing service, and shall update the inventory annually. The inventory shall list all equipment by manufacturer, ID number, date of acquisition, type, and capacity.
- 7) Operation. Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable laws. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by Federal, State or local weight restrictions on vehicles.
- 8) Equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle. In no event shall the noise level of equipment used for Collection exceed 75 dBA when measured at a distance of 25 feet from the vehicle, five feet from the ground.
- 9) Contractor shall store all equipment in safe and secure locations in accordance with the City's applicable zoning regulations.
- 10) Subject to Section 9.1 (Indemnification), Contractor shall be responsible for any damage resulting from or directly attributable to any of its operations, and which it causes to: the City's driving surfaces, whether or not paved; associated curbs, gutters and traffic control devices; other public improvements; and private roads and alleys.
- 11) City Inspection Per Code. The City may cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the applicable provisions of the State

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Vehicle Code, including all Vehicle Code sections regarding smog equipment requirements. The City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service by the City shall be returned to service until it conforms with, and its return to service has been approved by the City.

12) Vehicle Inspections. Each year with its Annual Report, Contractor shall submit to City a copy of:

- a) Its most recent BASIC Score determined by the Federal Motor Carrier Safety Administration, and,
- b) Any terminal inspection reports resulting from the California Highway Patrol's Basic Inspection of Terminals (BIT) program.

13) Vehicle BIT Inspections Less than Satisfactory. If Contractor receives a terminal rating below satisfactory, the Contractor is in violation of the Agreement. The Contractor has the time allowed by the Department of California Highway Patrol ("CHP") to cure violations and bring the terminal rating up to satisfactory. If the CHP does not adjust the rating to satisfactory or better within six (6) months, then the Contractor shall be considered in default of the Agreement and the City may terminate the Agreement.

14) Correction of Defects. Following any inspection, the Public Works Director shall have the right to cause Contractor, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly. The Public Works Director's determination may be appealed to the City Council, which decision shall be final.

4.7.6 Containers

4.7.6.1 Automated Carts

All Carts used in the City shall be maintained in good condition. The Carts shall be manufactured by injection or rotational molding. The Refuse, Recycling and Organic Carts will be differentiated by color and identified as follows: Refuse (black or gray), Recycling (blue) or Organic Waste (green). Colors will be uniform throughout the City, and be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Contractor shall provide Refuse, Recycling and Organic Carts in sizes of

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approximately 96 gallons. Recycling and Organic Carts shall be labeled, using both words and graphics to indicate what materials are to be placed in each Container. Contractor's name and phone number shall also be placed on the Carts.

Contractor shall repair and maintain, and replace lost, stolen or damaged carts at no charge to Residential customers. However, Contractor shall be entitled to charge customers for the replacement of any Cart that has been damaged by a Customer's willful 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. Additional Customer requested exchanges shall be charged at the Cart replacement rate shown in Exhibit 1.

All Carts provided under this Agreement shall become the property of the City at the end of this Agreement, although the City retains the right to direct Contractor to remove and Dispose of the Carts at the end of the Term at no additional charge.

4.7.6.2 Cart Colors – SB 1383

Contractor shall furnish all new Carts in the City such that the colors of the new Carts are compliant with CalRecycle's SB 1383 regulations. Contractor shall phase out the brown Recycling Carts as they are replaced with blue Recycling Carts. After January 1, 2032, all Carts for Refuse shall be black; all Carts for Recyclables shall be blue; and all Carts for Organic shall be green.

4.7.6.3 Bins

The Contractor shall provide Commercial and Multi-Family Dwelling Unit Customers with Containers for the Collection of Solid Waste. The Contractor shall maintain its Containers in a clean, sound condition free from putrescible residue. Containers shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well-painted. Wheels, side channels, and other appurtenances which were designed for movement, loading, or unloading of the Container shall be maintained in good repair.

Contractor shall at Commercial Customer's request annually refurbish, replace, and steam clean as necessary all Bins at no charge ; 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

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public health and safety. Additional steam cleaning shall be provided to any Customers who request it at the rate in Exhibit 1. Contractor may charge Customers for damaged Bins 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.

4.7.7 Litter Abatement

- 1) **Minimization of Spills.** The Contractor shall use due care to prevent Solid Waste or fluids from leaking, being spilled and/or scattered during the Collection or Transportation process. If any Solid Waste or fluids leak or are spilled during Collection, the Contractor shall promptly clean up all such materials. Each Collection vehicle shall carry a broom and shovel at all times for this purpose.

The Contractor shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure, accidental damage to a vehicle, or a pre-approved method of Solid Waste transfer between vehicles, without prior written approval by the City.

- 2) **Clean Up.** During the Collection or Transportation Process, Contractor shall clean up litter in the immediate vicinity of any Solid Waste storage or Collection area whether or not Contractor has caused the litter. Contractor shall identify instances of repeated Customer-caused spillage contact the responsible Customer directly and report such instances to the City. City will attempt to rectify such situations with the Customer if the Contractor has already attempted to do so without success.
- 3) **Covering of Loads.** Contractor shall properly cover all open Roll-off Boxes during Transport to the Disposal Site.

4.7.8 Personnel

The Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

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Contractor also shall establish and vigorously enforce an educational program which will train the Contractor's employees in the identification of Hazardous Waste. Contractor's employees shall not knowingly place such Hazardous Waste in the Collection vehicles, nor knowingly dispose of such Hazardous Wastes at the Processing Facility or Disposal Site.

Contractor shall train its employees in Customer service, prohibit the use of profane language, and instruct Collection crews to perform the work quietly. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures including, but not limited to, transfer, discipline or termination. If City has notified Contractor of a Complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process.

Contractor shall provide suitable operations, health and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

4.7.9 Identification Required

The Contractor shall provide its employees, companies and subcontractors with identification for all individuals who may make personal contact with residents or businesses in the City. City may require Contractor to notify Customers yearly of the form of said identification. Contractor shall provide a list of current employees, companies, and subcontractors to the City upon request.

City reserves the right to perform a security and identification check through law enforcement agencies upon the Contractor and all its present and future employees, in accordance with accepted procedures established by the City, or for probable cause.

4.7.10 Fees and Gratuities

Contractor shall not, nor shall it permit any agent, employee, or subcontractors employed by it, to request, solicit, demand, or accept, either directly or indirectly, any gratuity for any of the services required in this Agreement.

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4.7.11 Non-Discrimination

The Contractor shall not discriminate in the provision of service or the employment of Persons engaged in performance of this Agreement on account of race, color, creed, national origin, religion, sex, age, physical handicap or medical condition in violation of any applicable federal or State law.

In all solicitations or advertisements for employees placed by or on behalf of Contractor, and on its employment applications, in clear and easily readable print, Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, sex, age, creed, color, religion, or national origin.

4.7.12 Change in Collection Schedule

Contractor shall notify the City forty-five (45) days prior to, and Single-Family Dwelling Unit Customers not later than fourteen (14) days prior to, any change in Single-Family Dwelling Unit Collection operations which results in a change in the day on which Solid Waste Collection occurs. Contractor will not permit any Customer to go more than seven (7) days without service in connection with a Collection schedule change. City's approval of any change in Single-Family Dwelling Unit Collection is required prior to such change, and such approval shall not be unreasonably withheld.

Any changes in the route map or Collection schedule shall require the prior approval of the City. City may require changes in the route map or Collection schedule, to improve service, to resolve Complaints or for other reasons.

4.7.13 Report of Accumulation of Solid Waste; Unauthorized Dumping

Contractor shall direct its drivers to note the addresses of any Premises at which they observe that Solid Waste is accumulating and is not being set out for Collection; and the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to the City within five (5) working days of such observation. Contractor shall cooperate with City in the investigation and prosecution of any violations of the City Code.

4.7.14 Contamination Monitoring

Contractor shall implement a contamination monitoring program to minimize Prohibited Container Contaminants in a manner that complies with 14 CCR Section

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18984.5 . Contractor may conduct its contamination monitoring requirements through either Route Reviews or Waste Evaluations, or a combination of the two methods. Contractor's contamination monitoring program shall include, but not be limited to, the following:

4.7.14.1 Route Reviews

For routes on which Contractor conducts Route Reviews (i.e., on-route observations of individual Containers), the routes must be reviewed at least once per year. Upon finding Prohibited Container Contaminates in a Container, Contractor shall notify the Customer of the violation. The notification shall include information regarding the Customer's obligation to properly Source Separate materials in the appropriate Containers and should include photographic evidence of the violation. Contractor shall either leave a Notice of Violation at the Customer's location, or mail, e-mail, or electronically message the Waste Generator.

4.7.14.2 Waste Evaluations

For routes on which Contractor performs Waste Evaluations (i.e., conducting waste characterizations of Collected material at the Processing Facility), Waste Evaluations shall be conducted at least twice per year for the Green Containers and Brown or Blue Containers, and at least once per quarter for the Black Containers. Waste Evaluations shall include samples of each Container type, and samples from different areas of the City, and from different seasons in the year. The Waste Evaluations shall include at least the number of samples required by 14 CCR Section 18984.5 (C)(1)(e).

If the sampled weight of Prohibited Container Contaminants in the Waste Evaluations exceeds twenty percent (25%) of the measured sample for any Container type, Contractor shall perform one of the following:

- 1) Notify all Waste Generators on the sampled routes of their requirement to properly separate materials into the appropriate Containers. Contractor may provide this information by placing a notice on the Waste Generator's Container, gate, or door, and/or by mail, e-mail, or electronic message to the Waste Generator.
- 2) Perform a targeted Route Review of Containers on the routes sampled for Waste Evaluations to determine the sources of contamination and notify those Waste Generators of their obligation to properly separate materials. Contractor may provide this information to these Waste Generators by placing

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a notice on the Waste Generator's Container gate, or door, and/or by mail, e-mail, or electronic message to the applicable generators.

4.7.14.3 Recordkeeping and Reporting

Contractor shall collect and maintain following information and documents related to its contamination minimization program and provide it to City:

- 1) A description of Contractor's process for determining the level of Container Contamination.
- 2) Documentation of any of the Route Reviews it conducts.
- 3) Documentation of any Waste Evaluations performed including information about any targeted Route Reviews conducted as a result of the Waste Evaluations. The documentation shall at a minimum include dates of the studies, the location of the Solid Waste Facility where the study was performed, routes, source sector (e.g., Commercial or Residential), number of samples, weights and ratio of Prohibited Container Contaminants and total sample size, and of all notices issued to Waste Generators with Prohibited Container Contaminants.
- 4) Documentation of the number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants.

Contractor shall continuously monitor the Single-Family Organic Waste Collection program for both participation and contamination such that each year, Contractor has opened the Cart lid and checked the contents of a minimum of five percent (5%) of all Single-Family and Multi-Family Cart Customers in the City to note contamination levels in the Carts. (Contractor shall develop a plan to randomly sample areas of City, which shall be submitted to City for approval annually.) When Contractor finds a household that is not participating, Contractor shall leave or direct mail the Customer education materials describing the program, and how to participate. When Contractor finds contamination, Contractor shall alert the Customer by leaving a hang-tag and by leaving public education materials concerning the acceptable materials for the program. Contractor shall recheck the Residences that were tagged within sixty (60) days to see if the contamination has been reduced or eliminated. Contractor's compensation for Collecting Organic Waste from Single-Family and Multi-Family Cart Customers shall be included in the maximum rate for automated

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Refuse, Recycling, and Organic Cart Collection Service in the schedule of Solid Waste rates approved by City.

4.8 Ownership of Solid Waste

Ownership of Solid Waste shall transfer to Contractor when it is picked up by Contractor. Contractor is hereby granted the right to retain, dispose of and otherwise use such Solid Waste, or any part thereof, in any fashion or for any lawful purpose desired by Contractor, and to retain any benefit or profit resulting therefrom. Solid Waste which is disposed of at a disposal site or sites (whether landfill or transfer station) shall become the property of the owner or operator of the disposal site or sites once deposited there by Contractor.

4.9 Transportation and Disposal of Refuse

Contractor shall Transport all Refuse Collected under Section 4.2 (Refuse Collection Services) to a transfer station, Materials Recovery Facility, Transformation Facility, a properly permitted e-waste Processing Facility or Disposal Site. The Disposal Site shall be the Orange County Landfill System. Contractor shall make all reasonable efforts to separate Recyclable Materials from Refuse for Diversion from Landfill Disposal. Contractor shall endeavor to dispose of all Solid Waste collected as cost effectively as possible. Contractor shall be responsible for all transfer station and Landfill charges.

Contractor shall maintain complete, accurate and up-to-date records of the quantities of Solid Waste Transported to the transfer station, Materials Recovery Facility, Transformation Facility, e-waste Processing Facility or Disposal Site and will cooperate with the City in any audits or investigations of such quantities.

4.10 Flow Control-Reservation of Rights

City reserves the right to select disposal facilities to which the Solid Waste to be Collected pursuant to this Agreement will be taken. In the event City directs Contractor to Transport Solid Waste to a particular disposal or other facility, City and Contractor agree to use their best efforts to obtain indemnification against Comprehensive Environmental Response, Compensation and Liability Act, or "CERCLA" Resource Conservation and Recovery Act or "RCRA", and related claims from the operator of the landfill or other destination to which Solid Waste Collected pursuant to this Agreement is taken for disposal. In the event City selects a transfer facility, Contractor or City as appropriate, shall be entitled to a rate adjustment to

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offset for a substantiated increase or decrease in expenses resulting from the City's exercise of flow control.

4.11 Solid Waste, Transfer Station and Material Recovery Facility

At all times during the Term, Contractor shall maintain within the City an operational and operating Solid Waste Transfer Station and Materials Recovery Facility to Collect all Solid Waste, separate all Recyclable Materials and then accumulate all non-recyclable Solid Waste for transfer to disposal locations.

4.12 Status of Disposal Site

Any Disposal Site utilized by the Contractor shall be designed and constructed in accordance with 23 CCR Section 2510 et seq. ("Subchapter 15"). Any such Landfill must have been issued all permits from Federal, State, local agencies necessary for it to operate as a Class III Sanitary Landfill and is in full regulatory compliance with all such permits.

4.13 Commingling of Collection Routes

Contractor shall not commingle City Refuse, Recyclable Materials or Organic Waste Collection routes with other City or county routes. If this is not feasible, upon approval by the City, Contractor may commingle routes, but must use a reasonable measurement method to allocate the weight of materials among routes shared with other jurisdictions.

4.14 Annual Route Audit

At least once annually, within sixty (60) days of the anniversary of this Agreement, Contractor shall complete an audit of its Commercial Collection routes (Bin and Permanent Roll-off Box Customers) in the City. Once during the Term, City may require the route audit to include all Customers, including Residential Cart Customers. The timing of this complete, City-wide route audit is at the City's discretion. The route audit, at minimum, shall consist of an independent physical observation by Person(s) other than the route driver or route supervisor of each Customer in the City. The route audit information shall include, as a minimum, the following information for each account:

- Route Number;

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- Truck Number;
- Account Name;
- Account Number;
- Account Service Address;
- Service Level per Billing System (quantity, size, frequency);
- Service Level per Routing System;
- Observed Containers (quantity, type and size);
- Container condition;
- Proper signage; and,
- Graffiti.

Within 30 days after the completion of the route audit, Contractor shall submit to the City a report summarizing the results of the annual audit. This summary shall include:

- Identification of the routes;
- Truck numbers;
- Number of accounts, by route and in total;
- Types of exceptions observed;
- Number of exceptions by type;
- Total monthly Billing, pre-audit;
- Total monthly Billing, post-audit (subsequent to corrections of identified exceptions);
- Percentage of exceptions:
- Percentage of the number of accounts with errors to the total number of accounts served;

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- Percentage of the “net” change in monthly Billing as a result of the audit to the total pre-audit monthly Billing; and,
- Percentage of the “absolute” change in net monthly Billing as a result of the audit to the total “pre-audit” monthly Billing.

The report shall include a description of the procedures followed to complete the annual route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations. Additionally, the report shall include a description of the pre-audit training of the route auditors, particularly if temporary personnel are used.

The report shall also include a description of the changes and Contractor’s plans to resolve the exceptions. The results of the audit shall be available for review by the City or its representative.

Contractor shall annually conduct annually residential audits of at a minimum five percent (5%) of the Residential Customers to determine either 1) Contamination of Refuse or Organic Waste in the Recycling Cart 2) Contamination of Recyclable Materials or Organic Waste in the Refuse Cart or 3) Recyclable Materials or Organic Waste in the Refuse Cart. Contractor shall inspect Carts and leave notification tags in English and Spanish on the Cart informing Customers of proper sources separation procedures. Tags must be approved by City in advance and shall leave a positive message to Customer to improve Recycling or diversion habits. Contractor shall report results of each annual audit, including results from a second follow up inspection to those Premises previously “tagged” and report to City in its Annual Report.

4.15 Service Exceptions; Hazardous Waste Notifications

A. Failure to Collect. When Solid Waste is not Collected from any Customer, Contractor shall notify the Customer in writing, at the time Collection is not made, through the use of a “tag” or otherwise, of the reasons why the Collection was not made.

B. Hazardous Waste Inspection and Reporting. Contractor reserves the right and has the duty under law to inspect Solid Waste put out for Collection and to reject and not Collect Solid Waste observed to be contaminated with Hazardous Waste.

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Contactors shall notify all agencies with jurisdiction, if appropriate, including the Orange County Fire Authority, the California Department of Toxic Substances Control, and or National Response Center of reportable quantities of Hazardous Waste, found or observed in Solid Waste anywhere within the City.

In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on any City property, including storm drains, streets or other public rights of way, the Contractor will immediately notify the Public Works Director or his or her Designee.

C. Hazardous Waste Diversion Records. Contractor shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently Collected from Customers within the City, but diverted from Landfilling.

4.16 Disaster Preparedness Plan

If requested by the City, Contractor shall submit to City within sixty (60) days of the request, a written contingency plan demonstrating Contractor's arrangement to provide vehicles and personnel and to maintain uninterrupted service during breakdowns, and in case of natural Disaster or other emergency (not including a labor dispute), including the events described in Section 11.5 (Excuse from Performance).

5 Other Services

5.1 Services and Customer Billing

5.1.1 Service Description

Contractor shall annually, at least thirty (30) days prior to the effective date of a rate adjustment, prepare and distribute, subject to the direction of the City, a notice to each Customer listing the Contractor's new Collection rates and effective dates, rates for other services, annual holiday schedule, Recycling and Organic Waste programs offered, and a general summary of services required to be provided in this Agreement and optional service which may be furnished by the Contractor. Such notice shall be in a form subject to the City's approval prior to its distribution. For Customers billed by Contractor, notice may be included with Billings. The notice may also be included as part of the Contractor's public education plan described below in Section 5.3.1 (Public Education - General).

5.1.2 Billing

Contractor shall invoice all Customers.

5.1.2.1 Customer Billing

Residential Customers shall be billed every three months in advance, approximately one week prior to the three-month service period. Customers who have not remitted payments within thirty (30) days after the date of Billing shall be notified on forms approved by the City. Final notices will be sent sixty (60) days after Billing and shall state that service may be discontinued if payment is not made within fifteen (15) days. Service will not be discontinued until it is at least seventy-five (75) days after billing, if no payment is made within that time. Contractor must also notify City fifteen (15) days prior to the last date of Collection. Upon payment of delinquent fees, Contractor shall resume Collection on the next regularly scheduled Collection Day. Contractor may charge a maximum Resumption of Service Charge as shown in Exhibit 1, but may not charge for service during the period it was suspended.

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5.1.3 Residential Billing Discount

Contractor shall reduce Residential monthly Collection fees by ten percent (10%) for senior citizen residents receiving Cart service at no cost to Customers. The following criteria must be met in order for the resident to receive the discount: (1) must be 65 years of age or older, (2) must provide proof of being the head of household, and (3) must agree to reduce Cart size to 65-gallon capacity. Contractor may request verification of senior citizen discount eligibility once a year. Contractor shall notify residents of the available discount at least once a year through the normal billing statement.

5.1.3.1 Bin Customers

Bin Customers shall be billed monthly, during the period in which the service is rendered and shall not be considered past due until thirty (30) days after the date of the Billing statement. To start service, new Customers will pay for one billing period's service in advance. Customers who have not remitted payments within thirty (30) days after the date of Billing shall be notified on forms approved by the City. The form shall state that service may be discontinued fifteen (15) days from the date of notice if payment is not made before that time. Contractor must also notify City fifteen (15) days prior to last date of Collection. Contractor will not discontinue service until seventy-five (75) days after invoice date, if payment is still delinquent. Upon payment of delinquent fees, Contractor shall resume Collection on the next regularly scheduled Collection Day. Contractor may charge a maximum Resumption of Service Charge as shown in Exhibit 1 for Commercial and Industrial Customers, but may not charge for service during the period it was suspended.

5.1.3.2 Roll-off Box Customers

For Single-Family Dwelling Unit Customers who request Roll-off Collection Service, Contractor shall accept major credit cards for payment. Single-Family Dwelling Unit Customers that do not use credit cards may be required by the Contractor to post a security deposit or pay on a "Cash on Delivery" (C. O. D.) basis. Any unused portion of a security deposit shall be refunded to the Customer within five (5) business days of the termination of service.

For all other Roll-off Box Customers, Contractor shall invoice monthly or semi-monthly in arrears with payment due within fifteen (15) or thirty (30) days from the invoice date (i.e., the beginning of the month or the inception of service). Delinquent accounts shall be handled in the same manner as Bin Customers, see above.

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Contractor may require a security deposit for Temporary Roll-off Boxes, with the unused portion refunded to the Customer within five (5) Work Days of the termination of service.

5.1.4 Review of Billings

Contractor shall review its Billings to Customers under Section 5.1.2 (Billing). The purpose of the review is to determine that the amount which the Contractor is billing each Customer is correct in terms of the level of service being provided to such Customer by Contractor. Contractor shall review Customer accounts annually, and submit to City a written report of that review annually on the anniversary of the Effective Date of this Agreement.

Contractor shall maintain copies of said Billings and receipts, each in chronological order, for a period of five (5) years after the date of service for inspection by the City upon request. Contractor may, at its option, maintain those records in electronic form, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner, are sufficient to verify accuracy of Franchise Fees and any other compensation owed to City, and may be produced in a form and manner sufficient to establish the existence of Customer obligations in a court of competent jurisdiction.

5.1.5 Refunds

Contractor shall refund to each subscriber, on a pro rata basis, any advance service payments made by such subscriber for service not provided when service is discontinued by the subscriber.

5.1.6 Delinquent Accounts

Contractor may discontinue service as set forth in this section, subject to prior approval of City. Persons who have not remitted required payments within forty-five (45) days after the date of billing shall be notified on forms approved by City. Said forms shall contain a statement that services may be discontinued thirty (30) days from the date of notice if payment is not made before that time. Upon payment of the delinquent fees, Contractor shall resume Collection on the next regularly scheduled Collection day.

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Contractor may charge a redelivery fee for Containers removed due to nonpayment, and may also require payment in advance for reinstatement of future service. All such fees and payments shall be subject to the approval of City, and are noted in Exhibit 1.

Contractor shall be responsible for Collecting delinquent charges for services it renders to Customers. Contractor shall employ measures, consistent with federal and California laws regulating the Collection of debts, to obtain payment of charges including use of its own employees to obtain judgments in Small Claims Court and to enforce such judgments. Contractor may suspend or terminate Solid Waste Collection services to any Premises if the Owner or occupant thereof (or other party responsible for payment) is delinquent in payment of Contractor's bills to the extent permitted by State and Federal law and as is otherwise consistent with this Agreement.

5.2 Customer Service

5.2.1 Office Hours

Contractor shall maintain an office within the City, or within reasonable proximity to the City, through which Contractor's representatives can be contacted. Said office shall be equipped with a sufficient number of telephones to ensure that subscribers have adequate access. The telephones shall be operator answered during the hours of 8:00 a.m. to 5:00 p.m. on all regular Collection days. The local telephone line shall be available to the residents of City toll-free. An automatic answering device or service shall be operable.

5.2.2 Complaint Documentation

All service Complaints shall be directed to the Contractor. Daily logs of Complaints concerning Collection of Solid Waste, Recyclable Materials and Organic Waste shall be retained for a minimum of twenty-four (24) months and shall be available to the City at all times upon request.

Contractor shall log all Complaints received by telephone and said log shall include the date and time the Complaint was received, name, address and telephone number of caller, description of Complaint, employee recording Complaint and the action taken by the Contractor to respond to and remedy Complaint. All written Customer Complaints and inquiries shall be date-stamped when received. All Complaints shall be initially responded to within one (1) Work Day of receipt. The Contractor shall log action taken by the Contractor to respond to and remedy all Complaints.

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All Customer service records and logs kept by the Contractor shall be available to the City upon request and at no cost to the City. The City shall, at any time during regular Contractor business hours, have access to the Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer Complaints.

5.2.3 Resolution of Customer Complaints

Contractor is responsible for resolving Customer Complaints. Missed pickups must be Collected within one Work Day. All other Complaints must be initially addressed (i.e., Customer is contacted by phone and given a course of action to resolve Complaint) within one Work Day, and resolved within five (5) Work Days.

City shall have the right, but not the obligation, to resolve disputes between Contractor and its Customers regarding the services provided in accordance with this Agreement. Any such resolution by the City shall be final and binding. Should Contractor and Customers not be able to establish a mutually acceptable fee to be charged for special hauling services, the matter shall 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 the Contractor. Nothing in this section is intended to affect the remedies of third parties against Contractor. To the extent that remedies are warranted through this Agreement, this Agreement shall apply.

5.2.4 Contractor Representative

Contractor shall designate a qualified person to act as its representative. Contractor shall notify the City of the name and position of Contractor's representative. Contractor's representative shall be responsible for working with the City and/or the City's designated representative(s) to administer the Agreement and to resolve Customer Complaints.

City shall have the right to approve the Contractor's choice for a representative. In the event Contractor's representative is changed for any reason, Contractor shall notify the City Manager within forty-eight (48) hours of the change. In addition, the City Manager may request that Contractor change its representative by notifying Contractor in writing, stating the reasons for such a request.

5.3 Education and Public Awareness

5.3.1 Public Education - General

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of AB 939, AB 341, AB 1594, AB 1826, and SB 1383 and their implementing regulations. Accordingly, Contractor shall implement a public education program to expand public and Customer awareness concerning the need to and methods of reducing, reusing and recycling Solid Waste. Contractor shall cooperate fully with City in this regard. A Public Education Plan shall be submitted to the City for review within sixty (60) days of the Effective Date of this Agreement. The plan shall address the items described in this section. The Public Education Plan shall be updated as needed by mutual agreement of the Parties.

Contractor shall maintain its own program of providing information relevant to Billing and Solid Waste services, issues and needs to Customers. All public education materials shall be approved in advance by City.

City may request the Contractor to perform mailing services and if so able, provide not less than thirty (30) days' notice to the Contractor prior to the mailing date of any proposed mailing to permit the Contractor to make appropriate arrangements for inclusion of the City's materials with billing statements. The City will provide Contractor the mailers at least fifteen (15) days prior to the mailing date of the billing statements. City shall bear the expense of production and distribution of such additional information only to the extent it is clearly in excess of the Contractor's normal billing costs and represents services beyond the approved public education plan.

Contractor will provide a minimum of the following public education items to be developed and distributed at Contractor's expense:

- 1) Instructional Packet Accompanying Contractor-Provided Containers – An information packet shall be attached to each set of Carts or Bins distributed to a Customer. This packet shall: describe available services, including available Recycling and Diversion programs; provide instructions for proper use of the Carts and Bins provided (such as how to place Containers for Collection, the

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- types of materials to be placed in each Container); detail Holiday Collection schedules; and provide Contractor's Customer service phone number.
- 2) Container Labels – Recyclable Materials, Organic Waste, Refuse, and Landfill Containers shall carry stickers/labels or other identifying markings in both English and Spanish indicating the materials that should and should not be placed in each Container.
 - 3) 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 Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or Billing questions.
 - 4) Annual Brochures – Contractor shall prepare three (3) separate brochures informing Customers of how to use available services for Single-Family Customers, one for Multi-Family Customers, and one for Commercial and Industrial Customers.
 - 5) Quarterly Billing Inserts/Notices – Contractor is responsible for sending four (4) quarterly notices per year, each calendar quarter in which the annual brochure is not distributed, promoting and explaining programs and Collection schedules to all Customers, at the City's request and with City's review and approval of the materials. Notice shall include Holiday Collection schedules and Customer service numbers. Notices may be inserted in the Billings for Customers billed directly by the Contractor.
 - 6) Corrective Action Notice – Contractor shall issue Corrective Action Notices when the Customer sets out inappropriate materials.
 - 7) Special Clean-up Notice – Contractor shall provide notice to all residents of the special clean-up day at least two (2) weeks prior to the designated date.
 - 8) Website – Contractor shall dedicate one page of a Contractor's website to City services, which shall include at least the following information: a listing of contact names and numbers for Customer Service; information on Bulky Item Collection; Collection schedules, including Holiday schedules; and the

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procedures to begin and terminate services. Contractor shall assist the City in establishing a link to this web page from the City's website.

- 9) Recycling and Organic Waste Curriculum – Contractor shall provide a Recycling and Organic Waste education curriculum for use in classroom visits and workshops, and shall develop materials for use with such curriculum such as posters, coloring books, puzzles and quizzes.
- 10) Representative - Contractor shall provide a representative able to visit civic groups, homeowners' associations, and building managers at Multi-Family complexes and Commercial Businesses to promote and explain the Recycling and Organic Waste programs.
- 11) Part-time Recycling Coordinator - Contractor will maintain a part-time Recycling coordinator on staff that performs at least 20 hours per week for the City for the Term of this Agreement that will be available for the development, implementation, public outreach and monitoring of City Recycling programs. Contractor shall provide City with monthly reports (due on the 15th for the previous calendar month) regarding the number of hours and tasks the Recycling Coordinator performed. For any calendar year for which the Recycling Coordinator performs less than 20 hours per week, Contractor shall pay City an amount equal to the Recycling Coordinator's fully loaded salary, as compensation and reimbursement to the City for the hours that the Recycling Coordinator was required to perform but did not.

All brochures, mailings, and other educational materials are to be approved by the City in advance of distribution, and if approved, shall bear the City seal.

5.3.2 Community Events

At the direction of City, Contractor shall participate in and promote Recycling and other Diversion techniques at community events and local activities. Such participation would normally include providing, without cost to City, Collection of Solid Waste at the event and educational information promoting the goals of the City's Solid Waste Diversion or Recycling program.

5.4 Waste Generation/Characterization Studies

Contractor acknowledges that the City may be required to perform Solid Waste generation and Disposal characterization studies periodically to comply with AB 939 or other waste Diversion requirements. Contractor shall participate and cooperate with the City and its agents and to accomplish such studies at no additional cost the City.

5.5 Free Compost Give-A-Way

Contractor will provide residents with free bagged Compost at one give-away event per year.

5.6 Procurement of Products with Recycled and Organic Contents

The Contractor shall comply with the purchasing and recordkeeping requirements in this Section.

5.6.1 Recycled-Content Paper.

Contractor shall procure Paper Products and Printing and Writing Paper for invoices, billing statements and inserts, reports, and public education materials, consistent with the requirements of the Public Contract Code (PCC) Sections 22150 through 22154. Additionally, Paper Products and Printing and Writing Paper procured by Contractor shall be eligible to be labeled with an unqualified recyclable label, as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013). Contractor shall state on all materials prepared with post-consumer recycled content the following: "Printed on Recycled Paper." In accordance with 14 CCR Section 18993.3(c), Contractor shall require all businesses from whom it purchases Paper Products and Printing and Writing Paper to certify in writing:

- 1) The minimum percentage, if not the exact percentage, of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to Contractor. The certification shall be furnished under penalty of perjury in a form and manner determined by the Contractor and approved by the City. The City may waive the certification requirement if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website; and,

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- 2) That the Paper Products and Printing and Writing Paper offered or sold to the Contractor are eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12).

5.6.2 Provision of Recovered Organic Waste Product

Contractor shall procure and provide on the City's behalf Recovered Organic Waste Product in an amount that satisfies the City's annual Recovered Organic Waste Procurement target pursuant to 14 CCR Section 18993.1. Contractor shall deliver Mulch or Compost in Roll-off Boxes or via dump truck within thirty (30) calendar days of request to any accessible location within the City limits. Upon request, Contractor shall provide the City with Mulch or Compost lab results and specifications. All Mulch or Compost provided by Contractor must meet or exceed State requirements for Mulch quality, including those standards regarding Mulch or Compost maturity, reduction of pathogens, elimination of weed seeds, and concentrations of physical contaminants such as glass, plastic, metal, and other Non-Organic Recyclables. All Mulch or Compost provided by Contractor must be suitable for use in landscaping, parks, sports fields, and community gardens, and must be suitable for distribution to the general public. Contractor shall also maintain records related to its procurement of Recovered Organic Waste Product on the City's behalf in accordance with 14 CCR Section 18993.2 and provide such records to City upon request.

5.6.3 Renewable Natural Gas

If requested by City, Contractor shall provide the name, location, and contact information of each entity, operation, or Facility from whom Contractor procured Renewable Natural Gas (RNG). If requested by City, Contractor shall provide the total amount of RNG procured by the Contractor for use in Contractor vehicles in the City, in diesel gallon equivalents (DGE), including copies of any receipts, invoices, or other similar documentation.

5.6.4 Recordkeeping Requirements.

Contractor shall maintain records that demonstrate ongoing compliance with these requirements, including, but not limited to, copies of receipts, invoices, or other proof of purchase that describe the products purchased, by volume and type for all products specified in this section; and copies of certifications or other verifications required by this Agreement. Contractor shall submit these records, upon the City request.

5.7 Edible Food Recovery Program

To support the City's efforts to fight food insecurity, reduce the amount of Edible Food sent to landfills, and to comply with SB 1383, Contractor shall implement and maintain during the Term of this Agreement an Edible Food Recovery Program in the City, either using Contractor's own resources, or through a subcontractor. City and Contractor agree that the initial cost of the program will be approximately twelve thousand dollars (\$12,000.00) per year.

1. Edible Food Recovery Program shall consist of Contractor, or its subcontractor, performing the following tasks: Conduct targeted and recorded Outreach pertaining to the recovery of excess edible food to all Commercial Edible Food Generators. Outreach touchpoints will be prioritized as follows:
 - a. Tier I and Tier II food waste generators as defined by SB 1383 (4-6 touchpoints in year 1)
 - b. Top permitted food waste generators in the city (6 touchpoints in year 1)
 - c. All permitted food waste generators (minimum 2 touchpoints in year 1).
2. Provide Outreach campaigns through an online customer relationship management platform. Record and provide to City documentation of all shared touchpoint efforts made to Commercial Edible Food Generators using one or more technology platforms in compliance with municipal requirements mandated in SB 1383. Through use of approved food recovery technology platforms, record all recovered excess Edible Food donated within the City and collected from all Commercial Edible Food Generators and Food Recovery Organizations located within the City in compliance with SB 1383.
3. As directed by the City, work with all applicable City departments and public agencies to inform potential Commercial Edible Food Generators about food recovery and the City's Edible Food Recovery program. This includes the City's Community Development, Parks and Recreation, and Public Works departments, the Public Library, and schools, colleges and universities. Provide safe food handling training which may include third party inspection services to non-profit food pantries operating within the City.

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4. As directed by the City, assist in the development of assets and resources needed to reduce Edible Food waste at non-profit food pantries operating within the City. These efforts may include, but are not limited to food repurposing kitchens, educational partnerships, food insecurity screening by medical care providers, and joint grant opportunities.
5. Provide updated mapping of Commercial Edible Food Generators and Food Recovery Organizations serving the food insecure population within the City.
6. Provide monthly reports to City such that Contractor will ensure that the City is always in compliance with the Edible Food Recovery education, outreach, and reporting requirements of SB 1383.

6 Contractor Compensation and Rates

6.1 General

Contractor Compensation provided for in this Article shall be the full, entire and complete compensation due to the Contractor pursuant to this Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, Disposal, Transfer, profit and all other things necessary to perform all the services required and reasonably anticipated by this Agreement in the manner and at the times prescribed. Contractor Compensation shall include all of the cost for Collecting Organics, Transporting to, and Processing of Organics at the CR&R Anaerobic Digester plant in the City of Perris, California.

Contractor will perform the responsibilities and duties described in this Agreement in consideration of the right to receive compensation for services rendered at the rates fixed by the City from time-to-time. City and Contractor agree that Contractor will retain any proceeds from the sale of Recyclable Materials.

6.2 Rates

The rates charged by the Contractor for Collection and Disposal Services shall be set forth in the schedule of rates and charges in Exhibit 1.

6.3 Modification of Rates

The rates charged by Contractor for collection and disposal services shall be modified in the following manner:

1. A request for modification of the rates established in Exhibit 1 shall be made in writing by Contractor to the City Manager. The request shall specify each modification and shall include the basis, reasons and justification. Contractor shall pay the costs of notice to the public when the City utilizes the procedures under Proposition 218 or other provision of law to increase rates.
2. Within thirty (30) days of such request the City Clerk shall set a public hearing, at which time the City Council shall consider the request after hearing from the Contractor and any member of the public wishing to be heard.

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3. The decision of the City Council with respect to such request shall be final.
4. The rates may be increased annually by the percentage increase in the CPI by measuring the twelve (12) months change in the CPI (April of the prior year through March of the current year), . In the event such CPI ceases to be published, the parties shall utilize such substitute index as common in the industry to measure cost of living increases. The City Manager may approve such CPI adjustment upon receipt of a written request of the Contactor; provided that any such CPI increase by the City Manager shall be limited to a maximum five percent (5%) increase. In the event the CPI increase exceeds five percent (5%) or any other rate increases are included in the written request of Contractor, the rate increase request shall be scheduled for public hearing of the City Council.

6.4 Competitive Rate Guarantee

Contractor guarantees that all the rates for Single-family Residential Service, Multi-family Residential Service, and Commercial Service shall at all times during the term of this Agreement be equal to or less than the 50th percentile of the comparable rates for similar services charged by the following thirteen (13) jurisdictions in north Orange County with substantially similar solid waste collection services: Anaheim, Brea, Buena Park, Cypress, Fountain Valley, Fullerton, Garden Grove, La Habra, La Palma, Los Alamitos, Placentia, Seal Beach, and Westminster (solid waste services in the City of Westminster are provided by the Midway Sanitary District). Comparable rates shall be the rates charged to ratepayers less any amount attributable to fees paid to or collected by the jurisdiction (with the exception of AEI Fees), and less any amount for non-solid waste related services such as street sweeping. The 50th percentile of the comparable rates shall be equal to the 7th ranked jurisdiction, or the midpoint between the two comparable rates closest to the median.

Each year during the term of the Agreement, City shall gather the comparable rates from the above thirteen (13) north County jurisdictions as of July 1st of that year. City shall determine the 50th percentile of those comparable rates and present that information to Contractor as soon after July 1st as the comparable rate information is available. City shall identify any of the comparable rates currently charged by Contractor in the City of Stanton that are higher than the 50th percentile of comparable rates in the other jurisdictions. City and Contractor shall meet and confer

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to determine which, if any, of Contractor's rates charged in the City of Stanton may need to be reduced to comply with this Competitive Rate Guarantee.

6.5 Extraordinary Adjustments

Contractor or the City may request an adjustment to rates at reasonable times other than that required in Section 6.3 for unusual changes in the cost of providing service under this Agreement. For each such request, Contractor shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form acceptable to the City with support for assumptions made by Contractor in preparing the estimate. Contractor shall provide City with documentation, satisfactory to the City, supporting its request. City shall review Contractor's request and, in the City's sole judgment, make the final determination on the appropriate amount of the adjustment if any.

Such changes may include extraordinary changes in the tipping fee charged by the Orange County Landfill System, or changes in a direct per ton surcharge assessed at the Disposal Site by Federal, State or local regulatory agencies after the Effective Date of this Agreement. Such changes shall not include changes in any other fees or taxes such as Social Security, disability or income tax. Such changes shall not include changes in the market value of Recyclable Materials or Processing costs for Recyclable Materials or Organic Waste, or inaccurate estimates by the Contractor of its cost of operations.

7 Review of Services and Performance

7.1 Performance Hearing

In or about October 2024, and once in each Rate Year thereafter during the Term, City may conduct a public hearing to review Contractor's Solid Waste Collection efforts, source reduction, Processing and other Diversion services and overall performance under this Agreement ("Performance Review Hearing.") The purpose of the Performance Review Hearing is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, Processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided by Contractor with adequate quality, effectiveness and economy and in full compliance with the terms of this Agreement.

Topics for discussion and review at the Performance Review Hearing shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, Customer Complaints, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding the goals of AB 939, AB 341, AB 1826, and SB 1383, regulatory constraints and Contractor performance. City and Contractor may each select additional topics for discussion at any Performance Review Hearing.

City shall notify Contractor of its intent to hold a Performance Review Hearing at least ninety (90) days in advance thereof. Forty-five (45) days after receiving notice from City of a Performance Review Hearing, Contractor shall submit a report to City which may contain such information it wishes to have considered. The report shall, at a minimum, contain the following information:

- 1) Current Diversion rates and a report on Contractor's outreach activities for the past year.
- 2) The records Contractor is required to maintain in Section 8.1.3 (Solid Waste, Recycling, and Organic Waste Service Records) for the prior Rate Year.
- 3) Issues with Contractor's ability to satisfy any obligations in this Agreement.
- 4) Recommended changes and/or new services to improve the City's ability to meet the goals of AB 939 and Applicable Law, and to contain costs and minimize impacts on rates.

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- 5) Any specific plans for provision of changed or new services by Contractor.

The reports required by this Agreement regarding Customer Complaints shall be used as one basis for review of Contractor's performance, and Contractor may submit other relevant performance information and reports for consideration at the Performance Review Hearing. In addition to the above, City may request Contractor to submit any other specific information relating to its performance for consideration at the Performance Review Hearing, and any Customer may submit comments or Complaints during or before the Performance Review Hearing, either orally or in writing. Contractor shall be present at and participate in the Performance Review Hearing.

As a result of its findings following any Performance Review Hearing, City may require Contractor to provide expanded or new services within a reasonable time and City may direct or take corrective actions for any performance inadequacies (although nothing contained in this provision should be construed as requiring City to hold a Performance Review Hearing in order to enforce any rights or remedies it has pursuant to the terms hereof.) Should City require expanded or new services as a remedy for Contractor's failure to perform its obligations hereunder, no additional compensation shall be due for such services. Otherwise, any new or expanded services required of Contractor shall be subject to the provisions of Section 2.6 (City's Right to Direct Changes).

8 Records, Reports and Information Requirements

8.1 General

Contractor shall maintain such accounting, statistical and other records related to its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, Contractor shall conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Law and regulation and to meet the reporting and Solid Waste program management needs of the City. Records

8.1.1 General

The Contractor shall maintain records required to conduct its operations, to support requests it may make to the City, and to respond to requests from the City in the conduct of the City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years after the expiration of this Agreement.

The Contractor agrees that the records of any and all Subcontractors conducting operations addressed in the Agreement shall be provided or made available to the City and its official representatives during normal business hours. The City may review or utilize any of the records described in this section for any purpose whatsoever.

8.1.2 Financial Records

Contractor shall keep full, complete and proper books, records and accounts of the Gross Receipts of Contractor, and accounts of the tons of Solid Waste Processed at the transfer station.

8.1.3 Solid Waste, Recycling, and Organic Waste Service Records

Records shall be maintained by the Contractor for the City relating to:

- 1) Customer services and billing;
- 2) Routes;

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- 3) Facilities, equipment and personnel used;
- 4) Complaints;
- 5) Missed pickups;
- 6) Number of Refuse and Recycling Carts;
- 7) Tons Collected, Processed, diverted, and disposed by Container (Bin, Cart, Customer-provided Container or Roll-off), waste stream (Solid Waste, Recycling, Organic Waste) and Customer (Single-Family, Multi-Family, Commercial); and,
- 8) Weight of each Recyclable Material recovered at the Materials Recovery Facility.

8.1.4 CERCLA Defense Records

The City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 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) and provide a copy of the reports and records required in Article 8 (Records, Reports and Information Requirements) for five (5) years after the Term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to the City. Contractor shall notify the City's Risk Manager and the City Attorney at least 90 days before destroying such records. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

8.1.5 Disposal Records

Contractor shall maintain records of Disposal of all Solid Waste Collected in the City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event the Contractor discontinues providing Solid Waste Collection Services to the City, the Contractor shall provide all records of Disposal or Processing of all Solid Waste Collected in the City within thirty (30) days of

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discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

8.1.6 Other Programs' Records

Records for other programs shall be tailored to specific needs. In general, they shall include:

- 1) Plans, tasks, and milestones; and,
- 2) Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.

8.1.7 Cost of Audit

Should any examination or audit of Contractor's records reveal an underpayment of any fee required under 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. Should an underpayment of more than three percent (3%) be discovered, Contractor shall bear the entire cost of the audit.

8.1.8 Payments and Refunds

Should an audit by the City disclose that Customers were overcharged for the period under review, the Contractor shall refund to the Contractor's Customers any overcharges. Any refunds to be made shall be due and payable (30) days following the date of the audit.

8.2 Reports

8.2.1 Report Formats and Schedule

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things to:

- a) Determine and set rates and evaluate the efficiency of operations;

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- b) Evaluate past and expected progress towards achieving the goals and objectives of AB 939, AB 341, AB 1826, and SB 1383 and their implementing regulations;
- c) Determine needs for adjustment to programs; and,
- d) Evaluate Customer service and Complaints.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by the City. Contractor shall submit all reports on computer discs or by electronic means in a format compatible with the City's software/computers at no additional charge, if requested by the City. Contractor will provide a certification statement, under penalty of perjury, by an authorized Contractor official, that the report being submitted is true and correct.

Monthly reports shall be submitted within twenty-five (25) calendar days after the end of each month. Quarterly reports shall be submitted within twenty (20) calendar days after the end of the calendar quarter. If requested, the Contractor's Complaint summary, described in Section 8.2.3(a) (Quarterly Reports) below, shall be sent to the City Manager within 5 days of request. Annual reports shall be submitted before January 31st following the reporting year.

All reports shall be submitted via email to:

Public Works Director (or designated representative)

City of Stanton
7800 Katella Avenue
Stanton, CA 90680

8.2.2 Monthly Reports

The information listed shall be the minimum reported:

- 1) Solid Waste Collected by the Contractor for each month, sorted by type of solid Waste (Refuse, Recyclable Materials, Organic Waste) and type of Customer (Residential, Commercial/Industrial Bin Service, Roll-off) in tons, and the Facilities where the tons were Processed or disposed.

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- 2) Materials Recovered. Statement showing kinds of material and quantity sold (in tons).
- 3) Narrative summary of problems encountered (including Scavenging) and actions taken with recommendations for the City, as appropriate.
- 4) Warning notices issued for contaminated Recyclable Materials and Organic Waste Containers.

8.2.3 Quarterly Reports

Report should contain at a minimum the information required in the monthly report and the following:

- 1) Complaint summary for the quarter summarized by nature of Complaints on a compatible computer disc or flash drive.
- 2) Copies of promotional and public education materials sent during the quarter.
- 3) Other information or reports that the City may reasonably request or require.

8.2.4 Annual Report

The Annual Report is to be essentially in the form and content of the monthly and quarterly reports combined, but shall also include:

- 1) A complete inventory of equipment used to provide all services (such as vehicles and Containers by size and waste stream).
- 2) Results of route audits, including a summary of the number of Bins by size and Service Level, Cart counts by size (64, or 95-gallon) and type of Solid Waste (Refuse, Recyclable Materials, Organic Waste) and Customer (Residential, Commercial, Industrial), and Roll-off Box pulls per month by material type.
- 3) Environmental Litigation Defense records required under Section 8.2.4 (CERCLA Defense Records).
- 4) Copy of Hazardous Waste Diversion records showing types and quantities, if any, of Hazardous Waste that was inadvertently Collected, but diverted from Landfilling.
- 5) Number of routes and route hours per day by type of service.

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- 6) Results of contamination monitoring and follow up actions
- 7) Contractor's most recent BASIC Score determined by the Federal Motor Carrier Safety Administration.
- 8) Any terminal inspection reports resulting from the California Highway Patrol's Basic Inspection of Terminals (BIT) program.

8.2.5 Financial Report

City may, at City's option, request Contractor's annual audited financial reports/statements for the most recently completed fiscal year in connection with a rate adjustment, performance audit, billing audit, Franchise Fee audit, or verification of other information required under this Agreement.

Financial statements shall include a supplemental schedule showing the Contractor's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement, separated from others included in such financial statements. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant (CPA) licensed and in good standing to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy. The cost for preparation of the financial statements and audit shall be borne by Contractor as a direct cost of service. In addition, Contractor shall provide to the City the supplemental schedule on a compiled basis.

Contractor shall, in its agreement with the CPA preparing the audit above, have its CPA make available to the City (or the City's designated representative) such CPA's working papers related to the audit. The cost, if any, incurred by the Contractor's CPA shall be included in the cost of the audit.

At the City's request, Contractor shall provide the City with copies of working papers or other documentation deemed relevant by the City relating to information shown in the disclosure letter. The disclosure letter shall be provided to the City.

8.3 Adverse Information

8.3.1 Reporting Adverse Information

Contractor shall provide the City three copies (one to the Public Works Director, one to the City Manager, and one to the City Attorney) of all reports, pleadings, applications, notifications, Notices of Violation, communications or other material relating specifically to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by the Contractor from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, State or local agency, including any federal or State court. Copies shall be submitted to the City simultaneously with the Contractor's filing, submission, or receipt of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to the City, but shall be made available to the City promptly upon the City's written request.

8.3.2 Failure to Report

The refusal or failure of the Contractor to file any required reports, or to provide required information to the City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a material breach of the Agreement as described in Section 11.1 (Events of Default) and shall subject Contractor to all remedies which are available to the City under the Agreement or otherwise.

8.4 Right to Inspect Records

The City shall have the right to inspect or review the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor or its related party entities that the City shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Agreement and Contractor's performance provided for in this Agreement.

City shall have the right, at any and all times during regular business hours, to examine, inspect and copy, at City's expense, all of the books and records of

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Contractor pertaining to the determination of tonnage, Gross Receipts, Franchise Fees and/or the AEI FEE.

Contractor shall make records available for inspection either at Contractor's corporate headquarters or as selected by City, any such statement of Gross Receipts, Franchise Fees, or AEI Fees. City may, once in any calendar year, cause an audit of the business of Contractor to be made by a certified public accountant of City's selection and of national repute, and if the statements of Gross Receipts previously made to City shall be found to be inaccurate, then and in that event, there shall be an adjustment, and one party shall pay to the other on demand such sums as may be necessary to settle in full any inaccurate amount of Franchise Fee that should have been paid to City for the period or periods covered by such inaccurate statement or statements, with interest at 7% per annum from date of actual or required payments until the date of the corrective payment hereunder.

If said audit shall disclose an understatement of greater than 3% with respect to the amount of Gross Receipts for the period of said report, then Contractor shall immediately pay City the costs of such audit; otherwise, the costs of such audit shall be paid by City. The acceptance by City of any Franchise Fee payment as and for such Gross Receipts shall not be an admission of the sufficiency thereof nor of the accuracy of any statement furnished by Contractor, but City shall be entitled at any time within one calendar year after the receipt of any such Franchise Fee to question the sufficiency thereof and/ or the accuracy of any statement furnished by Contractor to justify the same.

9 Indemnification, Insurance and Bond

9.1 Indemnity

Notwithstanding the provisions of Section 9.4 hereof regarding insurance, and not in satisfaction of said section, Contractor and its successors in interest shall defend, indemnify, save harmless and exempt City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs and expenses, including attorneys' fees, incident to any work done in the performance of this Agreement arising out of or alleged to arise out of the acts or omissions of the Contractor, its officers, agents, or employees. In addition, Contractor and its successors in interest shall indemnify, protect, defend (with legal counsel reasonably acceptable to the City), and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims") arising out of or in any way relating to this Agreement, any discretionary approvals granted by the City related to the permitting of the Transfer Station or any other facility of Contractors in the City of Stanton, or any claims regarding environmental review under California Environmental Quality Act, Public Resources Code Section 21000 et seq., relating to the Contractors' facilities or permits.

9.2 Hazardous Substances Indemnification

Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Contractor 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, officials, 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

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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 in this Section 9.2); or,
2. relates to material Collected, Transported, Recycled, Processed, treated or Disposed of by Contractor.

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 CERCLA, 42 U.S.C. § 9601 et seq., the RCRA, 42 U.S.C. § 6901 et seq., the Carpenter-Presley-Tanner Hazardous Substances Account Act (California Health & Safety Code Sections 25300 et seq.), the California Hazardous Waste Control Laws (California Health and Safety Code Sections 25100 et seq.), the Porter-Cologne Water Quality Control 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 of 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;
- 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.

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

For purposes of this section, the term "Hazardous Contaminant" shall mean any "hazardous material" as that term is defined under California Health & Safety Code Sections 25501(n)(1) and 25260(d); any "Hazardous Substance" as that term is

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defined in this Agreement, under California Health & Safety Code Sections 25281(h), or 42 U.S.C. Section 9601(14) ; any “Hazardous Waste” as that term is defined under Title 42 U.S.C. Section 6903(5) ; 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 after the date of execution of this Agreement.

The provisions of this section shall be given the broadest possible interpretation and survive the expiration or earlier termination of this Agreement.

In the event City directs Contractor to dispose of Solid Waste Collected pursuant to this Agreement at a Facility designated by City, Contractor shall not be required to provide the indemnification set forth in this section with respect to Claims arising from allegations relating to the handling and/or Disposal of such Solid Waste after it is delivered to a City designated Facility (although this exception shall not apply to any other Claims relating to said Solid Waste); provided, however, this exception to the indemnification requirements of this section that would otherwise apply shall not apply in the event the City designated Disposal Facility in question is either owned or operated, in whole or part, by Contractor or any Affiliate of Contractor.

9.3 AB 939 Indemnification

To the extent authorized by law, Contractor shall indemnify and hold harmless the City from and against all fines and/ or penalties imposed by CalRecycle in the event the source reduction and Recycling goals or any other requirement of AB 939 or Applicable Law are not met by the City with respect to the waste stream Collected under this Agreement.

Contractor warrants and represents that it is familiar with City's waste characterization study as set forth in City's SRRE, and that it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed CalRecycle compliance with AB 939, Applicable Law, and CalRecycle requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for Diversion, and any other requirements) goal set forth in AB 939, Applicable Law, and CalRecycle regulations, with respect to that portion of the Solid Waste generated in City that is the subject of this Agreement.

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9.4 Insurance

At all times during the duration of this Agreement, Contractor shall maintain on file with the City, certificates of insurance which shall evidence the existence of the insurance coverage required pursuant to this Agreement. With the exception of Workers' Compensation, such certificates shall bear endorsements which shall name the City, its elected and appointed officers, employees and agents as additional named insureds, and shall further provide that policies to which such certificates relate cannot be materially altered or terminated or cancelled except upon thirty (30) days' prior written notice to City of such modification, termination, or cancellation. The provisions of this section shall not in any way affect the independent obligation of Contractor with respect to indemnification (Section 9.1)

The City does not, and shall not, waive any rights against the Contractor which it may have by reason of the aforesaid hold harmless agreements, because of acceptance by the City or the deposit with the City by the Contractor of the insurance policies described in this provision.

9.4.1 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 0001).
- 2) The most recent editions of Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 'any auto' and pollution liability (CA9948) and MCS-90 endorsement.
- 3) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.
- 4) Professional Liability
- 5) Pollution and Environmental Liability coverage shall provide for liability arising out of sudden, accidental, and gradual pollution, and remediation.
- 6) Cyber Security and Privacy Liability coverage shall provide for liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including but not limited to personally identifiable information (PII), protected health information (PHI), security codes, access codes, passwords, etc. Network security liability arising from

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the unauthorized use of, access to, or tampering with computer systems, including hacker or denial of service attacks. Liability arising from introducing a computer virus into or otherwise causing damage to vendor (first-party) or customer's (third party) computer, computer system, network, or similarly related property and the data, software, and programs. Liability arising from professional misconduct or lack of the requisite skill required for performing services defined in the contract or agreement. Costs associated with restoring, updating, or replacing data. Costs associated with a privacy breach, including notification costs, customer support, forensics, crises management, public relations consulting, legal services of a privacy attorney, credit monitoring, and identity fraud resolution services for affected individuals.

9.4.2 Minimum Limits of Insurance. The Contractor shall maintain in force for the Term of this Agreement limits no less than:

- 1) Comprehensive General Liability: Ten Million Dollars (\$10,000,000) limit for each person, with Ten Million Dollars (\$10,000,000) limit per occurrence, for bodily injury, personal injury and property damage.
- 2) Automobile Liability: Ten Million Dollars (\$10,000,000) combined single limit per accident for bodily injury and property damage and shall include Pollution Liability (CA9948) and MCS-90 Endorsements. The policy shall provide coverage for transportation of pollutants/contaminants to and from the job site and the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.
- 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) per accident.
- 4) Employer's Liability: Two Million Dollars (\$2,000,000) per accident for bodily injury or disease.
- 5) Professional liability (errors & omissions) insurance. \$1,000,000 per claim and in the aggregate.

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- 6) Pollution liability insurance: \$1,000,000 per claim and in the aggregate. All activities contemplated in this agreement shall be specifically scheduled on the policy as “covered operations.” The policy shall provide coverage for remediation of the site in the event of an environmental contamination event arising out of the materials, supplies, products, work, operations, or workmanship.
- 7) Cyber security and privacy liability. Consultant shall procure and maintain insurance with limits of \$1,000,000 per occurrence/loss, \$2,000,000 general aggregate.
- 8) Umbrella or excess liability insurance. [If required to meet higher limits]. Contractor shall obtain and maintain an umbrella liability insurance policy with limits that will provide bodily injury, personal injury, and property damage liability coverage, including commercial general liability, automobile liability, and employer’s liability. Such policy or policies shall include the following terms and conditions:
 - i. A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason, other than bankruptcy or insolvency of said primary insurer;
 - ii. “Pay on behalf of” wording as opposed to “reimbursement”;
 - iii. Concurrency of effective dates with primary policies.

Should Contractor obtain and maintain an excess liability policy, such policy shall be excess over commercial general liability, automobile liability, and employer’s liability policies. Such policy or policies shall include wording that the excess liability policy follows the terms and conditions of the underlying policies.

- 9) Claims Made Policies. If coverage is maintained on a claims-made basis, the inception date, continuity date, or retroactive date must be before the effective date of this agreement. Contractor shall maintain continuous coverage for an additional three (3) years following termination of the contract.

9.4.3 Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Indemnitees; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in the amount of such deductibles or self-insured retentions.

9.4.4 Other Insurance Provisions.

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

- 1) General Liability, Automobile Liability, Pollution Liability, Cyber Security and Privacy Coverages
 - a) Additional Insured Endorsement: The City of Stanton and its officers and employees are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; Premises owned, leased or used by the Contractor; or vehicles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no limitations on the scope of protection afforded to the City of Stanton, its elected and appointed boards, commissions, officials, employees, agents or volunteers.
 - b) Primary & Non-Contributory Endorsement: The Contractor's insurance coverage shall be primary insurance as respects the Indemnitees. Any insurance or self-insurance maintained by the City, its officials, elected and appointed boards, commissions, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
 - c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Indemnitees.
 - d) Coverage shall state that the 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.

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- 2) Waiver of Subrogation – For all lines of coverage, except Professional Liability, the insurer shall agree to waive all rights of subrogation against the Indemnitees for losses arising from work performed by the Contractor for the City.
- 3) 30 Day Notice of Cancellation - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by Contractor, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- 4) Acceptability of Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, except that City may accept a rating classification of B or better for Workers' Compensation insurance only.

9.4.5 Verification of Coverage.

Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. 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 the City and are to be received and approved by the City before work commences. The City reserves the right to require Contractor to provide complete, certified copies of all required insurance policies, at any time.

Contractor shall furnish renewal certificates annually to the City to demonstrate maintenance of the required coverage throughout the Term of this Agreement.

9.4.6 Companies and Subcontractors.

Contractor agrees to ensure that its subconsultants, subcontractors, and any other party (hereinafter collectively "subcontractor"), who is brought onto or involved in the project/service by Contractor provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is

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provided in conformity with the requirements of this section. However, in the event subcontractor cannot comply with this requirement, which proof must be submitted to the Agency, Contractor shall be required to ensure that its subcontractor provide and maintain insurance coverage and endorsements sufficient to the specific risk of exposure involved with subcontractor's scope of work and services, with limits less than required of the Contractor, but in all other terms consistent with the Contractor's requirements under this agreement. This provision does not relieve the Contractor of its contractual obligations under the agreement and/or limit its liability to the amount of insurance coverage provided by its subcontractors. This provision is intended solely to provide Contractor with the ability to utilize a subcontractor who may be otherwise qualified to perform the work or services but may not carry the same insurance limits as required of the Contractor under this agreement given the limited scope of work or services provided by the subcontractor. Contractor agrees that upon request, all agreements with subcontractors, and others engaged in the project, will be submitted to Agency for review.

9.4.7 Required Endorsements

- 1) The Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to the City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Public Works Director
City of Stanton
7800 Katella Avenue
Stanton, CA 90680"

- 2) The General Liability and Auto Liability policies shall contain endorsements in substantially the following form:

- a) "Thirty (30) days prior written notice shall be given to the City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

Director of Public Works
City of Stanton
7800 Katella Avenue"
Stanton, CA 90680

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- b) "The City, its officers, elective and appointive boards, commissions, employees, and agents are additional insureds on this policy."
- c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the City, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."
- d) "Inclusion of the City as an insured shall not affect the City's rights as respects any claim, demand, suit or judgment brought or recovered against the Contractor. This policy shall protect the Contractor and the City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase the Contractor's liability as set forth in the policy beyond the amount shown or to which the Contractor would have been liable if only one party had been named as an insured."

5) Other Insurance Requirements

- a) Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Contractor or any company or Subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to the City.
- b) If Contractor fails to procure and maintain any insurance required by this Agreement, the City may take out and maintain, at the Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due to the Contractor or demand payment from Contractor which shall be paid within thirty (30) days of written notice to Contractor.

9.5 Faithful Performance Bond

Concurrently with execution of this Agreement, Contractor shall deliver to the City a performance bond, from an admitted surety insurer, in the amount of Three Hundred Seventy-Five Thousand Dollars (\$375,000), a form acceptable to the City, which secures the faithful performance of this Agreement, including, without limitation,

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payment of any penalty and the funding of any work to cure a breach of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire Term of the Agreement and shall be null and void at the conclusion of the Term of this Agreement only if the Contractor promptly and faithfully performs all Terms and conditions of this Agreement.

9.6 Forfeiture of Performance Bond

In the event Contractor for any reason becomes unable to, or fails in any way to, perform as required by this Agreement, the City may declare a portion or all of the performance bond which is necessary to recompense and make the City whole. In that event, the amount of the declared portion of the performance bond shall be forfeited to the City. Upon partial or full forfeiture of the performance bond, the Contractor shall restore the performance bond to its face amount within thirty (30) days of the City's declaration. Failure to restore the performance bond to its full amount within thirty (30) days shall be a material breach of contract.

9.7 Letter of Credit

In addition to a corporate surety bond as noted in Section 9.5 above, Contractor shall furnish an irrevocable letter of credit drawn upon a financial institution with an office within one hundred (100) miles of City in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000), in a form acceptable to the City Attorney as security for the performance of this Agreement (the "LOC"). The LOC shall be the sole responsibility of Contractor, and shall be released within thirty (30) days after both (i) the expiration of the Term of this Agreement, or upon the earlier termination hereof; and (ii) Contractor's satisfactory performance of all obligations hereunder.

9.8 Forfeiture of Letter of Credit

Thirty (30) days after City provides Contractor with written notice of Contractor's failure to pay City any amount due under this Agreement, the LOC may be drawn upon by City for purposes including, but not limited to:

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- a. Payment of sums due under the terms of this Agreement which Contractor has failed to timely pay to City.

- b. Reimbursement of costs borne by City to correct violations of this Agreement that Contractor did not correct.

City may draw upon the entire LOC and convert it to a cash deposit if Contractor fails to cause the LOC to be extended or replaced with another satisfactory LOC no later than sixty (60) days prior to its expiration during the Term of this Agreement.

10 City's Right to Perform Service

10.1 General

In addition to, but not in lieu of, any other rights or remedies City might have under this Agreement, at law or in equity, in the event that the Contractor, for any reason whatsoever, fails, refuses or is unable to Collect, Recycle, Process, Transport or Dispose of any or all Solid Waste which it is required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than forty-eight (48) hours, and if, as a result, Solid Waste should accumulate in the City to such an extent, in such a manner, or for such a time that the City should find that such accumulation endangers or menaces the public health, safety or welfare, then the City shall have the right, but not the obligation, upon notice to Contractor during the period of such emergency as determined by the City, as set forth in this Agreement, (1) to perform, or cause to be performed, such services itself with its own or other personnel; and/or (2) to take possession of any or all of Contractor's land, equipment and other property used or useful in the Collection and Transportation of Solid Waste, and to use such property to Collect and Transport any Solid Waste generated within the City which Contractor would otherwise be obligated to Collect, Transport and properly Dispose of or process pursuant to this Agreement.

Notice of Contractor's failure, refusal or neglect to Collect, Transport and properly dispose of or Process Solid Waste may be given orally by telephone to the Contractor at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Contractor within twenty-four (24) hours of the oral notification.

Contractor further agrees that in such event:

- 1) It will take direction from the City to effect the transfer of possession of equipment and property to the City for the City's use.
- 2) It will, if the City so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.
- 3) The City may immediately engage all or any personnel necessary or useful for the Collection and Transportation of Solid Waste, including, if the City so

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desires, employees previously or then employed by the Contractor. The Contractor further agrees, if the City so requests, to furnish the City the services of any or all management or office Personnel employed by the Contractor whose services are necessary or useful for Solid Waste Collection, Transportation, Processing and Disposal operations and for the billing and Collection of fees for these services.

The City agrees that it assumes complete responsibility for the proper and normal use of such equipment and facilities while in its possession.

10.2 Billing and Compensation to the City During the City's Possession

During such time that the City is providing Solid Waste Collection Services, as above provided, the Contractor shall bill and collect payment from all users of the above-mentioned services as described in Section 5.1 (Services and Customer Billing). The Contractor further agrees that, in such event, it shall reimburse the City for any and all costs and expenses incurred by the City beyond that billed and received by the City in taking over possession of the above-mentioned equipment and property for Solid Waste Service in such manner and to an extent as would otherwise be required of the Contractor under the Terms of this Agreement. Such reimbursement shall be made from time to time after submission by the City to the Contractor of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission.

10.3 City's Possession Not a Taking

Except as otherwise expressly provided in the previous paragraph, the City's exercise of its rights under this Article 10 (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of the City to the Contractor; and (3) does not exempt the Contractor from the indemnity provisions of Article 9 (Indemnification, Insurance and Bond), which are meant to extend to circumstances arising under this section, provided that the Contractor is not required to indemnify the City against claims and damages arising from the sole negligence of the City, its elected and appointed boards, commissions, officers, employees and agents in the operation of Collection vehicles during the time the City has taken possession of such vehicles.

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10.4 Duration of the City's Possession

The City's right pursuant to this Article to retain temporary possession of the Contractor's facilities and equipment, and to render Collection services, shall terminate when the City determines that such services can be resumed by the Contractor, or when the City no longer reasonably requires such property or equipment. In any case, the City has no obligation to maintain possession of the Contractor's property or equipment and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to the Contractor.

11 Default, Remedies and Liquidated Damages

11.1 Events of Default

All provisions of this Agreement to be performed by the Contractor are considered material. Each of the following shall constitute an event of default.

- 1) **Fraud or Deceit or Misrepresentation.** If the Contractor engages in, or attempts to practice, any fraud or deceit upon the City or makes a misrepresentation regarding material information to the City.
- 2) **Insolvency or Bankruptcy.** If the Contractor becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- 3) **Failure to Maintain Coverage.** If the Contractor fails to provide or maintain in full force and effect the insurance, Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- 4) **Violations of Regulation.** If the Contractor violates any orders or filings of any court or body having jurisdiction over the Contractor or City relative to this Agreement, provided that the Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred until a final decision adverse to the Contractor is entered.
- 5) **Failure to Perform.** If the Contractor ceases to provide Collection, Processing or Recycling services for Solid Waste as required under this Agreement over all or a substantial portion of its Franchise area for a period of two (2) consecutive days or more, for any reason within the control of the Contractor, including labor disputes.
- 6) **Failure to Pay.** If the Contractor fails to make any payments required under this Agreement and/or refuses to provide the City, within ten (10) days of the demand therefor, with required information, reports, and/or records in a timely manner as provided for in the Agreement.
- 7) **Acts or Omissions.** Any other act or omission by the Contractor which violates the terms, conditions, or requirements of this Agreement, AB 939, any Environmental Law as it may be amended from time to time, any Applicable

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Law, or any law, statute, ordinance, order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if the Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter. This section is intended to apply to any situation in which Contractor or any of its officers, directors or employees are found guilty of any crime related to the performance of this Agreement, or of any crime related to anti-trust activities, illegal Transport or Disposal of hazardous or toxic materials, or bribery of public officials. The term "found guilty" shall be deemed to include any judicial determination that Contractor or any of Contractor's officers, directors or employees is guilty as well as any admission of guilt by Contractor or any of Contractor's officers, directors of employees including, but not limited to, the plea of "guilty," "nolo contendere," "no contest," and "guilty to a lesser charge."

- 8) False or Misleading Statements. Any representation or disclosure made to the City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.
- 9) Attachment. There is a seizure of, attachment of, or levy on, the operating equipment of the Contractor, including without limits its equipment, maintenance or office facilities, or any part thereof.
- 10) Suspension or Termination of Service. There is any termination or suspension of the transaction of business by the Contractor, including without limit, due to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more than two (2) consecutive days.
- 11) Failure to Provide Assurance of Performance. If the Contractor fails to provide reasonable assurances of performance as required under Section 11.6. Contractor shall be given forty-eight (48) hours from notification by the City to cure any default arising under subsections 5, 6, 9, 10 and 12 provided, however, that the City shall not be obligated to provide the Contractor with a

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notice and cure opportunity if the Contractor has committed the same or similar breach within a twenty-four (24) month period.

11.2 Termination

This Agreement may be terminated at any time during the term thereof only as follows:

- 1) By mutual agreement of the parties hereto, evidenced by an appropriate written instrument; or
- 2) Where the City Manager determines that the Contractor's performance has not been in conformity with the provisions of this Agreement or any applicable law, including but not limited to the relevant provisions of the Stanton Municipal Code. In such case, the City Manager shall, in writing, advise Contractor of such deficiencies, and set, in such written instrument, a reasonable time within which correction of all such deficiencies is to be made; unless otherwise specified, a reasonable time for correction shall be deemed to be thirty (30) days from the receipt by the Contractor of such written notice. If within said thirty (30) day period of time (or other period of time, as maybe specified by the City Manager), the Contractor does not correct such deficiencies to the reasonable satisfaction of the City Manager, the City Manager shall advise the City Council of such circumstances; the City Council, in such case, shall, as soon as is possible, set the matter for hearing. The City Council shall give Contractor, and any other person requesting the same, ten (10) days written notice of the time and place of such hearing. At the time of such hearing, the City Council shall consider the report of the City Manager indicating the deficiencies, and shall give the Contractor, or its representatives and any other interested person, a reasonable opportunity to be heard in conjunction therewith. If the City Council, at the conclusion of such hearing, determines, based upon reliable evidentiary material, that the performance of Contractor is not in conformity with the Agreement, as alleged by the City Manager, the City Council shall terminate, forthwith, the Agreement. The decision of the City Council shall be final and conclusive. Contractor's performance under this Agreement is not excused during the period of time prior to the City Council's final determination as to whether such performance is deficient.

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11.2.1 Right to Terminate Upon Default

In addition to any other remedies provided in this Agreement, where Contractor, for any reason, abandons or ceases to perform collection and Disposal services for a period in excess of five (5) working days, and the City Manager determines that it is necessary for Solid Waste Collection and Disposal to be temporarily undertaken by City, or other entities engaged by City, City shall: a. notify Contractor by mail that Contractor has failed to perform Solid Waste Collection and Disposal services for a period in excess of five (5) working days, and of City's intent to temporarily provide such services at Contractor's expense and with the use of Contractor's equipment; b. be entitled to the use of Contractor's equipment during such time as City, or entities engaged by City for such purpose, assumes Contractor's Collection and Disposal obligations under this Agreement; c. have access to Contractor's records for the purposes of billing, and shall retain all payments and funds received for the period during which City provides services d. charge Contractor for the actual costs of such services as determined by City's standard accounting practices, and the sum of Five Hundred Dollars (500.00) for each calendar day during which City performs such services. The parties agree and acknowledge that in the event of such a temporary default by Contractor, the actual damages to the City as a result of such default would be difficult if not impossible to ascertain, and, therefore, the parties have agreed that the sum of Five Hundred Dollars (\$500.00) per day during which such default occurs, represents a reasonable sum to be paid by Contractor to City as and for liquidated damages. During any period during which City assumes Contractor's Collection and Disposal obligations pursuant to this section, the liability of City to Contractor for loss or damage to any of Contractor's equipment used by City shall be that of a bailee for hire, ordinary wear and tear excepted. If temporary default under this Section continues for a period of more than twenty (20) calendar days, City shall have the right to terminate this Agreement pursuant to Section 16(b) of this Agreement.

11.3 Remedies for Breach

The rights, remedies and benefits provided by this Agreement shall be cumulative, and shall not be exclusive of any other of said rights, remedies or benefits provided by this Agreement, nor of any other rights, remedies or benefits allowed by law.

11.4 Liquidated Damages

11.4.1 General

The City finds, and the 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 the City as a result of a breach by the Contractor of its 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) the services provided under 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 breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

11.4.2 Liquidated Damages for Failure to Meet Standards

The parties further acknowledge that consistent, reliable Solid Waste Collection Services are of utmost importance to the City and that the City has considered and relied on the Contractor's representations as to its quality-of-service commitment in awarding the Franchise to 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 the Contractor fails to achieve the performance standards, or fails to submit required documents in a timely manner, the 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 the City will suffer. Therefore, without prejudice to the City's right to treat such non-performance as an event of default under this Article 11, the parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to the City that reasonably could be anticipated and the anticipation that proof of

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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

Initial Here

City

Initial Here

The Contractor shall pay (as liquidated damages and not as a penalty) the amounts set forth below:

1) Collection Reliability

- a) For each failure to commence service to a new Customer account within seven (7) days after order, which exceed five (5) such failures annually: \$150
- b) For each failure to Collect Solid Waste, which has been properly set out for Collection, from an established Customer account on the scheduled Collection Day (missed pickup) and not Collected within one business day of the original collection day, which exceeds five (5) such failures annually: \$150
- c) For each failure to Collect Solid Waste, which has been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days: \$150
- d) For each day the Contractor Collects from a Customers outside of authorized Collection hours as defined in Section 4.7.2 (Schedules): \$250/day
- e) e) For each day Collection is delayed during the week following a holiday, beyond the one-day delay permitted per Section 4.7.2 (Schedules) (for example, Monday holidays permit Monday Collections to take place on Tuesday, and each Collection Day for the remainder of the week may be delayed only one day. If any portion of Monday's Collections take place on

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Wednesday, or if any of Tuesday's Collections take place on Thursday, etc., then liquidated damages apply to each impermissibly delayed day of Collection): \$2,000 per day

- f) For each failure to Collect Bulky Items after receiving two days prior notice from Customer, which exceed five (5) such failures annually: \$150

2) Collection Quality

- a) a) For each occurrence of failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments which exceeds ten (10) such occurrences annually: \$150
- b) b) For each failure to clean up Solid Waste spilled from Solid Waste Containers within 90 minutes that exceeds five (5) such failures annually: \$150
- c) c) For each failure to clean or replace Commercial and industrial Containers in accordance with Section 4.7.6.3 (Bins) of this Agreement which exceeds five (5) such failures annually: \$150
- d) d) For each failure to deliver a Roll-off Box within two (2) business days of a Customer's request: \$ 50
- e) For each occurrence of excessive noise or discourteous behavior: \$250
- f) f) For each failure to lock Bins or close Bin enclosures that exceed five (5) such failures annually: \$150

3) Customer Responsiveness

- a) For each failure to initially respond to a Customer Complaint within one (1) business day in accordance with Section 5.2.3 (Resolution of Customer Complaints), and for each additional business day in which the Complaint is not addressed: \$100
- b) For each failure to resolve a Customer Complaint within five (5) business days in accordance with Section 5.2.3 (Resolution of Customer Complaints): \$500

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- c) For each failure to remove graffiti from Containers, or to replace with Containers bearing no graffiti, within two business days of request from City or Customers: \$150
- d) For each Complaint received from more than 0.50% of the total Residential and Commercial Customer base within a six (6) month period: \$ 25

4) Reporting

- a) For each occurrence of failure to maintain records required under this Agreement: \$1,000
- b) Any report shall be considered late until such time as a correct and complete report is received by the City. For each calendar day a report is late, the daily liquidated damage amount shall be:
 - i. Monthly Reports: \$100 per day
 - ii. Quarterly Reports: \$250 per day
 - iii. Annual Reports: \$350 per day
 - iv. Annual Diversion Reporting requirements, including calculations and supporting documentation: \$500.00 per day.

5) Accuracy of Billing

- a) Each Customer invoice that is not prepared in accordance with the City's approved rate schedule: \$250
- b) Each occurrence in which a service address is 'double billed' with multiple invoices sent to different billing addresses (for examples, both a tenant and an off-site property Owner are billed for service at the same location): \$250

6) Implementation of Public Education Plan

- a) Each day past the agreed upon deadline that the Contractor fails to perform a task set forth in its public education plan. \$100 per day

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Liquidated damages will only be assessed after the Contractor has been given the opportunity but failed to rectify the damages as described in this Agreement.

The City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees or representative or investigation of Customer Complaints.

- a) Prior to assessing liquidated damages, the City shall give the Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. The Contractor may review (and make copies at its own expense) all non-confidential information in the possession of the City relating to incident(s)/non-performance. The Contractor may, within ten (10) business days after receiving the notice, request a meeting with the City Manager or his or her Designee. The Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The City Manager or his or her Designee will provide the Contractor with a written explanation of his or her determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the City Manager or his Designee shall be final.
- b) Amount. The City may assess liquidated damages for each calendar day or event, as appropriate, that the Contractor is determined to be liable in accordance with this Agreement.
- c) Timing of Payment. The Contractor shall pay any liquidated damages assessed by the City within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, the City may proceed against the performance bond required by the Agreement or order the termination of the Franchise granted by this Agreement, or exercise any other right or remedy available to City under this Agreement or at law or in equity, or any combination of these remedies.

11.5 Excuse from Performance

The parties shall be excused from performing their respective obligations in this Agreement in the event they are prevented from so performing by reason of floods, earthquakes, other natural Disasters, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from

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performance hereunder. Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by the Contractor's employees or directed at the Contractor is not an excuse from performance and the Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

The party claiming excuse from performance shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this section.

The interruption or discontinuance of the Contractor's services caused by one or more of the events excused shall not constitute a default by the Contractor under this Agreement. Notwithstanding the foregoing, however, if the Contractor is excused from performing its obligations hereunder for any of the causes listed in this section for a period of seven (7) days or more, the City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of the Contractor's land, equipment and other property and engaging the Contractor's Personnel in Article 10 (Default, Remedies And Liquidated Damages) and this Article 11, will apply.

11.6 Arbitration

Any dispute arising out of or relating to this Agreement, which dispute involves claims or controversies having no monetary value, or are in an amount or amounts, if combined, not exceeding \$25,000, shall be first mediated between the parties. The party making demand for mediation shall select a panel of three (3) mediators from those mediators listed and approved by the local Superior Court of jurisdiction, and the party not selecting the panel shall choose one (1) of the listed mediators who shall serve in that capacity. The parties shall share equally in the cost and expense of the mediation.

Any dispute arising out of or relating to this Agreement, which dispute involves claims or controversies, having a monetary value in an amount or amounts, if combined, not exceeding \$25,000, which dispute was not resolved by mediation as required in this Agreement, shall be decided by arbitration in accordance with the commercial rules of the American Arbitration Association then pertaining, unless the parties agree otherwise and consent, in writing, to a different method of dispute resolution, including mediation or judicial arbitration.

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Any dispute arising out of or relating to this Agreement, which dispute involves claims or controversies in an amount or amounts, if combined, exceeding \$25,000, shall not involve arbitration, or any other method of dispute resolution, unless the parties agree otherwise and consent, in writing, but shall instead be brought in a court of competent jurisdiction in the County of Orange, State of California.

Venue for any action, including those actions subject to arbitration, shall be Orange County. Contractor hereby expressly waives any right to remove any such action to a County other than Orange County otherwise provided by California Code of Civil Code of Civil Procedure Section 394.

Notice of the demand for arbitration is to be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand is to be made within a reasonable period of time after the claim, dispute, or other matter in controversy has arisen. In no event, however, is the demand for arbitration to be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in controversy would be barred by the applicable statute of limitations.

Any award rendered by the arbitrator shall be final and judgment may be entered upon it in accordance with Applicable Law in any court having jurisdiction thereof.

11.7 Assurance of Performance

The City may, at its option and in addition to all other remedies it may have, demand from the Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the City may require. If the Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by the City, such failure or refusal shall be an event of default.

12 Other Agreements of the Parties

12.1 Relationship of Parties

The parties intend that the Contractor shall perform the services required by this Agreement as an independent Co engaged by the City and not as an officer or employee of the City nor as a partner of or joint venture with the City. No employee or agent of Contractor shall be or shall be deemed to be an employee or agent of the City. Except as expressly provided in this Agreement, the Contractor shall have the exclusive control over the manner and means of conducting the Solid Waste Collection Services performed under this Agreement, and all Persons performing such services. The Contractor shall be solely responsible for the acts and omissions of its officers, employees, Companies, Subcontractors, Affiliates and agents. Neither the Contractor nor its officers, employees, Companies, Subcontractors, Affiliates and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to the City employees by virtue of their employment with the City.

12.2 Compliance with Law

In providing the services required under this Agreement, the Contractor shall at all times, at its sole cost, comply with all Applicable Law and regulations of the United States, the State of California, and local agencies. The City shall comply with all applicable regulations promulgated by federal, State, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended during the Term of this Agreement.

12.3 Modification

Except as expressly provided herein, the terms of this Agreement may not be modified, amended or changed in any way without the written approval of both Contractor and City.

Notwithstanding the above, City may impose any and all additional regulations deemed necessary for the protection of the health, safety, and/or general welfare of the residents of City without the concurrence of Contractor.

12.4 Law Governing

This Agreement and the rights of the parties hereunder shall be interpreted under the laws of the State of California.

12.5 Permits

Contractor shall be responsible for obtaining and maintaining all licenses, permits or other entitlements necessary or convenient for the performance of the services required hereunder, including but not limited to City business licenses. Contractor shall be responsible for the payment of all fees, charges, taxes and other costs in connection therewith.

12.6 Jurisdiction

Any lawsuits between the parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits.

With respect to venue, the parties agree that this Agreement is made in and will be performed in Orange County.

12.7 Assignment

Except as may be provided for in Article 10 (City's Right to Perform Service), neither party shall assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement to any other Person without the prior written consent of the other party. Any such assignment made without the consent of the other party shall be void and the attempted assignment shall constitute a material breach of this Agreement.

For purposes of this section when used in reference to the Contractor, 'assignment' shall include, but not be limited to (i) a sale, exchange or other transfer of substantially all of the Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of the Contractor to a third party provided said sale, exchange or transfer may result in a change of control of the Contractor; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which results in a change of Ownership or control of the Contractor; (iv) any assignment by

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operation of law, including 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 the 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 of control of the Contractor.

The Contractor acknowledges that this Agreement involved rendering a vital service to the City's residents and businesses, and that the City has selected the Contractor to perform the services specified in this Agreement based on (1) the Contractor's experience, skill and reputation for conducting its operations 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) the Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to the City under this Agreement. The City has relied on each of these factors, among others, in choosing the Contractor to perform the services to be rendered by the Contractor under this Agreement.

If the Contractor requests the City's consideration of and consent to an assignment, the City may deny or approve such request in its complete discretion. No request by the Contractor for consent to an assignment need be considered by the City unless and until the Contractor has met the following requirements:

1. The Contractor shall undertake to pay the City its reasonable expenses for attorney's fees and investigation 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;
2. The Contractor shall pay the City a transfer fee equal to 1% of the gross revenues times the number of years (pro-rated for partial years) remaining under this Agreement;
3. The Contractor shall furnish the City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
4. The Contractor shall furnish the City with satisfactory proof:

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- a) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the sale of operations conducted by the Contractor under this Agreement;
- b) 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 Environmental Laws and that the assignee has provided the City with a complete list of such citations and censures;
- c) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion;
- d) 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,
- e) of any other information required by the City to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall the City be obliged to consider any proposed assignment by the City if the Contractor is in default at any time during the period of consideration.

12.8 Affiliated Companies

The Contractor's accounting records shall be maintained on a basis showing the results of the Contractor's operations under this Agreement separately from operations in other locations, as if the Contractor were an independent entity providing service only to the City. The costs and revenues associated with providing service to the City shall not be combined, consolidated or in any other way incorporated with those of other operations conducted by the Contractor in other locations, or with those of an Affiliate.

If the Contractor enters into any financial transactions with an Affiliate for the provision of labor, equipment, supplies, services, capital, etc., related to the furnishing of service under this Agreement, that relationship shall be disclosed to the

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City, and in the financial reports submitted to the City. In such event, the City's rights to inspect records, and obtain financial data shall extend to such Affiliates.

Any application for a change of ownership, control, or a Franchise transfer shall be made in a manner prescribed by the City Manager. The application shall include a transfer fee in an amount to be set by a resolution of the City Council, to cover the reasonable costs of all direct and indirect administrative expenses of the City, including, without limitation, consultants and attorneys, necessary to analyze the application and to reimburse the City for all its direct and indirect expenses. The applicant shall pay such invoices prior to any authorized change of ownership or Franchise transfer becoming effective.

12.9 Contracting or Subcontracting

The Contractor shall not engage any companies or Subcontractors for Collection, Transfer, Processing, Recycling or Disposal of Solid Waste without the prior written consent of the City.

12.10 Binding on Assigns

The provisions of this Agreement shall inure to the benefit of and be binding on the permitted assigns of the parties.

12.11 Parties in Interest

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the parties to it and their representatives, successors and permitted assigns.

12.12 Waiver

The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either party of any moneys which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other party of any provision of this Agreement.

12.13 The Contractor's Investigation

The Contractor has made an independent investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

12.14 Condemnation

The City fully reserves the rights to acquire the Contractor's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain. This provision is additive, and not intended to alter the rights of the parties set forth in Article 10 (City's Right to Perform Service).

12.15 Notice

All notices, demands, requests, bids, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

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If to the City:

Public Works Director
City of Stanton
7800 Katella Avenue
Stanton, CA 90680

If to the Contractor

Senior Vice President
CR&R Incorporated
11292 Western Avenue
Stanton, CA 90680

The address to which communications may be delivered may be changed from time to time by a written notice given in accordance with this section. Notice shall be deemed given on the day it is personally delivered or, if mailed, three days from the date it is deposited in the mail.

12.16 Representatives of the Parties

References in this Agreement to the 'City' shall mean the City Council and all actions to be taken by the City shall be taken by the City Council except as provided below. The City Council may delegate, in writing, authority to the City Manager, and/or to other City employees and may permit such employees, in turn, to delegate in writing some or all of such authority to subordinate employees. The Contractor may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them.

The Contractor shall, by the Effective Date, designate in writing a responsible officer who shall serve as the representative of the Contractor in all matters related to the Agreement and shall inform the City in writing of such designation and of any limitations upon his or her authority to bind the Contractor. The City may rely upon action taken by such designated representative as actions of the Contractor unless they are outside the scope of the authority delegated to him/her by the Contractor as communicated to the City.

12.17 City Free to Negotiate with Third Parties

Notwithstanding the exclusive nature of the Franchise, the City may investigate all options for the Collection, Transporting, Recycling, Processing and Disposal of Solid Waste at any time prior to the expiration of the Term of this Agreement. Without limiting the generality of the foregoing, the City may solicit bids from the Contractor and from third parties for the provision of Collection services, Disposal services, Recycling services, Green Waste services and Processing, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination under Section 11.1 (Events of Default) of this Agreement.

12.18 Compliance with Municipal Code

The Contractor shall comply with those provisions of the municipal code of the City which are applicable, and with any and all amendments to such applicable provisions during the Term of this Agreement.

12.19 Privacy

The Contractor shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers or the composition or contents of a Customer's waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude the Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939. This provision shall not apply to reports or records provided to City pursuant to this Agreement so long as City maintains reports or records with Customer identification or confidential information in accordance with this section, in which case this section shall apply to City in the same manner to which it applies to Contractor.

12.20 Cooperation Following Termination

At the end of the Term of this Agreement, or in the event this Agreement is terminated for cause prior to the end of the Term, the Contractor covenants to cooperate fully with the City and any subsequent company to assure a smooth transition of Solid Waste management services. The Contractor's cooperation shall include, but not be limited to, providing operating records needed to service all

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Customers 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.

12.21 Compliance with Immigration Laws.

The Contractor agrees that, in the performance of this Agreement, it will comply with all immigration laws.

12.22 Proprietary Information, Public Records

The City acknowledges that a number of the records and reports of the Contractor are proprietary and confidential. The Contractor is obligated to permit the City inspection of its records on demand and to provide copies to the City where requested. The City will endeavor to maintain the confidentiality of all proprietary information provided by the Contractor. Notwithstanding the foregoing, and notwithstanding Section 12.18 (Privacy) (as it applies to City), any documents provided by the Contractor to the City that are public records may be disclosed pursuant to a proper public records request.

12.23 Attorney's Fees

In any action or proceeding to enforce or interpret any of the Terms or conditions of this Agreement the prevailing party shall be entitled to an award to attorney's fees in the amount reasonably incurred in the prosecution or defense of such action. The Term 'prevailing party' shall mean the party entitled to recover costs of suit, upon the conclusion of the matter, in accordance with the laws of the State of California.

13 Miscellaneous Agreements

13.1 Entire Agreement

This Agreement, including the exhibits, represents the full and entire Agreement between the parties with respect to the matters covered in this Agreement. No verbal agreement or conversation with any office, agent, or employee of the City, either before, during, or after the execution of this contract, shall affect or modify any of the Terms or obligations in this Agreement contained nor such verbal agreement or conversation entitle the Contractor to any additional payment whatsoever under the Terms of this contract.

13.2 Section Headings

The article headings and 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.

13.3 References to Laws and Other Agreements

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or recodified, unless otherwise specifically provided. This Agreement supersedes any and all agreements heretofore entered into by the parties and the City.

13.4 Interpretation

This Agreement, including the exhibits attached hereto, shall be interpreted and construed reasonably and neither for nor against either party, regardless of the degree to which either party participated in its drafting.

13.5 Agreement

This Agreement may not be modified or amended in any respect except by a writing signed by the parties.

13.6 Severability

If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect

**City of Stanton
Solid Waste Collection Agreement**

any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained in this Agreement.

13.7 Exhibits

Each of the exhibits identified in this Agreement is attached hereto and incorporated in this Agreement and made a part hereof by this reference.

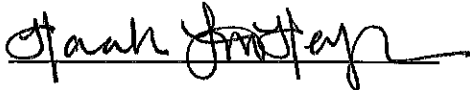
13.8 Non-Waiver Provision

Failure of either party to exercise any of the remedies set forth in this Agreement within the time periods provided for shall not constitute a waiver of any rights of that party with regard to that failure to perform or subsequent failures to performing whether determined to be a breach, excused performance or unexcused defaults by the other party.

13.9 Signatures

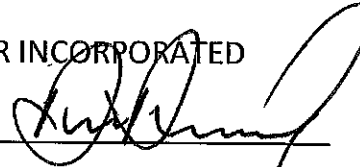
IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first written above.

CITY OF STANTON ('CITY')

By: 


Name: Hannah Shin-Heydorn
Title: City Manager

CR&R INCORPORATED

By: 

Name: David Ronnenberg
Title: President

APPROVED AS TO FORM:

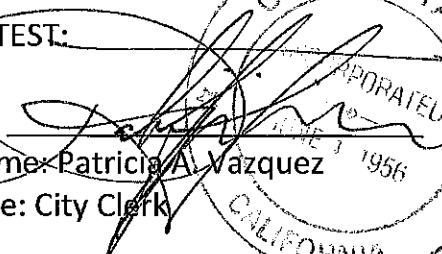
By: 

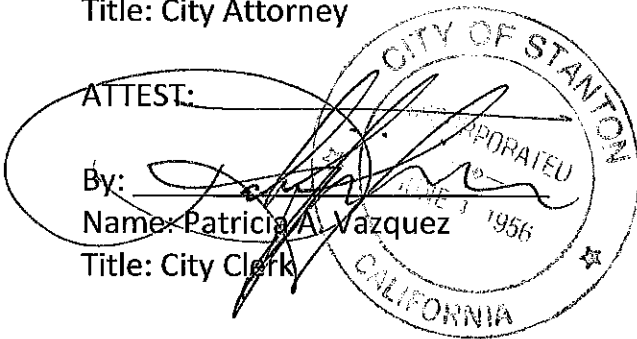
Name: HongDao Nguyen
Title: City Attorney

By: 

Name: Clifford R. Ronnenberg
Title: Chief Executive Officer

ATTEST:

By: 
Name: Patricia A. Vazquez
Title: City Clerk



**City of Stanton
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Exhibit 1 – Residential Rates Effective September 1, 2023

Rates are monthly unless otherwise indicated

Service Description	Amount
90 gallon cart set	\$26.28
Addl. 65 gal. recycle cart	\$0.00
Addl. 65 gal. organics cart	\$0.00
Addl 90 gallon refuse cart	\$22.52
65 gallon senior discount	\$24.03
Additional Pickup per cart	\$21.31
Cart redelivery/Re-start	\$13.72
Cart replacement: lost - per cart	\$68.69
Addl cart exch. 1x/yr.: per cart	\$44.96
Cart Exchange/Damaged - per cart	\$66.91

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Exhibit 2 – Commercial and Multi-Family Rates Effective September 1, 2023

All rates are monthly unless otherwise indicated

Service Description	Amount	Service Description	Amount
1 yard 1x a week	\$106.84	2 yard recycle 1x a week	\$115.77
1 yard 2x a week	173.25	2 yard recycle 2x a week	186.96
1 yard 3x a week	239.68	2 yard recycle 3x a week	259.72
1 yard 4x a week	304.95	2 yard recycle 4x a week	330.75
1 yard 5x a week	372.44	2 yard recycle 5x a week	405.24
1 yard 6x a week	472.06	2 yard recycle 6x a week	478.03
2 yard 1x a week	154.36	3 yard recycle 1x a week	141.75
2 yard 2x a week	249.28	3 yard recycle 2x a week	245.68
2 yard 3x a week	346.29	3 yard recycle 3x a week	341.26
2 yard 4x a week	441.00	3 yard recycle 4x a week	436.83
2 yard 5x a week	540.32	3 yard recycle 5x a week	532.33
2 yard 6x a week	637.37	3 yard recycle 6x a week	627.95
3 yard 1x a week	189.00	4 yard recycle 1x a week	188.22
3 yard 2x a week	327.57	4 yard recycle 2x a week	280.60
3 yard 3x a week	455.02	4 yard recycle 3x a week	372.95
3 yard 4x a week	582.44	4 yard recycle 4x a week	465.26
3 yard 5x a week	709.77	4 yard recycle 5x a week	557.65
3 yard 6x a week	837.26	4 yard recycle 6x a week	650.04
4 yard 1x a week	250.96	2 yard organics 1x a week	115.77
4 yard 2x a week	374.13	2 yard organics 2x a week	186.96
4 yard 3x a week	497.27	2 yard organics 3x a week	259.71
4 yard 4x a week	620.34	2 yard organics 4x a week	330.75
4 yard 5x a week	743.53	2 yard organics 5x a week	405.24
4 yard 6x a week	866.72	2 yard organics 6x a week	478.03
2 yard compactor 1x a week	218.00	3 yard split bin 1x a week	205.62
2 yard compactor 2x a week	369.99	3 yard split bin 2x a week	333.50
2 yard compactor 3x a week	523.84	3 yard split bin 3x a week	461.36
2 yard compactor 4x a week	675.76	3 yard split bin 4x a week	587.05
2 yard compactor 5x a week	832.65	3 yard split bin 5x a week	717.00
2 yard compactor 6x a week	986.41	3 yard split bin 6x a week	908.68
4 yard compactor 1x a week	412.08	4 yard split bin 1x a week	270.13
4 yard compactor 2x a week	656.91	4 yard split bin 2x a week	436.23
4 yard compactor 3x a week	908.40	4 yard split bin 3x a week	606.01
4 yard compactor 4x a week	1,159.75	4 yard split bin 4x a week	771.75
4 yard compactor 5x a week	1,411.32	4 yard split bin 5x a week	945.56
4 yard compactor 6x a week	1,662.84	4 yard split bin 6x a week	\$1,115.40
35 gallon organics 1x a week	34.06	95 gallon recycling 1x a week	\$39.00
35 gallon organics 2x a week	62.22	95 gallon recycling 2x a week	78.00
35 gallon organics 3x a week	90.38	95 gallon recycling 3x a week	117.00
35 gallon organics 4x a week	118.40	95 gallon recycling 4x a week	156.00
35 gallon organics 5x a week	146.71	95 gallon recycling 5x a week	195.00
35 gallon organics 6x a week	179.71	95 gallon refuse 1x a week	52.00
65 gallon organics 1x a week	63.23	95 gallon refuse 2x a week	104.00
65 gallon organics 2x a week	115.54	95 gallon refuse 3x a week	156.00
65 gallon organics 3x a week	167.87	95 gallon refuse 4x a week	208.00
65 gallon organics 4x a week	219.87	95 gallon refuse 5x a week	\$260.00
65 gallon organics 5x a week	272.46		
65 gallon organics 6x a week	333.76		

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**Exhibit 2 (cont.) – Temporary Commercial Service Rates Effective September 1,
2023**

Temporary Commercial Services Service Description	Amount
Extra Pick up Fee	\$82.99
3yd Clean Up Bin per pickup: 7 day rental	223.18
3yd Clean Up Bin - Each Add'l Day	7.24
3yd Clean Up Bin - Trip Charge	71.79
3yd Clean Up Bin - Overweight fee	87.17
Convert to locking lid bin	36.21
Locking Lid fee, monthly	7.17
Bin Steam Cleaning	107.69
Add'l Bin Exchange: After 1x/yr	87.30
Bin Exchange Stolen/Burnt (customer damage)	568.73
Bulky Item Pickup - Commercial	71.97
Bulky Item Pickup - Multi-family	22.27
Additional Bulky Items 4+ on same visit	\$24.01

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Exhibit 3 – Rolloff Rates Effective September 1, 2023

Service Description	Amount
10 Yard Roll-off - per pull (max. of 10 tons)	\$932.19
20 Yard Roll-off - per pull (max. of 5 tons)	626.71
40 Yard Roll-off - per pull (max. of 8 tons)	939.35
Compactor - per pull (max. of 8 tons)	939.35
Per ton Fee (for all tons over the max.)	80.61
Rolloff Delivery Fee	63.12
Rolloff Cleaning Fee	107.69
Additional Day	14.35
Relcoation	107.67
False Run	\$107.67

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