

**AGREEMENT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND  
DIVERSION OF RECYCLABLE MATERIALS, FOOD SCRAPS, YARD TRIMMINGS,  
WOOD, CONSTRUCTION AND DEMOLITION DEBRIS AND OTHER MATERIALS  
AND FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL  
SOLID WASTE**

**BETWEEN**

**THE CITY OF LAGUNA NIGUEL**

**AND**

**CR&R INCORPORATED**

**November 2018**

## TABLE OF CONTENTS

### Table of Contents

<i>RECITALS</i> .....	1
<i>ARTICLE 1: DEFINITIONS</i> .....	7
1.01 Definitions.....	7
<i>ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF CONTRACTOR</i> .....	8
2.01 Legal Status.....	8
2.02 Authority.....	8
2.03 Agreement Duly Executed.....	8
2.04 No Conflict with Applicable Law or Other Documents.....	8
2.05 No Litigation.....	8
2.06 Financial Condition.....	9
2.07 Expertise.....	9
2.08 Contractor's Investigation.....	9
2.09 Statements and Information Provided to City.....	10
<i>ARTICLE 3: TERM OF AGREEMENT</i> .....	11
3.01 Effective Date.....	11
3.02 Term.....	11
3.03 Extensions of Term Related to Achievement of Required Program Implementation and Diversion of Materials From Disposal.....	11
3.04 Conditions to Effectiveness of Agreement.....	11
3.04.A Obligation of City to Perform.....	11
3.04.A.1 Accuracy of Representations.....	11
3.04.A.2 Absence of Litigation.....	12
3.04.A.3 Furnishing of Bond and Guaranty.....	12
3.04.A.4 Furnishing of Evidence of Insurance.....	12
3.04.A.5 Effectiveness of City's Approval.....	12
3.04.B. Obligation of Contractor to Perform.....	12
3.04.B.1 Absence of Litigation.....	13
3.04.B.2 Effectiveness of City's Approval.....	13
3.04.C Notice.....	13
<i>ARTICLE 4: COLLECTION OF RECYCLABLE MATERIALS, YARD TRIMMINGS, FOOD SCRAPS, OTHER MATERIALS AND MUNICIPAL SOLID WASTE</i> .....	14
4.01 Scope of Work – General.....	14
4.02 Growth and Changes in City.....	16
4.03 Residential MSW Collection.....	16
4.03.A Regular Collections.....	16

4.04 Commercial/Business MSW Collection.....	17
4.05 City Events MSW Collection.....	17
4.06 Diversion Programs.....	17
4.06.A Residential Recycling.....	17
4.06.B Commercial/Business/Multi-family Recycling.....	18
4.07 Other Services and Special Services.....	18
4.07.A. Other Services.....	18
4.08 Hours and Days of Collection.....	19
4.09 Collection Standards.....	20
4.09.A Care of Property.....	20
4.09.B Noise.....	20
4.09.C Private and Public Streets.....	21
4.10 Customer Privacy.....	22
4.11 Litter Abatement.....	23
4.11.A Minimization of Spills.....	23
4.11.A.1 Clean Up of Existing Litter.....	23
4.11.A.2 Clean Up of Illegal Dumping.....	24
4.11.A.3 Covering of Loads.....	25
4.12 Hazardous Waste .....	25
4.12.A General.....	25
4.12.B Notice to Customers.....	25
4.12.C Contractor to Segregate and Dispose.....	26
4.12.D Operating Procedures and Employee Training.....	26
4.13 City's Right to Change Scope of Work.....	27
4.14 Attendance At Meetings With City.....	28
4.15 Ownership of Municipal Solid Waste and Recyclable Materials.....	29
4.16 Contamination Warning Notice.....	29
<b>ARTICLE 5: TRANSPORTATION AND DISPOSAL OF MSW/TRANSPORTATION AND PROCESSING OF ALL OTHER MATERIALS.....</b>	<b>31</b>
5.01 Transportation and Disposal of MSW .....	31
5.02 Transportation of Single Stream and Single Material Recyclable Materials .....	33
5.03 Transportation of Yard Trimmings and Wood .....	33
5.04 Transportation of Food Scraps.....	34
5.05 Transportation of Co-Collected Yard Trimmings and Food Scraps .....	34
5.06 Transportation of Construction and Demolition Debris. Contractor shall transport.....	35
5.07 City Right to Unilaterally Direct Change in Processing Facility.....	35
5.08 Designated Processing Facilities Unavailable.....	35
<b>ARTICLE 6: PROCESSING AND MARKETING OF RECYCLABLE MATERIALS.....</b>	<b>39</b>
6.01 General .....	39

<b>6.02 Permits.</b> .....	<b>39</b>
<b>6.03 Delivery of Residue to Landfill.</b> .....	<b>39</b>
<b>6.04 MRF, Compost, Food Scrap and C/D Facility Operating Requirements.</b> .....	<b>40</b>
<b>6.05 Contractor to Meet All Food Scrap Processing Facility Specifications</b> .....	<b>45</b>
<b>6.06 Processing Requirements.</b> .....	<b>45</b>
<b>6.07 Reporting of Annual Diversion Rate Achieved.</b> .....	<b>47</b>
<b>6.08 Extension Opportunities. Contractor may earn up to two (2) one-year extensions of the Term as described herein.</b> .....	<b>48</b>
<b>6.08.A First Extension Opportunity.</b> .....	<b>48</b>
<b>6.08.B Second Extension Opportunity.</b> .....	<b>50</b>
<b>6.08.C Failure to Achieve First or Second Extension Requirements.</b> .....	<b>54</b>
<b>6.08.D Notice to Contractor of Extension or Failure to Earn Extension.</b> .....	<b>54</b>
<b>6.09 Marketing of Recovered Materials, Compost and Other Products.</b> .....	<b>54</b>
<b>6.10 Limits on Modes of Disposition.</b> .....	<b>55</b>
<b>6.11 City Access to Processing Facilities.</b> .....	<b>55</b>
<b>ARTICLE 7: EQUIPMENT, FACILITIES AND PERSONNEL</b> .....	<b>56</b>
<b>7.01 General.</b> .....	<b>56</b>
<b>7.02 Facilities.</b> .....	<b>56</b>
<b>7.02.A General.</b> .....	<b>56</b>
<b>7.03 Vehicles.</b> .....	<b>57</b>
<b>7.03.A General.</b> .....	<b>57</b>
<b>7.03.B Alternative Fuel Vehicles.</b> .....	<b>58</b>
<b>7.03.C Vehicle Identification.</b> .....	<b>59</b>
<b>7.03.D Cleaning and Maintenance.</b> .....	<b>59</b>
<b>7.03.D.1 General.</b> .....	<b>59</b>
<b>7.03.D.2 Cleaning.</b> .....	<b>59</b>
<b>7.03.D.3 Painting.</b> .....	<b>60</b>
<b>7.03.D.4 Maintenance.</b> .....	<b>61</b>
<b>7.03.D.5 Repairs.</b> .....	<b>61</b>
<b>7.03.D.6 Storage.</b> .....	<b>62</b>
<b>7.03.D.7 Leaking Vehicles.</b> .....	<b>62</b>
<b>7.03.D.8 Brake Inspections.</b> .....	<b>62</b>
<b>7.03.D.9 Operation.</b> .....	<b>63</b>
<b>7.04 MSW and Recyclable Materials Containers.</b> .....	<b>63</b>
<b>7.04.A General.</b> .....	<b>63</b>
<b>7.04.B Repair, Replacement, and Exchange.</b> .....	<b>64</b>
<b>7.04.C Cleaning, Painting and Maintenance of Contractor-Furnished Containers.</b> .....	<b>64</b>
<b>7.05 Personnel.</b> .....	<b>65</b>
<b>7.05.A General.</b> .....	<b>65</b>
<b>7.05.B Driver Qualifications.</b> .....	<b>65</b>
<b>7.05.C Uniforms.</b> .....	<b>66</b>
<b>7.05.D Safety Training.</b> .....	<b>66</b>
<b>7.05.E No Gratuities.</b> .....	<b>66</b>
<b>7.05.F Employee Conduct and Courtesy.</b> .....	<b>66</b>
<b>7.05.G Provision of Two Recycling/Public Education Coordinators.</b> .....	<b>67</b>

7.05.H Initial Hiring.....	69
7.05.I Ongoing Training and Testing.....	70
7.05.J Use of Workers Not Employed by Contractor.....	70
<b>ARTICLE 8: OTHER COLLECTION-RELATED SERVICES.....</b>	<b>72</b>
<b>8.01 Billing.....</b>	<b>72</b>
8.01.A General.....	72
8.01.B City Inserts.....	72
8.01.C Delinquent Accounts.....	72
8.01.D Billing Records.....	73
<b>8.02 Public/Customer Service and Accessibility.....</b>	<b>73</b>
8.02.A Office Hours and Location.....	73
8.02.B Availability of Representative.....	73
8.02.C Telephone.....	74
8.02.D Correspondence.....	74
8.02.E Electronic Payment of Bills.....	75
8.02.F Maps, Schedules, Consumer Information.....	75
<b>8.03 Service Complaints.....</b>	<b>75</b>
<b>8.04 Right to Terminate Service to a Premises.....</b>	<b>76</b>
<b>8.05 Change in Collection Schedule.....</b>	<b>77</b>
<b>8.06 Report of Accumulation of MSW or Unauthorized Dumping.....</b>	<b>77</b>
<b>ARTICLE 9: RECORD KEEPING, REPORTING, INSPECTIONS AND AUDITS.....</b>	<b>78</b>
<b>9.01 General.....</b>	<b>78</b>
<b>9.02 Record Keeping.....</b>	<b>78</b>
<b>9.03 Reporting.....</b>	<b>78</b>
9.03.A Reports Listed in Attachment K.....	79
9.03.B Reports Listed in Attachment N.....	79
<b>9.04 Inspection by City.....</b>	<b>79</b>
<b>9.05 Compliance Reporting.....</b>	<b>80</b>
9.05.A Reporting of Multi-Family and Commercial Tons Separately.....	81
9.05.B Material Discrepancy in Data Reported.....	82
<b>9.06 Annual Route Audit.....</b>	<b>83</b>
<b>9.07 Characterization Studies and In-Field Container Contamination Audits.....</b>	<b>84</b>
9.07.A Characterization Studies.....	84
9.07.B In-Field Container Contamination Audits.....	85
<b>9.08 Route Density Audits - Residential, Multi-Family and Commercial.....</b>	<b>86</b>
<b>9.09 Annual City Review of Contract Audits and Results.....</b>	<b>86</b>
<b>9.10 Reporting of Adverse Information.....</b>	<b>87</b>
<b>ARTICLE 10: INDEPENDENT CONTRACTOR.....</b>	<b>88</b>
<b>10.01 Contractor an Independent Contractor.....</b>	<b>88</b>
<b>10.02 No Partnership or Joint Venture Created.....</b>	<b>88</b>
<b>10.03 No Entitlement to City Benefits.....</b>	<b>88</b>

<b>ARTICLE 11: INDEMNITY, INSURANCE, BOND.....</b>	<b>89</b>
11.01 General Indemnification.....	89
11.02 Insurance.....	89
11.02.A Types and Amounts of Coverage.....	89
11.02.A.1 Workers' Compensation and Employer's Liability.....	90
11.02.A.2 Comprehensive General Liability (and Automobile Liability).....	90
11.02.A.3 Pollution Liability.....	91
11.02.A.4 Physical Damage.....	92
11.02.B Acceptability of Insureds.....	92
11.02.C Required Endorsements.....	92
11.02.C.1 Workers' Compensation and Employers' Liability Policy.....	93
11.02.C.2 Comprehensive General Liability Policy; Pollution Liability Policy.....	93
11.02.C.3 Physical Damage Policy.....	94
11.02.D Delivery of Proof of Coverage.....	94
11.02.E Other Insurance Requirements.....	94
11.03 Faithful Performance Bond.....	95
11.04 Alternative Security.....	96
11.05 Hazardous Waste Indemnification.....	96
11.05.A.....	96
11.05.B.....	97
11.05.C.....	98
11.05.D.....	99
11.05.E.....	99
11.06 Integrated Waste Management Act Indemnification.....	99
11.07 Indemnification For Land Application and/or Use(s) of Anaerobic Digestate.....	100
<b>ARTICLE 12: COMPENSATION TO CONTRACTOR.....</b>	<b>102</b>
12.01 General.....	102
12.02 Initial Rates.....	102
12.03 Annual Rate Adjustments.....	103
12.04 Disposal Charge Adjustments.....	105
12.05 Franchise Fee .....	105
12.06 Late Fees.....	106
12.07 Adjustments to Rates Based on City-Directed Changes In Scope of Work.....	107
12.08 Payment of AB 939 Public Education Fee.....	108
12.09 Other Fees.....	109
<b>ARTICLE 13: DEFAULT AND REMEDIES.....</b>	<b>110</b>
13.01 Events of Default.....	110
13.01.A.....	110
13.01.B.....	110
13.01.C.....	110
13.01.D.....	110
13.01.E.....	111

13.01.F.....	111
13.01.G.....	112
13.01.H.....	112
13.01.I.....	112
13.01.J.....	112
13.01.K.....	112
13.01.L.....	112
<b>13.02 Right to Suspend or Terminate Upon Default.....</b>	<b>112</b>
13.02.A.....	112
13.02.B.....	113
<b>13.03 Specific Performance.....</b>	<b>113</b>
<b>13.04 Use of Contractor Property Upon Default.....</b>	<b>113</b>
<b>13.05 Right to Perform.....</b>	<b>114</b>
<b>13.06 Payment for Use of Contractor's Property.....</b>	<b>114</b>
<b>13.07 Damages.....</b>	<b>115</b>
<b>13.08 City's Remedies Cumulative.....</b>	<b>115</b>
<b>13.09 Liquidated Damages.....</b>	<b>115</b>
13.09.A Collection Reliability.....	116
13.09.B Collection Quality.....	117
13.09.C Responsiveness to Customer.....	118
13.09.D Timeliness of Submissions to City.....	118
13.09.E Accuracy of Billing.....	119
13.09.F Recycling Coordinators.....	119
13.09.G Alternative Fuel Vehicles.....	119
13.09.H Compliance Reporting Audit.....	119
13.09.I Amount.....	120
13.09.J Payment.....	120
<b>13.10 City Default.....</b>	<b>120</b>
<b>ARTICLE 14: OTHER AGREEMENTS OF THE PARTIES.....</b>	<b>122</b>
<b>14.1 Compliance with Law; Non-Discrimination.....</b>	<b>122</b>
<b>14.2 Assignment.....</b>	<b>122</b>
14.2.A City Consent Required.....	122
14.2.B Assignment Defined.....	123
14.2.C Consent Requirements.....	123
<b>14.3 Subcontracting.....</b>	<b>125</b>
<b>14.4 No Affiliated Entity.....</b>	<b>125</b>
<b>14.5 Contractor's Investigation; No Warranties by City.....</b>	<b>125</b>
<b>14.6 Notice.....</b>	<b>126</b>
<b>14.7 Representatives of the Parties.....</b>	<b>127</b>
14.7.A Representatives of City.....	127
14.7.B Representatives of Contractor.....	127
<b>14.8 Right to Inspect Contractor Operations.....</b>	<b>127</b>
<b>14.9 Maintenance and Review of Records, Submission of Reports.....</b>	<b>128</b>

<b>14.10 Right to Demand Assurances of Performance.....</b>	<b>128</b>
<b>14.11 Contractor Failure to Achieve Minimum Required Level of Diversion Program Implementation.....</b>	<b>129</b>
14.11.A Minimum Level of Diversion Program Implementation Required By March 31, 2021.....	129
14.11.B Minimum Level of Diversion Program Implementation Required By March 31, 2024.....	132
<b>14.12 Force Majeure.....</b>	<b>139</b>
14.12.A Force Majeure.....	140
14.12.B Obligation to Restore Ability to Perform.....	140
14.12.C Notice.....	140
14.12.D City's Rights in the Event of Force Majeure.....	141
<b>14.13 Cooperation During Transition.....</b>	<b>141</b>
<b>14.14 No Damages for Invalidation of Agreement.....</b>	<b>142</b>
<b>14.15 Diversion Programs Not Restricted.....</b>	<b>142</b>
<b>14.16 Reports as Public Records.....</b>	<b>142</b>
<b>ARTICLE 15: MISCELLANEOUS PROVISIONS.....</b>	<b>143</b>
<b>15.01 Governing Law.....</b>	<b>143</b>
<b>15.02 Jurisdiction.....</b>	<b>143</b>
<b>15.03 Binding on Successors.....</b>	<b>143</b>
<b>15.04 Parties in Interest.....</b>	<b>143</b>
<b>15.05 Waiver.....</b>	<b>143</b>
<b>15.06 Attachments.....</b>	<b>143</b>
<b>15.07 Entire Agreement.....</b>	<b>144</b>
<b>15.08 Section Headings.....</b>	<b>144</b>
<b>15.09 Interpretation.....</b>	<b>144</b>
<b>15.10 Amendment.....</b>	<b>144</b>
<b>15.11 Severability.....</b>	<b>144</b>
<b>15.12 Costs and Attorneys' Fees.....</b>	<b>144</b>
<b>15.13 References to Laws.....</b>	<b>144</b>
<b>15.14 City's Municipal Code.....</b>	<b>145</b>
<b>15.15 Non-Discrimination.....</b>	<b>149</b>
<b>15.16 Guaranty.....</b>	<b>149</b>
<b>15.17 Compliance With Immigration Laws.....</b>	<b>149</b>

**This Page is  
Intentionally left Blank**

**AGREEMENT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND  
DIVERSION OF RECYCLABLE MATERIALS, FOOD SCRAPS, YARD TRIMMINGS,  
WOOD, CONSTRUCTION AND DEMOLITION DEBRIS AND OTHER MATERIALS  
AND FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL  
SOLID WASTE**

THIS AGREEMENT is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 2018, by and  
between the CITY OF LAGUNA NIGUEL, a municipal corporation (hereinafter referred  
to as the "City") and CR&R, a California Corporation (hereinafter referred to as  
"Contractor").

**RECITALS**

1. The State of California has found and declared that due to the amount of  
Municipal Solid Waste (MSW) generated in California, coupled with diminishing landfill  
space and potential adverse environmental impacts from landfilling, that there is an  
urgent need for State and local agencies to enact and implement an aggressive  
integrated waste management program. The State has also found that the recycling or  
reuse of MSW will conserve not only landfill capacity, but also water, energy and other  
natural resources. The State has, through enactment of the California Integrated Waste  
Management Act of 1989 (California Public Resources Code Sections 40000 - 49000  
hereinafter referred to as the "Act"), directed responsible State Agencies, and all local  
agencies, to promote Recycling and to maximize the use of feasible Source Reduction,  
Recycling and Composting options in order to reduce the amount of MSW that must be  
disposed of by land Disposal.

**AGREEMENT FOR THE COLLECTION, TRANSPORTATION, PROCESSING AND  
DIVERSION OF RECYCLABLE MATERIALS, FOOD SCRAPS, YARD TRIMMINGS,  
WOOD, CONSTRUCTION AND DEMOLITION DEBRIS AND OTHER MATERIALS  
AND FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL  
SOLID WASTE**

THIS AGREEMENT is entered into as of the 2018 day of November 2018, by and between the CITY OF LAGUNA NIGUEL, a municipal corporation (hereinafter referred to as the "City") and CR&R, a California Corporation (hereinafter referred to as "Contractor").

**RECITALS**

1. The State of California has found and declared that due to the amount of Municipal Solid Waste (MSW) generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfilling, that there is an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has also found that the recycling or reuse of MSW will conserve not only landfill capacity, but also water, energy and other natural resources. The State has, through enactment of the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 - 49000 hereinafter referred to as the "Act"), directed responsible State Agencies, and all local agencies, to promote Recycling and to maximize the use of feasible Source Reduction, Recycling and Composting options in order to reduce the amount of MSW that must be disposed of by land Disposal.

2. The City concurs in the aforementioned findings and declarations of the State of California.

3. In 2011 AB 341 was approved and signed into law amending the Act (PRC Section 41730 *et seq.*). The AB 341 amendments make a legislative declaration that it is the policy goal of the State of California that not less than seventy-five percent (75%) of MSW be source reduced, recycled or composted by the year 2020. AB 341 requires all businesses generating four (4) or more cubic yards of MSW per week, and all Multi-family dwellings consisting of five (5) units or more, to arrange for Recycling services on or before July 1, 2012; and requires all local agencies (including City) to provide a commercial recycling program meeting specified criteria on or before July 1, 2012.

4. In 2014 AB 1826 was approved and signed into law amending the Act (PRC Section 42649.8 *et seq.*). AB 1826 requires the City to provide a collection and diversion program for Food Scraps, Yard Trimmings and Wood for all businesses and Multi-Family Complexes on or before January 1, 2016. AB 1826 requires businesses within City to participate in a diversion program for Food Scraps, Yard Trimmings and Wood according to a specified schedule depending upon the quantity of such materials and the quantity of Municipal Solid Waste generated by the business. Businesses generating eight (8) or more cubic yards of Food Scraps, Yard Trimmings and Wood per week must participate on or before April 1, 2016. Businesses generating four (4) or more cubic yards of Food Scraps, Yard Trimmings and Wood per week must participate on or before January 1, 2017. All businesses generating four (4) or more cubic yards of MSW per week must participate in a diversion program on or before January 1, 2019.

CalRecycle may require businesses generating two (2) or more cubic yards of MSW per week to participate on or before January 1, 2020 if the level of statewide diversion achieved for Food Scraps, Yard Trimmings and Wood is not meeting the goal. AB 1826 further requires all Multi-Family complexes of five (5) units or more to participate in a diversion program for Yard Trimmings and Wood on or before April 1, 2016.

5. Also in 2014, AB 1594 was approved and signed into law amending the Act (PRC Sections 40507 and 41781.3). Originally the Act allowed Yard Trimmings used as Alternative Daily Cover (ADC) at landfills to count as Diverted tons for purposes of achievement of the Diversion required by the Act. AB 1594 phases out this exemption for the use of Yard Trimmings as ADC effective January 1, 2020. As of that date, any Yard Trimmings used as ADC will be counted as Disposed tons for purposes of the Act. City must begin reporting to CalRecycle in 2018 about what alternative diversion program(s) City will utilize for Yard Trimmings.

6. In 2016 SB 1383 was approved and signed into law amending the Act and amending sections of the California Health and Safety Code (PRC Section 42652 and H&S Code Sections 39730.5, 39730.6, 39730.7, and 39730.8). SB 1383 requires that by January 1, 2018, the State Air Resources Board approve and begin implementing a statewide strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by forty percent (40%), hydrofluorocarbon gasses by forty percent (40%) and anthropogenic black carbon by fifty percent (50%) compared to 2013 levels. This goal is to be achieved by 2030. In service of this reduction strategy, SB 1383 establishes a statewide goal of a fifty percent (50%) reduction in the disposal of organic waste (as defined in the legislation) from the 2014 level by 2020, and a seventy-five

percent (75%) reduction from the 2014 level by 2025. SB 1383 further requires that a minimum of twenty percent (20%) of the reduction in disposal of organic waste by 2025 be comprised of edible Food Scraps diverted for human consumption. CalRecycle has prepared and circulated draft regulations to implement the requirements of SB 1383 which include requirements for local governments to implement diversion programs to meet these goals. Final regulations were not available as of the Effective Date of this Agreement.

7. The City wishes to arrange for the operation and expansion of its existing recycling programs and implementation of new comprehensive recycling and other diversion programs for single and multi-family residential premises, commercial and business establishments and other operations in the City, which entails the collection of Single Stream Recyclable Materials, Single-Material Recyclable Materials, Yard Trimmings/Wood, Food Scraps, Construction and Demolition Debris and other materials and the delivery of these materials for processing and Diversion at City-approved Processing Facilities. These Recycling and other Diversion programs are integral and important components of the City's strategy for complying with the Act and are, therefore, of paramount importance to the City.

8. Pursuant to Public Resources Code Section 40059, the Laguna Niguel City Council has determined that the public health, safety and well being require that an exclusive Agreement be awarded to a qualified person or entity for the collection and disposal of MSW and for the collection of Recyclable Materials, Yard Trimmings, Wood, Food Scraps, Construction and Demolition Debris and other Divertable materials within the corporate boundaries of the City.

9. Contractor has provided such services to the City since 1992 pursuant to several different Agreements, the most recent agreement being the Agreement for the Collection, Transportation, Recycling and Disposal of All Solid Waste and for Providing Temporary Bin/Roll-Off Disposal Services dated December 5, 2000 as amended June 21, 2016.

10. During 2017 and 2018 the parties negotiated this new Agreement for the Collection, Transportation, Processing and Diversion of Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris and Other Materials and for Collection, Transportation and Disposal of Municipal Solid Waste.

11. Contractor has represented and demonstrated its abilities, qualifications and financial capability to perform the services required herein both by its past service to City and through provision of additional documentation and representations to City in the recent negotiations. The services to be provided include the additional recycling activities required by the recent aforementioned legislation. City has determined that the negotiations have resulted in an Agreement for Contractor to provide such services in a manner and on terms which are in the best interests of the City, its residents and businesses, taking into account the qualifications, financial strength and experience of the Contractor both generally and within City, the Contractor's demonstrated commitment to recycling and diversion of materials from disposal, and the cost of providing such services.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and for other good and valuable consideration, the parties agree as follows:

**AGREEMENT**

## ARTICLE 1: DEFINITIONS

**1.01 Definitions.** Unless otherwise defined in this Agreement, capitalized terms used herein shall have the meanings set forth in the definitions contained in Attachment A, attached hereto.

## ARTICLE 2: REPRESENTATIONS AND WARRANTIES OF CONTRACTOR

**2.01 Legal Status.** Contractor is a corporation, duly organized, validly existing and in good standing under the laws of the State of California, and is qualified to do business in the State of California.

**2.02 Authority.** Contractor has the authority to enter into and perform its obligations under this Agreement. Contractor has taken all actions required by law, or otherwise to authorize the execution of this Agreement.

**2.03 Agreement Duly Executed.** The Persons signing this Agreement on behalf of Contractor have been authorized to do so, and this Agreement constitutes a legal, valid and binding obligation of Contractor.

**2.04 No Conflict with Applicable Law or Other Documents.** Neither the execution and delivery by Contractor of this Agreement, nor the performance by Contractor of its obligations hereunder: (i) conflicts with, violates or will result in a violation of any existing applicable law; or (ii) conflicts with, violates or will result in a breach or default under any term or condition of any existing judgment, order or decree of any court, administrative agency or other governmental authority, or of any existing contract or instrument to which Contractor is a party, or by which Contractor is bound.

**2.05 No Litigation.** There is no action, suit, proceeding, or investigation at law or in equity, before or by any court or governmental entity, pending or threatened against Contractor, or otherwise affecting Contractor, wherein an unfavorable decision, ruling, or finding, in any single case or in the aggregate, would materially adversely affect

Contractor's performance hereunder, or which, in any way, would adversely affect the validity or enforceability of this Agreement, or which would have a material adverse effect on the financial condition of Contractor.

**2.06 Financial Condition.** Contractor has made available to City information on its financial condition. City has relied on this information in evaluating the sufficiency of Contractor's financial resources to perform this Agreement. To the best of Contractor's knowledge, this information is complete and accurate, does not contain any material misstatement of fact and does not omit any fact necessary to prevent the information provided from being materially misleading.

**2.07 Expertise.** Contractor has the expertise and professional and technical capability to perform all of its obligations under this Agreement.

**2.08 Contractor's Investigation.** Contractor has made an independent investigation and analysis, the results of which are satisfactory to Contractor, of the conditions and circumstances surrounding the Agreement, its content and preparation, and the work to be performed by Contractor under the Agreement. This includes Contractor's experience collecting MSW and Recyclable Materials in City since 1992. The Agreement accurately and fairly represents the intentions of Contractor, and Contractor enters into this Agreement on the basis of (a) Contractor's experience providing collection, transportation, processing and diversion of Recyclable Materials, Food Scraps, Yard Trimmings, Wood and Construction and Demolition Debris, for the City; (b) collection, transportation and disposal of MSW for the City; and (c) Contractor's independent investigation and analysis.

**2.09 Statements and Information Provided to City.** During the course of the negotiations Contractor submitted information on costs, operations, corporate ownership, tonnage and other historical data and other information to City. Contractor has also made numerous representations to City concerning Contractor's capabilities, experience and abilities. Contractor hereby warrants and affirms that all such information submitted to City by Contractor, whether in verbal or written form, does not contain any untrue statement of a material fact nor omit to state a material fact necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading. Contractor acknowledges that City has relied upon all submitted information and representations of Contractor in making its decision to enter into this Agreement.

## **ARTICLE 3: TERM OF AGREEMENT**

**3.01 Effective Date.** The Effective Date of this Agreement shall be \_\_\_\_\_, 2018.

**3.02 Term.** The Term of this Agreement shall commence on the Effective Date and Contractor's obligation to collect Recyclable Materials, Yard Trimmings, Wood, Food Scraps, Construction and Demolition Debris, other materials and Municipal Solid Waste shall begin on January 1, 2019 at 12:01 a.m. This Agreement shall remain in full force and effect for a period of ten (10) years until December 31, 2028 unless earlier terminated.

**3.03 Extensions of Term Related to Achievement of Required Program Implementation and Diversion of Materials From Disposal.** In the event Contractor achieves the required metrics and earns one (1) or two (2) one-year extension(s) of the Term as described in Section 6.08 the Term will be extended accordingly.

### **3.04 Conditions to Effectiveness of Agreement.**

**3.04.A Obligation of City to Perform.** The obligation of the City to perform under this Agreement is subject to satisfaction, on or before the Effective Date, of each of the conditions set out below, each of which may be waived in whole or in part by City:

**3.04.A.1 Accuracy of Representations.** The representations and warranties made by Contractor in Article 2 of this Agreement shall be true and correct on and as of the Effective Date.

**3.04.A.2 Absence of Litigation.** There shall be no litigation pending on the Effective Date in any court challenging the execution of this Agreement or seeking to restrain or enjoin its performance.

**3.04.A.3 Furnishing of Bond and Guaranty.** Contractor has furnished the performance bond required by Section 11.03 and the guaranty required by Section 15.16, meeting the requirements of this Agreement.

**3.04.A.4 Furnishing of Evidence of Insurance.** Contractor has furnished satisfactory evidence of insurance required by Section 11.02.

**3.04.A.5 Effectiveness of City's Approval.** The approval of this Agreement by City shall have become effective, pursuant to California law, on or before the Effective Date.

City may waive the satisfaction of the conditions described in Section 3.04.A.3 and 3.04.A.4, allow this Agreement to become effective, and exercise its rights and remedies under this Agreement for Contractor's failure to furnish the bond, the guaranty, or the evidence of insurance.

**3.04.B. Obligation of Contractor to Perform.** The obligation of Contractor to perform under this Agreement is subject to the satisfaction on or before the Effective Date of both of the conditions set forth below, each of which may be waived in whole or in part by Contractor.

**3.04.B.1 Absence of Litigation.** There shall be no litigation pending on the Effective Date in any court challenging the execution of this Agreement, or seeking to enjoin its performance.

**3.04.B.2 Effectiveness of City's Approval.** The approval of this Agreement by the City shall have become effective, pursuant to California law.

**3.04.C Notice.** If either party wishes to assert that a condition for its benefit has not been satisfied and has not been waived, it must deliver written notice to that effect to the other party on the Effective Date. If no such notice is received, the Agreement will become effective on the Effective Date.

Each party is obligated to perform in good faith the actions, if any, which this Agreement requires it to perform before the Effective Date and to cooperate towards the satisfaction of the conditions set forth above.

## **ARTICLE 4: COLLECTION OF RECYCLABLE MATERIALS, YARD TRIMMINGS, FOOD SCRAPS, OTHER MATERIALS AND MUNICIPAL SOLID WASTE**

**4.01 Scope of Work – General.** Except as otherwise provided herein, Contractor shall (a) collect Municipal Solid Waste generated at Residential Premises, Commercial and Business Establishments (including, among other things, City facilities), Multi-family dwellings, and Special Events within the City and deliver it to the Disposal Site approved by City, and (b) collect Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris and other items specified in Attachment B placed for Collection by participating residential Customers, Commercial and Business Establishments (including City facilities), Multi-family dwellings, and Special Events within the City and deliver each type of material to the Processing Facility designated by City. Notwithstanding the foregoing, the City does not guarantee that any particular type or quantity of Municipal Solid Waste, Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris or any other material will be available for Collection at any time during the term of this Agreement. Contractor acknowledges that the City cannot control the waste stream generated in Laguna Niguel, and cannot compel generators of materials to place those materials for collection by Contractor. Contractor further acknowledges that future changes in laws, regulations, packaging, the economy, consumption of goods, and/or technology may affect the type and quantity of material that will be available for Collection by Contractor, and agrees that it will not be entitled to any rate increases, extensions of this Agreement (other than those described in Article 3), or other compensation of any kind due to such changes in types and quantities of materials available for Collection. The City shall

have no obligation to affirmatively defend Contractor's rights granted under this Agreement, but shall reasonably cooperate with Contractor, at Contractor's expense, in Contractor's efforts to defend its rights.

The work to be done by Contractor includes the furnishing of all labor, supervision, equipment, materials, supplies, vehicles and equipment, storage and maintenance facilities, and all other items necessary to perform the services required under this Agreement in a thorough, workmanlike and efficient manner, so that residents, businesses and public and private institutions within the City are provided reliable, courteous and high-quality services at all times. The enumeration of, and specification of, requirements for particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others that may be required, whether enumerated or not.

Contractor shall perform all work in accordance with Attachment B, whether or not such provisions are specifically referred to in any other section of this Agreement.

When implementing all of the Diversion programs described in Attachment B, Contractor shall follow, and shall not restrict, prohibit or otherwise interfere with customers who are utilizing, the following hierarchy unless otherwise directed by the City: (1) Source Reduction, (2) reuse and/or donation of materials for other purposes which avoid Disposal (including diverting edible Food Scraps for human consumption), (3) use of Food Scraps for animal feed, (4) Recycling and Composting, (5) use of Food Scraps and/or Yard Trimmings for Anaerobic Digestion or use of Food Scraps as Bioengineered Feedstock at a water pollution control plant/sewage treatment plant; and (6) environmentally safe Landfill (Disposal). Contractor shall (a) follow the above-

described hierarchy and (b) obtain the highest and best use for Diverted materials, to the satisfaction of the City.

**4.02 Growth and Changes in City.** During the Term, the parties anticipate that new construction, remodels, demolition, reconstruction, annexations, and other changes within and to the City limits of Laguna Niguel, may result in growth in the number of occupied Residential, Commercial and Business Establishments, and industrial premises. Contractor agrees that it will provide all services required in this Agreement to all such new premises within City during the Term and that Contractor shall receive no additional compensation for providing such new, expanded or changed services other than the compensation described in Article 12. If, at any time, such changes or growth result in any of Contractor's collection activities occurring outside the City-approved collection times in Section 4.08, Contractor shall provide, at no additional cost to City or Customers, additional collection vehicles, labor and equipment such that all collection activities occur within City-approved collection times. In the event Contractor is notified by City that it is exceeding City-approved collection times, Contractor shall provide such additional vehicles, labor and equipment within ten (10) business days of notification from City.

**4.03 Residential MSW Collection.**

**4.03.A Regular Collections.** Contractor shall collect all MSW generated at Residential Premises within the City and placed for Collection at curbside, and at sideyard/backyard locations by Customers who request such Collection under Section 2.3.7 of Attachment B. MSW shall be collected from such Premises at the frequencies and in the manner described in Attachment B, Section 2. In the

event City directs Contractor to initiate bi-weekly collection of Residential MSW pursuant to Section 2.3.3 of Attachment B, Contractor shall do so within the timeframe directed by City and shall charge the rates for such bi-weekly Residential MSW collection as may be established by the City as described in Section 2.3.3 of Attachment B.

**4.04 Commercial/Business MSW Collection.** Contractor shall collect all MSW generated at Commercial and Business Establishments within the City and placed for Collection. MSW shall be collected from such Premises at the frequencies and in the manner described in Attachment B, Section 3.

**4.05 City Events MSW Collection.** Contractor shall collect all MSW generated at up to thirty (30) City-sponsored Special Events per calendar year during the term of this Agreement at no charge to the City as described in Section 3.12.1 of Attachment B.

**4.06 Diversion Programs.**

**4.06.A Residential Recycling.** The Contractor shall collect Recyclable Materials, Yard Trimmings, Wood (and Food Scraps if directed by City) generated at Residential Premises placed for Collection in Contractor-provided Containers at the curbside. Contractor shall also collect Single Stream and Single-Material Recyclable Materials, Yard Trimmings, Wood (and Food Scraps if directed by City) generated at Residential Premises, placed for Collection at curbside and backyard or side-yard locations by Customers who request backyard or side-yard Collection under Section 2.3.7 of Attachment B.

**4.06.B Commercial/Business/Multi-family Recycling.** Contractor shall collect Recyclable Materials, Yard Trimmings, Wood and Food Scraps from all Commercial, and Business Establishments and Multi-family Premises at the frequencies and in the manner described in Attachment B. Contractor shall also provide Containers and Collection service for Recyclable Materials and Food Scraps for up to thirty (30) special events sponsored by the City per calendar year as described in Section 3.12.1 of Attachment B.

**4.07 Other Services and Special Services.**

**4.07.A. Other Services.** Contractor shall provide other Collection services as requested by Customers in the City on an on-call basis, including Bin, Roll Off Box and Compactor service described in Attachment B, Section 3.

**4.07.B Special Services.** Contractor shall provide special services as described in Section 4 of Attachment B that include, but are not limited to:

- Bulky Goods Collections
- Holiday Greenery Collection and Recycling (including central collections at Multi-Family complexes and Homeowners' Associations)
- Electronic Waste and Universal Waste Collection and Recycling
- Collection and Recycling of Appliances containing Freon

**4.08 Hours and Days of Collection.** Collection of MSW and/or Recyclable Materials may occur only within the hours authorized by the City. Contractor may not collect MSW, Recyclable Materials, Food Scraps (if directed by City), or Yard Trimmings and Wood earlier than 7:00 a.m. local time or later than 6:00 p.m. for Residential Premises, and no earlier than 7:00 a.m. local time or later than 6:00 p.m. for Commercial and Business Establishments. If requested by Contractor, the City Manager or his/her designee may grant temporary site and route-specific exceptions. At the sole discretion of the City Manager, Contractor shall adjust the early morning start point of Collection routes to address and minimize customer complaints when warranted and practicable.

No Collections shall occur on the following days: January 1, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and Sundays. No Collections shall occur on Saturdays for Residential Premises except for missed pick-up service and for a holiday that falls during the preceding week. When a holiday falls on a weekday, Collection service will be performed on the following day. For example, if a holiday falls on a Monday, service scheduled for Monday will be provided on Tuesday, service scheduled for Tuesday on Wednesday and so on. If a holiday falls on a Saturday, service will be provided the following Monday.

Contractor shall coordinate with the City Manager or his or her designee to ensure that the Collection of MSW, Yard Trimmings, Wood, Food Scraps and/or Recyclable Materials is compatible with, and does not interfere with, City's street sweeping operations.

**4.09 Collection Standards.**

**4.09.A Care of Property.** Contractor shall use due care when handling MSW, Recycling, Food Scrap and Yard Trimmings/Wood Containers. Containers shall not be thrown from trucks, roughly handled, damaged or broken. Containers shall be returned to the Collection point upright, with lids properly closed.

Contractor shall ensure that its employees close all gates opened by them in making Collections, unless otherwise directed by the Customer, and avoid crossing landscaped areas and climbing or jumping over flower beds, hedges, fences, and other building appurtenances.

City shall refer complaints about damage to private property, including common areas in common-area subdivisions, to Contractor. Contractor shall promptly and at its sole expense repair, or arrange for the repair of, all damage to private property caused by its operations, including but not limited to vehicles, overhangs, carports, streets, curbs, sidewalks, paved areas.

**4.09.B Noise.** All Collection operations shall be conducted as quietly as possible and shall conform to City noise level regulations. The noise level during the stationary compaction process shall not exceed 75 decibels at a distance of 25 feet from the Collection vehicle measured at an elevation of five (5) feet above ground level. Contractor shall submit to City, upon City's request, a certificate of vehicle noise testing by an independent testing facility of a representative sample of Collection vehicles. The City may also conduct random checks of noise emission levels to ensure such compliance.

**4.09.C Private and Public Streets.** Contractor shall use its best efforts to prevent damage to all streets over which its Collection equipment may be operated, and Contractor shall obtain all required approvals for operation of its Collection vehicles on private streets. In the event Contractor damages public streets to an extent that exceeds normal wear and tear (e.g. hits and damages a public curb, sidewalk, or driveway or creates a hole in the pavement that must be repaired) City will notify Contractor and Contractor shall be responsible for the cost of repairing the damage, which will be performed by City. Contractor shall comply with all requirements for placement of Containers, including Roll Off Boxes in the public right of way, including compliance with encroachment permits pursuant to Laguna Niguel Municipal Code. Contractor shall use all available industry best practices to prevent spills of fuel, fluids (such as oil, hydraulic fluid, brake fluid, etc.) or other materials on streets. If such a spill occurs, Contractor shall immediately notify the City (including the Director of Public works or his/her designee and the City's NPDES Coordinator) and all proper regulatory authorities of said spill and release of fluids, and shall clean, at Contractor's expense, the spilled fluids in coordination with, and to the satisfaction of, City and applicable regulatory agencies. Upon a release of such fluids, the driver shall immediately park the vehicle and it shall remain parked until the leak is repaired. In such event Contractor shall not park the leaking vehicle within two hundred (200) feet of a storm drain and shall utilize all possible methods including absorbent material, sand bags or other appropriate means to prevent leaking fluids from entering storm drains. In the event of any type of spill or other emergency,

Contractor shall be responsible for securing the immediate safety of the vehicle driver, all other employees of Contractor and all persons and property in the surrounding vicinity. As of the Effective Date Contractor shall initiate and provide continuous (at least monthly) training of all collection employees, route supervisors, dispatch personnel and all management employees in the proper handling of any spills to prevent such spills from entering storm drains or otherwise creating environmental damage or damage to persons, property, wildlife, animals, vegetation or releases to the atmosphere. Contractor shall provide a quarterly report to City on the trainings held with each employee group including the topics covered, and the employee(s) that conducted each training, as further described in Section 9.03.

**4.10 Customer Privacy.** Contractor shall strictly observe and protect the rights of privacy of Customers. Information identifying the contents and composition of a Customer's MSW, Recyclable Materials, Yard Trimmings, Wood, Food Scraps or Construction and Demolition Debris shall not be revealed to any Person, governmental unit, private agency or company, unless authorized by the Customer or by order of a court of law, or by statute. This provision shall not be construed to prohibit Contractor from preparing, participating in, or assisting in the preparation of solid waste characterization studies and waste stream analyses that may be required by the Act, or in performing the audits required pursuant to Article 9 or providing information necessary for City to comply with the Act and to obtain information required for City to exercise its police powers. Contractor shall not market or distribute customer mailing lists to any party except the City.

#### **4.11 Litter Abatement.**

**4.11.A Minimization of Spills.** Contractor shall use due care to prevent MSW, Yard Trimmings, Wood, Food Scraps and Recyclable Materials from being spilled or scattered during the Collection or transportation process. If any MSW, Yard Trimmings, Wood, Food Scraps or Recyclable Material is spilled, Contractor shall promptly clean up all spilled materials whether on private or public property. Each Collection vehicle shall carry all industry-standard equipment for this purpose. Failure to clean up all spilled materials within thirty (30) minutes of notification of the spill by a Customer, the City or any other Person shall result in the assessment of liquidated damages as described in Section 13.09.

Contractor shall not transfer loads from one vehicle to another on any public street or private roadway, unless it is necessary to do so because of mechanical failure or damage to a Collection vehicle that renders it inoperable and the vehicle cannot be towed.

**4.11.A.1 Clean Up of Existing Litter.** The Contractor shall clean up existing litter (e.g. loose scattered litter on the ground inside the enclosure; does not include items regularly stored inside the enclosure) in the immediate vicinity of any MSW, Recyclable Materials, Food Scrap or Yard Trimmings/Wood Collection area (including enclosures and the areas on private and public property where Containers are delivered for Collection) whether or not Contractor has caused the litter. Contractor shall notify the Customer and the City after the second occurrence of existing litter and shall send City a photograph of the littered area. City's Code Enforcement

Officer and one of the Contractor's Recycling Coordinators will make an on site inspection to discuss the situation with the Authorized Customer Representative responsible for the property. If the litter and debris is being caused by illegal dumping, the City and the Recycling Coordinators will work with the Authorized Customer Representative to utilize locked enclosures or Bins with locking lids to prevent entry. If the cause of the litter is under-subscription to the Collection service, the City and Recycling Coordinators will work with the Customer and/or Authorized Customer Representative to determine the appropriate size Container(s) and frequency of Collection required to alleviate the problem.

**4.11.A.2 Clean Up of Illegal Dumping.** Contractor shall respond to all calls from City regarding spilled or illegally dumped MSW, Yard Trimmings, Wood, Food Scraps, Recyclable Materials, and Bulky Items that are identified in locations other than Customer MSW enclosures (such as empty parking lots, sidewalks, alleys, in public rights-of-way, on City streets, etc.) during regular work hours and, in emergencies, at night and on weekends. Contractor shall collect and deliver such material to the City-designated Disposal Facility (or, in the case of other materials, to the appropriate City-designated Processing Facility (e.g. MRF, Compost Facility, or Construction and Demolition Debris Processing Facility) provided such material does not exceed in volume the amount that can be collected by a two-person crew utilizing a pick up truck or Collection vehicle.

**4.11.A.3 Covering of Loads.** Contractor shall place covers on all open debris Containers, Roll-Off Boxes and transfer trucks during transport to the Disposal facility, Materials Recovery Facility, Compost Facility, Construction and Demolition Debris Processing Facility, and all other Processing Facilities.

#### **4.12 Hazardous Waste**

**4.12.A General.** Contractor shall be aware of, and comply with, all laws, rules, and regulations relating to the handling and transportation of Hazardous Waste, including those requiring training and documentation. If Contractor observes any substances which it believes to contain Hazardous Waste within the City, including but not limited to in Containers designed for MSW, Yard Trimmings, Wood, Food Scraps, Recyclable Materials or Construction and Demolition Debris, Contractor shall not collect such Hazardous Waste but shall immediately notify the appropriate regulatory agencies and the City. The preceding sentence does not apply to the Collection of Electronic Waste components that are classified as Hazardous Waste or Bulky Goods (i.e. refrigerators) that contain Freon, pursuant to this Agreement.

**4.12.B Notice to Customers.** Contractor shall notify all Customers at least once a year with a mailing (that may be included in customer bills and/or quarterly newsletters) of: (i) the prohibition against the Disposal of Hazardous Waste in authorized Containers, Bins, Compactors or Roll-off Boxes; and (ii) the obligation of each Customer to provide for the proper handling and disposition of Hazardous Waste. To the extent that Contractor has actual knowledge of the

existence of such Hazardous Waste in a Container placed for Collection, Contractor shall not collect such Container. Contractor shall, prior to leaving the location where such Hazardous Waste has been observed, leave a tag at least 2" x 6" that informs the customer why the Collection was not made and lists the telephone number for the Orange County Department of Environmental Management.

**4.12.C Contractor to Segregate and Dispose.** In the event Contractor inadvertently collects any Hazardous Waste and during the course of transportation and disposition at a Disposal Facility, Materials Recovery Facility, Compost Facility, Construction and Demolition Debris Processing Facility, other Processing Facility or and becomes aware that it has collected such Hazardous Waste, Contractor shall segregate the Hazardous Waste, and shall arrange for its transport and Disposal to a properly permitted Recycling, treatment or disposal facility of Contractor's choosing at Contractor's sole expense. Contractor shall be solely responsible for the transport and disposition of all Hazardous Waste that is collected by Contractor. City will cooperate with Contractor attempts to locate and collect the costs of such transport and disposition from the responsible Customer.

**4.12.D Operating Procedures and Employee Training.** Contractor shall establish, implement and maintain written operating procedures designed to ensure Contractor's utilization of techniques generally accepted in the waste hauling industry for cities of the size and nature of the City of Laguna Niguel, to handle and dispose of Hazardous Waste and its compliance with the provisions

of this Section 4.11 and all applicable Federal, State and local laws, rules, and regulations. Contractor shall establish, implement and maintain an employee training program and shall ensure that employees responsible for the identification of Hazardous Waste are fully trained to properly handle and dispose of Hazardous Waste. Contractor shall maintain documentation which describes the training received by its employees.

**4.13 City's Right to Change Scope of Work.** City may, without amending this Agreement, direct Contractor to cease performing one or more of the services described in this Agreement, may direct Contractor to modify the scope of one or more of such services, may direct Contractor to perform additional Collection services and/or processing services, and may similarly modify Contractor's obligations under any provisions of this Agreement.

The changes that City may direct include, but are not limited to, program expansions, new Diversion Programs to comply with the Act, modifying or stopping certain Diversion programs and/or specified portions of programs, change of Processing Facility(ies), providing pilot programs and innovative services which may entail new Collection methods, different types of services, technology, equipment and/or new requirements for Customers, and compliance with new laws, rules, and regulations.

If such changes cause an increase or decrease in the cost of performing the services, an appropriate adjustment in the Contractor's rates may be made as provided in Section 12.07. Contractor will continue to perform the new or changed service while the appropriate adjustment in rates, if any, is being determined.

In the event the City eliminates one or more work tasks or programs from Contractor's scope of work pursuant to this Section 14.13, Contractor shall cease performing such work task(s) and/or program(s) and shall not charge any rates for the provision of such work task(s) or program(s) to Customers within thirty (30) business days of receipt of written notice from City, unless an emergency situation requires a more rapid cessation of such service(s) or work task(s).

In the event that City and Contractor cannot agree on the cost (increase or decrease) or other terms for a change in the scope of work pursuant to Section 12.07 within ninety (90) days of City's direction of the change in scope, the parties will utilize non-binding mediation with a mutually agreed-upon mediator to reach a resolution.

**4.14 Attendance At Meetings With City.** Contractor shall attend monthly status meetings with City representatives and agents beginning in January 2019. The date, time and location for meetings will be established by the City, in consultation with the Contractor. Contractor shall provide all necessary and appropriate personnel to attend each meeting such that the topics on the agenda can be addressed fully and completely. At the sole discretion of the City, additional meetings may be convened to continue to address issues not resolved at the monthly meetings and to address specific events, issues or concerns as needed by the City. Topics to be covered at the monthly meetings include, but are not limited to, progress implementation of all programs, the Red Green Tracking Spreadsheet, the Quarterly Tonnage Allocation Audits, all other audits, review of implementation of all items in the Scope of Work, review of monthly, quarterly and annual reporting documents, planning for upcoming Special Events, and

any other items relevant to the accomplishment of all tasks and attainment of all performance standards contained in the Agreement.

**4.15 Ownership of Municipal Solid Waste and Recyclable Materials.** Ownership and the right to possession of all MSW, Yard Trimmings, Wood, Food Scraps, Recyclable Materials and Construction and Demolition Debris shall be transferred to Contractor from the Customer once such materials are placed in Containers and properly placed at the designated Collection location, by operation of this Agreement.

**4.16 Contamination Warning Notice.** Contractor shall place a hang-tag on Recycling, Food Scrap and/or Yard Trimmings/Wood Containers that contain contamination of the material designated to be placed therein. (Contamination of each type of material is defined in Attachment B, Section 3.3.6 and in the table in Attachment B, Section 5.7.) The wording and format of the notice shall be submitted to the City for approval prior to use. If after two sequential written hang tag warnings, the Container continues to be contaminated, Contractor's Recycling Coordinators shall telephone and/or make a site visit(s) to the Premises to discuss the problem with the owner or occupant and Contractor shall submit photos of the contamination to the City and to the Customer. If, after contact by the Recycling Coordinator(s), there are two additional consecutive occurrences of contamination, Contractor shall contact the City and with City approval may remove the Recycling, Food Scrap or Yard Trimmings Container from Customer's Premises. Contractor shall report monthly to the City on all warning notices issued, Recycling Coordinators' contacts, and on all Recycling, Food Scrap and/or Yard Trimmings Containers removed from Premises due to contamination problems.



## **ARTICLE 5: TRANSPORTATION AND DISPOSAL OF MSW/TRANSPORTATION AND PROCESSING OF ALL OTHER MATERIALS**

**5.01 Transportation and Disposal of MSW.** City has entered into an agreement dated June 2, 2009 with the County Of Orange for utilization of the Orange County Landfill System for disposal of MSW. An amendment to the agreement was executed by the City and the County on April 16, 2016 and April 28, 2016, respectively and became effective on or before June 30, 2016. Both the agreement and the amendment are included as Attachment I. The parties acknowledge that the City's existing arrangements with the Orange County Landfill System will expire as of June 30, 2025. City has the option of renewing the existing landfill agreement for a period of ten (10) additional years on or before June 30, 2023. City will be responsible for renewing these arrangements and shall notify Contractor when such renewal has taken place. In the event the Orange County Landfill System becomes unavailable to City for Disposal of MSW from City, Contractor shall assist City in identifying and researching possible alternate Disposal Sites and shall cooperate with City in switching to the alternate Disposal Sites identified by City. In such event, the provisions of Sections 4.13 and Section 12.07 shall apply if the change in Disposal Site creates a change (either an increase or decrease) in the cost of transport or Disposal of MSW. Contractor shall transport and deliver all MSW collected pursuant to this Agreement to the Orange County Landfill System, and to the specific landfill designated by City, for the duration of the City's contract with the County of Orange, including any extensions. If the City-designated landfill becomes unavailable, Contractor shall transport and deliver all MSW collected pursuant to the Agreement to another landfill within the Orange County Landfill

system as directed by City. If there is no other landfill available within that system, or in the event the City's landfill agreement with the County of Orange terminates during the Term, Contractor shall assist City in identifying and researching possible alternate Disposal Sites and shall cooperate with City in switching to the alternate Disposal Sites directed by City. In such event, the provisions of Sections 4.13 and Section 12.07 shall apply if the change in Disposal Site creates a change (either an increase or decrease) in the cost of transport or Disposal of MSW. Contractor shall transport and deliver all MSW collected pursuant to the Agreement to such other Disposal site designated by the City Manager or his/her designee.

During the term of the City's contract with the County of Orange, Contractor shall comply with all provisions of the City's contract with the County of Orange including, but not limited to, Section 3.1(C) requiring transport and delivery of residue (as "residue" is defined in Attachment I) from all Materials Recovery Facilities, Compost Facilities, and all other Processing Facilities used in the performance of this Agreement, to the Orange County Landfill System; and with Section 3.01 (H) requiring Contractor to provide tonnage data by type of load (Residential, Commercial and Roll Off), origin of MSW delivered to the County Landfill system directly from City routes and from all transfer stations and Processing Facilities used in the performance of this Agreement.

Contractor shall further cooperate with the operator(s) of the Disposal Site with regard to operations therein, including by way of example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance operations and construction of new facilities, complying with the operator's Hazardous Waste exclusion program, and fully and transparently cooperating with the

operator's tonnage tracking system including reporting of allocation methods and self-haul transfer allocations as well as all other reporting required by AB 901 (PRC Sections 41821.5 through 41821.8) and all subsequent legislation and regulations promulgated by state, federal and local regulatory agencies regarding such reporting. The parties further agree that Contractor's duty to comply with all requirements of AB 901 shall not relieve or alter Contractor's duties and obligations to provide all tonnage data and all other information as required by this Agreement and shall not affect City's disclosure of such data and information as described in Section 14.16.

In the event Contractor utilizes a transfer station for consolidation and transport of MSW or other materials collected in City during the Term, Contractor shall execute an agreement with the County of Orange as described in Section 3.1 (C) of Attachment I, in a form similar to that in Appendix 4 of the City-County Landfill Contract in Attachment I, entitling Contractor to be charged the Agreement Rate (as defined in Attachment I) for use of the Orange County Landfill System.

**5.02 Transportation of Single Stream and Single Material Recyclable Materials.** As of the Effective Date Contractor shall transport and deliver for processing Single Stream Recyclable Materials and Single-Material Recyclables, and appropriate Bulky Goods to the City-approved Clean MRF identified in Attachment O.

**5.03 Transportation of Yard Trimmings and Wood.** As of the Effective Date Contractor shall transport and deliver all Yard Trimmings and Wood to one or both of the City-approved Compost Facilities identified in Attachment Q. In the future, City may direct Contractor to change to an alternate Processing Facility(ies) for Yard Trimmings and Wood as described in Sections 5.07, 5.08 and 5.09. If City directs use of an

alternate Processing Facility that is not listed in Attachment Q, the costs of using such alternate facility shall be calculated as described in Section 5.07, 5.08 or 5.09, whichever is applicable.

**5.04 Transportation of Food Scraps.** As of the Effective Date Contractor shall transport and deliver all Food Scraps collected from Carts, Bins, Roll Off Boxes and Compactors pursuant to this Agreement to the City-approved Food Scrap Processing Facilities identified in Attachment P and/or Attachment R. In the future, City may direct Contractor to change to an alternate Processing Facility(ies) for Food Scraps as described in Sections 5.07, 5.08 and 5.09. If City directs use of a Processing Facility that is not listed in Attachment P and/or R, the costs of using such alternate facility shall be calculated as described in Section 5.07, 5.08 or 5.09, whichever is applicable.

**5.05 Transportation of Co-Collected Yard Trimmings and Food Scraps.** If and when City directs co-collection of Yard Trimmings and Food Scraps for any Customers (e.g. Residential, Commercial and Business Establishments and/or Multi-Family) Contractor shall transport and deliver all Co-Collected Yard Trimmings and Food Scraps Collected in City pursuant to this Agreement to the City-approved processing facilities as follows: To the Lakeview Composting Facility identified in Attachment Q, and/or to the Perris Anaerobic Digestion Facility identified in Attachment R. In the future, City may direct Contractor to change to an alternate Processing Facility(ies) for Food Scraps as described in Sections 5.07, 5.08 and 5.09. If City directs use of a Processing Facility other than the two (2) City-approved processing facilities indicated in this Section 5.05, the costs of using such alternate facility(ies) shall be calculated as described in Section 5.07, 5.08 or 5.09, whichever is applicable.

**5.06 Transportation of Construction and Demolition Debris.** Contractor shall transport and deliver all Construction and Demolition Debris collected from Bins and Roll Off Boxes pursuant to this Agreement to the City-approved Construction and Demolition Debris Processing Facility identified in Attachment S.

**5.07 City Right to Unilaterally Direct Change in Processing Facility.** City reserves the right to unilaterally direct a change in any of the Processing Facilities described in this Article 5 for any reason, during the Term. In such event, City shall provide a minimum of six (6) months written notice to Contractor of the change; and the provisions of Section 4.13 shall apply. If the City approves use of a different type of Processing Facility(ies) (e.g. change from an Anaerobic Digestion Facility or from a Bioengineered Feedstock Facility to a Compost Facility) all of the requirements for use and operation of the new facility(ies) in Article 6, including but not limited to Sections 6.04 and 6.05, shall apply. The table in Section 6.06 shall be modified accordingly to reflect the new City-approved Processing Facility(ies).

**5.08 Designated Processing Facilities Unavailable.** If any of the Processing Facilities described in Sections 5.02, 5.03, 5.04, 5.05, and/or 5.06 become unavailable for use by the City during the Term, City may designate a new Processing Facility pursuant to Section 14.13. The parties agree that a Processing Facility shall only be deemed to be "unavailable" if one or more of the following has occurred: (i) a Force Majeure event as described in Section 14.12 has occurred; (ii) a Processing Facility has lost one or more permits to operate; (iii) a Processing Facility has exhibited a pattern of violation through the receipt of repeated notices of violation from one or more regulatory agencies. Further, the parties agree that a Processing Facility shall only be deemed to

be "unavailable" if the lack of availability of the Processing Facility is not due to Contractor's negligence, illegal activity, neglect or willful misconduct. At City's request, Contractor shall research and propose alternate Processing Facility(ies) for the material(s) requiring Processing, and shall submit a written analysis and recommendation to the City within five (5) working days concerning the cost for use of alternate facilities and any logistical changes that would be required to utilize such alternate facilities. City and Contractor will discuss the advantages and disadvantages of use of the potential alternate Processing Facilities and City will designate a selected facility. The decision of the City shall be final. In the event a Processing Facility becomes unavailable due to the negligence, illegal activity, neglect or willful misconduct of Contractor, Contractor shall bear all additional costs for use of an alternate Processing Facility including increased processing costs, transportation costs, transfer costs and all other costs. If the City designates use of a different type of Processing Facility(ies) (e.g. change from an Anaerobic Digestion Facility or from a Bioengineered Feedstock Facility to a Compost Facility) all of the requirements for use and operation of the new facility(ies) in Article 6, including but not limited to Sections 6.04 and 6.05, shall apply. The table in Section 6.06 shall be modified accordingly to reflect the new City-approved Processing Facility(ies).

**5.09 Contractor Request for Change of Processing Facility.** In the event Contractor proposes the use of a new or different Processing Facility other than those currently in use, Contractor shall provide the City with a detailed description of the proposed facility including but not limited to, the location, owner and operator, current facility users, technical capacity, processing methodology, Diversion capabilities,

potential advantages to the City, cost of use of the facility including impacts of transportation costs and tipping fees, and shall provide copies of all permits for the facility. In presenting the costs for use of the proposed facility, Contractor shall provide the City with both basic cost information and with proposed revisions to Attachment D showing the breakdown of costs for Collection, processing, transportation and Disposal for each rate category (Residential, Commercial, Multi-family and Roll Off) incorporating use of the proposed facility, as well as the total proposed rate change for each rate category incorporating use of the proposed facility. The City will evaluate the proposal and may, at its sole discretion, choose not to use the proposed facility if any one of the following issues is not addressed to the satisfaction of the City:

- (a) Costs are not acceptable.
- (b) The facility does not have all required state, federal and local permits, and land use approvals and/or the facility is not operating in compliance with all state, federal and local permits, regulations and land use approvals.
- (c) Performance of the facility is not acceptable (e.g. the Diversion achieved or proposed is not adequate, the quality of the materials created at the facility is substandard, etc.)
- (d) The actual or proposed end use for the processed materials created by the facility is not the highest and best use as dictated by regulatory conditions.
- (e) The City does not need such a facility.
- (f) Use of the proposed facility is not in the best interest(s) of the City and its ratepayers.

The parties will meet and discuss use of the proposed facility and the Contractor will provide prompt responses to City questions, concerns and requests for any

additional information. City will inform Contractor in writing of its decision concerning use of the proposed facility within sixty (60) days of receipt of all of the information requested by the City. The decision of the City shall be final.

In the event City chooses to utilize a new or different Processing Facility, Attachment D shall, for the remainder of the Term, (if desired by City) be revised to include additional columns such that the new table shows the breakdown of costs for Collection, processing, transportation and Disposal for each category of service. If the City approves use of a different type of Processing Facility(ies) (e.g. change from an Anaerobic Digestion Facility or from a Bioengineered Feedstock Facility to a Compost Facility) all of the requirements for use and operation of the new facility(ies) in Article 6, including but not limited to Sections 6.04 and 6.05, shall apply. The table in Section 6.06 shall be modified accordingly to reflect the new City-approved Processing Facility(ies).

## **ARTICLE 6: PROCESSING AND MARKETING OF RECYCLABLE MATERIALS**

**6.01 General.** The rates provided by Contractor in Attachment D include the costs of furnishing of all labor, supervision, equipment, materials, supplies and all other items necessary to perform the processing and materials marketing services required in a thorough, workmanlike and efficient matter.

**6.02 Permits.** Contractor shall utilize only processing facilities that are fully licensed and permitted under all applicable federal, state, regional and local laws, rules, and regulations. On or before January 10, 2019 Contractor shall deliver to City a package containing copies of all of the permits for the Clean MRF, the Compost Facility, the Food Scrap Processing Facility(ies), the Construction and Demolition Debris Processing Facility and for any other Processing Facility approved by City that Contractor will use to process materials collected within City. Contractor shall simultaneously submit original signed contracts with each Processing Facility (unless owned by Contractor) evidencing the terms and conditions under which Contractor is entitled to utilize the facilities for processing of City's materials and showing that each agreement includes the Processing Facility meeting all the requirements including in this Article 6.

**6.03 Delivery of Residue to Landfill.** Contractor shall deliver, or arrange to be delivered, all non-recyclable Residue from the operations at the Clean Materials Recovery Facility, the Compost Facility(ies), the Food Scrap Processing Facility(ies) and the Construction and Demolition Debris Processing Facility to the City designated landfill. Delivery of any material to a landfill for use as ADC is prohibited effective January 1, 2019 as described in Section 6.10.

***6.04 MRF, Compost, Food Scrap and C/D Facility Operating Requirements.***

Contractor shall operate all Processing Facilities it owns, including but not limited to, the Clean Materials Recovery Facility, the Compost Facility, the Food Scrap Processing Facility(ies) and Construction and Demolition Debris Processing Facility in compliance with all applicable federal, state, regional and local laws and regulations and shall adhere to the requirements of all permits for each facility. If Contractor is using facilities it does not own, it shall be Contractor's responsibility to investigate and determine that said facilities are operating in compliance with all applicable laws, rules, regulations and permit requirements. If at any time during the Term, said facilities are not operating in compliance with all legal requirements, it shall be the duty of Contractor to immediately report the situation to the City. Upon receipt of such information, City may conduct an independent investigation of the situation, may require Contractor to utilize a different Processing Facility while City is conducting its investigation, and/or may take other actions City deems reasonable and necessary to protect the interest of the City, its Customers, public health and safety and the environment.

The following provisions apply to all Processing Facilities used by Contractor during the Term for processing materials Collected within City, whether or not such facilities are owned by Contractor. Requirements for all the potential types of Processing Facilities identified as of the Effective Date are included herein.

The Clean MRF described in Attachment O must include processing lines for cleanup of Single-Material Recyclables and sorting of Single Stream Recyclable Materials and must be capable of processing all the Single-Material Recyclables and Single Stream Recyclable Materials collected by Contractor in the City.

The Compost Facility described in Attachment Q, must be capable of processing all the Residential and Commercial Yard Trimmings Collected by Contractor in the City, and, if applicable, all Food Scraps collected by Contractor in the City. The end product(s) produced at the facility must be capable of being used for agricultural and landscaping applications and shall meet all federal, state, regional and local laws and regulations for such uses. Compost produced must be certified by the U. S. Composting Council Seal of Testing Assurance Program ("STA"). Contractor shall provide City with documentation evidencing such certification annually on or before August 1 of each year beginning August 1, 2019. If the Compost Facility is owned by Contractor, Contractor shall have the capability to provide "custom blends" of Compost to address end users' needs for specific crops, soils and/or other parameters.

The Food Scrap Processing Facility(ies) described in Attachment R must be capable of processing all Residential and Commercial Food Scraps and have the technical ability to process all Residential and Commercial Yard Trimmings Collected by Contractor in the City. All Anaerobic Digestate produced from processing of City's materials shall be Composted by either Contractor or a third party at a Compost Facility that is fully licensed and permitted by all applicable regulatory agencies to accept the quantities of Anaerobic Digestate delivered by Contractor from the Anaerobic Digestion Facility described in Attachment R. The end product(s) produced at the Compost Facility must be capable of being used for agricultural and landscaping applications and shall meet all federal, state, regional and local laws and regulations for such uses. Compost produced must be certified by the U. S. Composting Council Seal of Testing Assurance Program ("STA"). Contractor shall provide City with documentation

evidencing such certification annually on or before August 1 of each year beginning August 1, 2019. If the Compost Facility is owned by Contractor, Contractor shall have the capability to provide "custom blends" of Compost to address end users' needs for specific crops, soils and/or other parameters.

If there is no fully permitted Composting Facility available for Composting Anaerobic Digestate, and Contractor can demonstrate such lack of a Composting Facility, City may, but is not required to, consider allowing Contractor to land-apply Anaerobic Digestate (either solid and/or liquid Anaerobic Digestate). In such event, City may request that Contractor submit a detailed plan for land-application of Anaerobic Digestate, until such time as a fully permitted Composting Facility becomes available. The plan shall include the number of Tons (and/or gallons) of Anaerobic Digestate to be land-applied per month, per quarter and per year; location(s) of proposed land(s) where Anaerobic Digestate would be applied; acreage of each proposed parcel; current use and zoning for each parcel (e.g. agricultural use or non-agricultural use); planned schedule and frequency of delivery and application of Anaerobic Digestate to each parcel(s); planned depth of applications; method of application and equipment to be used for application; laboratory test results for metals, pathogens, and all other required parameters per Title 14 CCR Section 17852(a)(24.5)(A) et seq. and per all Regional Water Quality Control Board, California Department of Food and Agriculture and United States Department of Agriculture laws and regulations. Laboratory results submitted to City shall include chain of custody information for each sample using a procedure equal to, or more rigorous than, the U. S. Composting Council Seal of Testing Assurance protocol. The plan shall describe in detail, the requirements of each agency and

Contractor's plan for compliance with same. The plan shall also contain a letter of authorization and approval from the local jurisdiction with land use authority for each parcel, the Local Enforcement Agency, CalRecycle, the Regional Water Quality Control Board, the local Air Quality Management District, the applicable Air Pollution Control District, the local health department, the local Fire Department and fire authorities, and if agricultural land is proposed to be used, from the California Department of Food and Agriculture concurring that the plan meets all state, federal and local requirements.

Upon receipt of Contractor's plan for land application of Anaerobic Digestate, City will review the plan, conduct research and hold discussions with the regulatory agencies. Contractor shall respond in a timely and complete manner to all questions from City concerning the proposed plan. City may approve or disapprove Contractor's proposal for land application of Anaerobic Digestate, in City's sole discretion. The decision of the City shall be final.

In the event City approves land application of Anaerobic Digestate until a fully permitted Composting Facility becomes available, Contractor shall, on an annual basis beginning twelve (12) months after City's approval of the land application, submit a letter of verification from the Local Enforcement Agency that the land application of Anaerobic Digestate is in full compliance with all state, federal and local laws and regulations. City may conduct site visits to all land parcel(s) utilized for land application of Anaerobic Digestate as described in Section 9.04. If City determines at any time, that Contractor's land application of Anaerobic Digestate is not in compliance with all applicable state, federal and local laws and regulations, City may direct Contractor to cease such land application. In the event that a fully permitted Compost Facility

becomes available to Compost Anaerobic Digestate, City may direct Contractor to cease land application of Anaerobic Digestate and commence use of the City-approved Composting Facility. In such event, the provisions of Section 5.07 shall apply.

Contractor shall only manage Anaerobic Digestate resulting from processing of City's materials by either (a) Composting the Anaerobic Digestate at a fully licensed Composting Facility and/or (b) by land application pursuant to the plan submitted to City, all in accordance with the requirements of this Agreement. The sale, donation or use of Anaerobic Digestate (liquid or solid) produced from processing City's materials, for any other use or purpose is strictly prohibited. The sale or donation of Anaerobic Digestate (liquid or solid) produced from processing City's materials by Contractor to any other Person or the use of Anaerobic Digestate (liquid or solid) produced from processing City's materials by any other Person, is strictly prohibited.

In the event City directs Contractor to utilize the Bioengineered Feedstock Facility described in Attachment P, said Processing Facility must be capable of processing all source-separated Residential, Multi-Family and Commercial Food Scraps Collected by Contractor in the City. Contractor shall report to City the total Tons of Food Scraps delivered to the Bioengineered Feedstock Facility, the conversion factor used to calculate the gallons of feedstock produced from the City's Food Scraps at the facility, and the total gallons of City's feedstock delivered to the Wastewater Treatment Plant described in Attachment P. Contractor shall also report to City the number of Tons of Residue generated by the Bioengineered Feedstock Facility in its preparation of the feedstock and the facility to which the Residue was delivered. Contractor shall ensure that the Food Scraps delivered to the Bioengineered Feedstock Facility meet,

and will continue to meet in the future, all specifications required by both the Bioengineered Feedstock Facility and the Wastewater Treatment Plant. Contractor shall also ensure that the Wastewater Treatment Plant continues to be fully permitted and operating within all permit requirements during the Term.

The Construction and Demolition Debris Processing Facility described in Attachment S must be capable of processing all of the Construction and Demolition Debris that is Collected by the Contractor in the City.

#### ***6.05 Contractor to Meet All Food Scrap Processing Facility Specifications***

Contractor shall take all actions required to ensure that the Food Scraps Collected and delivered to the Food Scrap Processing Facility(ies) provided by Contractor and approved by City, meet all specifications required by said Facility(ies) for the feedstock material, including but not limited to, amounts of Contaminants allowed. In no event shall the Food Scraps Collected in City be delivered to any alternate Food Scrap Processing Facility(ies) or any other type of facility that has not been previously approved in writing by City, nor shall any Food Scraps Collected in City be Disposed.

***6.06 Processing Requirements.*** Contractor shall process Single-Material Recyclables, Single Stream Recyclable Materials, Food Scraps, Yard Trimmings/Wood and Construction and Demolition Debris in such a manner that satisfies the Diversion

Materials collected by Contractor shall be processed at the facilities listed below:

Material	Processing Facility
Single Material Recyclable Materials (glass, metals, loose and baled cardboard, etc.)	Clean MRF
Single Stream Recyclable Materials	Clean MRF
Yard Trimmings/Wood	Compost
Food Scraps	Anaerobic Digestion Facility and/or Bioengineered Feedstock Facility
Co-collected Food Scraps and Yard Trimmings/Wood	Compost Facility and/or Anaerobic Digestion Facility
Construction and Demolition Debris	Construction and Demolition Debris Processing Facility

Contractor shall not deliver MSW or any other materials Collected in City to a Biomass Facility or to a Transformation Facility unless specifically directed in writing to do so by City. In the event City directs use of a Transformation Facility, such facility shall only be used to process Tons of materials up to the quantity or percent allowed by CalRecycle to count as Diversion pursuant to the Act.

**6.07 Reporting of Annual Diversion Rate Achieved.** On or before March 15, 2019, and on or before March 15 in all subsequent years of the Term, Contractor shall report to City the Annual Diversion Rate for the preceding calendar year, including copies of all reports from the County of Orange and CalRecycle, all Processing Facilities and Transformation Facilities (if use is directed by City) and all other records used as source documents for the Tons collected, processed and Disposed by Contractor for the prior calendar year. Contractor's report shall include a list of all Tons of MSW Disposed by Contractor at Disposal facilities, and shall include Residue from all Processing Facilities utilized by Contractor including but not limited to the Clean MRF, Compost Facilities, Food Scrap Processing Facilities, Construction and Demolition Debris Processing Facilities and Transformation Facilities. The report will show the total Tons from City that have been Disposed. The report will also list the total Tons of MSW, Single-Material Recyclables, Single Stream Recyclable Materials, Yard Trimmings, Wood, Food Scraps, Construction and Demolition Debris and all other materials Collected from within City by Contractor, and the total number of Tons of said materials. Said report shall show the total number of Tons collected and diverted in each of the following categories: (a) Single Family Residential, (b) Multi-Family Residential, (c) Commercial and Business Establishments, and (d) Roll Off Box service. For purposes of this report Roll Off shall include both permanent and temporary Bins and Roll Off Box service, Collection of Compactors of ten (10) cubic yards or larger in size, and Collection of Construction and Demolition Debris. The report shall show the annual Diversion rate calculation as described herein and the resulting percentage of Tons disposed. Contractor shall provide a written response to any questions from City concerning the

Diversion calculations and shall, if requested, meet with City to discuss the calculations, the underlying tonnage reports, and any other related issues. If requested by City, Contractor shall supply all additional documentation required to substantiate the Diversion rate calculation to the satisfaction of City. If requested, Contractor shall make available its personnel, consultants and other Persons who performed the Diversion rate calculations or prepared the tonnage reports used therein, to respond to questions from City or City's agents concerning the calculations. Contractor must provide explanations for, and substantiation of, all tonnages used in the Diversion Rate calculations including tons of materials delivered to transfer stations, materials recovery facilities, Food Scrap Processing Facility(ies), Transformation Facilities (if use is approved by City), Construction and Demolition Debris Processing Facilities, Composting Facilities and Disposal Facilities. Any discrepancies in reported tonnages will be investigated by the City and must be resolved to the satisfaction of the City. No exceptions will be allowed to these reporting requirements. Falsification of any tonnage record, negligent or intentional submittal of misleading or false information concerning the Tons Collected, Processed, or Disposed, or use of false or misleading information in the Diversion calculation, shall be considered a material breach of this Agreement and grounds for immediate termination of Contractor's services by City.

**6.08 Extension Opportunities.** Contractor may earn up to two (2) one-year extensions of the Term as described herein.

**6.08.A First Extension Opportunity.** If Contractor meets the implementation requirements listed below and Contractor is in full compliance with all the requirements of this Agreement, City will extend the Term of the Agreement by

one (1) year. In order to qualify for the first one-year extension, Contractor must have achieved all of the following by March 31, 2022: (a) have fully implemented an AB 341 Single Stream Recyclable Materials and/or Single-Material Recyclables Collection program at one-hundred percent (100%) of Commercial AB 341 Customers; (b) have fully implemented an AB 341 Single Stream Recyclable Materials and/or Single-Material Recyclables Collection program at one-hundred percent (100%) of Multi-Family complex AB 341 Customers and at all AB 341 Customers in Gated Developments/HOA's with Centralized Bin/Cart Collection Service; and (c) have fully implemented an AB 1826 Food Scrap Diversion program at one hundred percent (100%) of Tier 1, 2, 3 and 4 AB 1826 Customers. If Contractor meets the Diversion requirements for the first extension opportunity on or before March 31, 2022, the City will extend the Term of the Agreement for one (1) year and the new termination date shall be December 31, 2029. During the period April 1, 2022 through June 30, 2022, City will conduct an audit of all AB 341 and AB 1826 Customers. City will determine if Contractor has fully implemented an AB 341 Single Stream and/or Single-Material Recycle program (as a "fully implemented program" is described in Attachment B) at one-hundred percent (100%) of all the AB 341 Customers within City. City will also determine if Contractor has fully implemented an AB 1826 Food Scrap Collection program (as a "fully implemented program" is described in Attachment B) at one-hundred percent (100%) of all the AB 1826 Customers. City will utilize the criteria and methodology in Attachment N, Section 3 (a) 1 and Section 3 (a) 2 in making said determinations. Customers on the List of Non-Compliant Customers

Referred to City for Enforcement Action Under Mandatory Ordinance" (described in Attachment B, Section 3.3.6 (xiv) and reported to City in Attachment K Monthly Report Item #8) as of April 1, 2022, shall not count against Contractor in determining whether Contractor has achieved the metrics to earn the first one-year extension. However, if City identifies any Customer required by PRC 42649 *et seq.* to have a fully implemented AB 341 program, that does not have a fully implemented program and is not on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, then Contractor fails to earn the first one-year extension. Similarly, if City identifies any Customer required by PRC 42649 *et seq.* to have a fully implemented AB 1826 program, that does not have a fully implemented program and is not on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, then Contractor fails to earn the first one-year extension.

**6.08.B Second Extension Opportunity.** If Contractor meets the implementation requirements listed below and Contractor is in full compliance with all requirements of this Agreement, City will extend the Term of the Agreement by one (1) year. In order to qualify for the second one-year extension, Contractor must have achieved all of the following by December 31, 2024: (a) has continued full implementation of all AB 341 and AB 1826 programs at all Customers required by PRC 42649 *et seq.* and PRC 42649.8 *et seq.* to have such programs; (b) has fully implemented an SB 1383 Food Scrap Collection program at one-hundred percent (100%) of the Multi-Family complexes

and Gated Developments/HOA's with Centralized Bin/Cart Collection Service (as described in Attachment B) that are required to have this service per SB 1383 (PRC Section 42652 *et seq.*); and (c) has not exceeded the Contamination caps for Residential, Commercial and Multi-Family Customers as follows: fifteen percent (15%) by weight for Single Stream Recyclable Materials, five percent (5%) by weight for Food Scraps and fifteen percent (15%) by weight for MSW, as described in Section 3.3.6 (xi) of Attachment B. In the event City has directed the implementation of a program for Co-Collection of Food Scraps with Yard Trimmings for any stream (e.g. Residential, Multi-Family, Gated Developments with Centralized Bin/Cart Collection Service, and/or Commercial) Contractor shall not have exceeded the Contamination cap of ten percent (10%) for the Co-Collected materials from such Customers. (Note: With regard to Source Separated Food Scraps Collected from any stream, Contractor must not have exceeded five percent (5%) Contamination or the greater percent allowed by the Food Scrap Processing Facility used for Food Scraps [as described in Section 3.3.6 (xi) of Attachment B] provided that Contractor has utilized said Food Scrap Processing Facility for a minimum of twelve (12) months prior to December 31, 2024 and the Contamination percentage allowed by said Food Scrap Processing Facility has been the same for that entire twelve (12) month period.) If Contractor meets the Diversion requirements for the second extension, the City will extend the Term of the Agreement for one (1) year such that the termination date shall be December 31, 2029 (if Contractor failed to earn the first one-year extension) or December 31, 2030 (if Contractor earned the first one-year Extension). During the period January 1, 2025 through March 31, 2025 City will assess Contractor's performance as follows:

1. ***Continued Full Implementation of AB 341 and AB 1826***

**Programs.** City shall conduct a survey of all Customers required to have an AB 341 program (PRC 42649 *et seq.*) and all Customers required to have an AB 1826 program (PRC 42649.8 *et seq.*) in City. City will determine if Contractor has continued full implementation of said programs at one-hundred percent (100%) of all the Customers required to have AB 341 and AB 1826 programs. City will utilize the criteria and methodology in Attachment N, Section 3 (b) 3 in making said determinations. Customers on the List of Non-Compliant Customers Referred to City for Enforcement Action Under Mandatory Ordinance" on January 1, 2025, shall not count against Contractor in determining whether Contractor has achieved the requirements to earn the Second Extension. However, if City identifies any Customer required by either PRC 42649 *et seq.* or PRC 42649.8 *et seq.* to have a fully implemented AB 341 or AB 1826 program, that does not have a fully implemented program and is not on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, then Contractor fails to earn the Second one-year Extension.

2. ***Multi-Family/Gated Development/HOA Food Scrap***

**Program Implementation.** City shall conduct a survey of all Multi-Family Customers and all Gated Developments/HOA's with centralized Cart and/or Bin Collection service in City. City will determine if Contractor has fully implemented an SB 1383 Food Scrap Collection program at one-hundred percent (100%) of all the SB 1383 Customers required to have such a program pursuant to PRC Section 42652 *et seq.* City will utilize the criteria and methodology in Attachment N, Section 3 (b) 1 in making said

determinations. Multi-Family and Gated Development/HOA Customers on the List of Non-Compliant Customers Referred to City for Enforcement Action Under Mandatory Ordinance" as of January 1, 2025, shall not count against Contractor in determining whether Contractor has achieved the metrics to earn the second extension. However, if City identifies any Customer required by PRC 42652 *et seq.* to have a fully implemented AB 1383 program, that does not have a fully implemented program and is not on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, then Contractor fails to earn the Second one-year Extension.

***3. Achievement of Contamination Caps for Residential, Commercial, Multi-Family, Gated Developments, HOA's and Mobile Home Parks.***

As described in Attachment N, Contractor shall conduct special characterization studies during January 2025 to determine whether or not the required Contamination caps have been met. Special characterization studies shall be performed for each of the following streams: Residential, Multi-Family and Commercial, and for each of the following components contained in each stream: Single Stream Recyclable Materials/Single Material Recyclables, Food Scraps and MSW, as described in Attachment N. For any component where the characterization study shows that the Contamination cap was exceeded, the Contractor may, at Contractor's sole expense, conduct one (1) additional characterization study for each of the failed components. All subsequent characterization studies for those component(s) exceeding the Contamination cap(s) must be completed on or before March 15, 2025 and the results submitted to City on or before March 25, 2025.

**6.08.C Failure to Achieve First or Second Extension Requirements.**

In the event Contractor meets all of the extension requirements for both the first and second extensions, the Term will be extended to December 31, 2030. If Contractor fails to meet the requirements for the first one-year extension, such failure will not preclude Contractor from earning a one-year extension of the Agreement under the second extension opportunity. If Contractor fails to meet the requirements for the first one-year extension by the deadline in Section 6.08A herein, but meets the extension requirements for both the first and second one-year extensions by December 31, 2024, City will extend the Term by one (1) year, and the new termination date shall be December 31, 2029.

**6.08.D Notice to Contractor of Extension or Failure to Earn Extension.** The City will evaluate Contractor's performance with regard to the first extension opportunity during April 1 - June 30, 2022. City will notify Contractor in writing on or before August 31, 2022 as to whether or not Contractor has earned the first one-year extension of the Term. The City will evaluate Contractor's performance with regard to the second extension opportunity during January 1 – March 31, 2025. City will notify Contractor in writing on or before May 1, 2025 as to whether or not Contractor ha earned the second potential one-year extension of the Term. The decisions of the City shall be final.

**6.09 Marketing of Recovered Materials, Compost and Other Products.** Contractor shall be responsible for marketing, or arranging for the marketing, of all Recovered Materials, all Compost product(s) and all other products, including but not limited to Anaerobic Digestate, biochar, methane, compressed natural gas, other marketable gas

products and electricity generated or produced from the Processing Facilities utilized to process materials collected in City, including the Materials Recovery Facilities, Compost Facility, Food Scraps Processing Facilities and the Construction and Demolition Debris Processing Facility.

**6.10 Limits on Modes of Disposition.** City may direct Contractor to stop delivering Recovered Materials for uses that do not qualify as Diversion for purposes of the Act. Contractor is prohibited from delivering any material Collected in City to a solid waste landfill for use as Alternative Daily Cover effective January 1, 2019. This prohibition includes, but is not limited to, Recyclable Materials, Yard Trimmings, Food Scraps, Wood, Construction and Demolition Debris, Compost, Anaerobic Digestate, MRF "fines", MRF "overs" and all other products, byproducts and Residue from Processing Facilities utilized to Process materials pursuant to this Agreement. Unless otherwise specifically directed in writing by the City, this prohibition applies even if CalRecycle or any other agency allows such materials used as to qualify as Diversion for purposes of the Act. No MSW of any kind may be disposed of on land at any location other than by delivery to the City designated landfill. No MSW of any kind may be disposed of in water or in the atmosphere.

**6.11 City Access to Processing Facilities.** In addition to City's rights under other provisions of this Agreement, City and its agents shall have the right at all reasonable times to enter each of the Processing Facilities to (a) observe operations, (b) observe compliance with permit requirements, (c) observe tonnage allocation and tonnage tracking procedures, and (d) for any other reasonable purpose.

## **ARTICLE 7: EQUIPMENT, FACILITIES AND PERSONNEL**

**7.01 General.** Contractor shall furnish all facilities, vehicles and equipment necessary to perform safely and efficiently the services required by this Agreement. Contractor shall provide new collection vehicles, bins, carts, other containers and other equipment as described in Sections 7.03 and 7.04. All Collection vehicles provided pursuant to this Agreement shall be used exclusively to perform collection services within City and shall not be used in any other jurisdiction with the exception of the Food Scrap Collection Vehicle which may be utilized in other jurisdiction(s) in order to save costs. The rates in Attachment D reflect the shared costs for the Food Scrap Collection Vehicle.

### **7.02 Facilities.**

**7.02.A General.** Contractor shall provide all facilities required for storage, maintenance, repair and deployment of all vehicles and equipment required to perform the services required by this Agreement. Contractor shall also provide the necessary facilities and office space for personnel of Contractor providing the services required by this Agreement. The facility or facilities used by Contractor to perform the required services shall be fully permitted in compliance with all Federal, State and local laws, rules, and regulations. In the event the City receives complaints about the facilities (whether for noise, odor, litter, traffic problems or any other issue), Contractor shall promptly take action to address the issue(s) and shall resolve the problem within five (5) business days.

### **7.03 Vehicles.**

**7.03.A General.** Contractor shall provide Collection and auxiliary vehicles of the type, size and configuration, and in the quantities shown on Attachment F-1. The vehicles to be provided shall also include the lighter-weight two-axle front loader vehicle described in Attachment F-2 for Collection of Commercial Recycling Bins. All Collection vehicles shall be equipped with a system that provides surveillance, monitoring, auditing, recording and tracking including video and still photo equipment, GPS system, i-pads (or equivalent), bar code scanners, backup cameras, and communication devices described in Attachment F-3. All front loader, rear loader, side loader, Roll Off Box collection vehicles and all other collection vehicles shall be suitable in design and construction for arduous heavy-duty service. All front loader, rear loader, side loader and Roll Off Box collection vehicles acquired during the Term shall be operated solely within the City of Laguna Niguel with the exception of the Food Scrap Collection Vehicle which may be utilized in other jurisdiction(s) in order to save costs. Contractor shall provide six (6) new collection vehicles on or before October 1, 2019 and shall continue adding new collection vehicles throughout the Term of the contract such that the average age of all Collection vehicles operating in City is five (5) years with no Collection vehicle older than eight (8) years. Contractor shall achieve this standard on or before October 1, 2019 and shall maintain such standard throughout the remainder of the Term. For purposes of this section, a "new" replacement Collection vehicle would be zero ("0") years old, and means the truck chassis, body and all other parts and components shall be new and

unused. If it becomes necessary during the Term, a used diesel vehicle may be placed into service on a temporary basis (i.e., for no more than 90 days) provided that it is safe, in good operation condition, and equivalent in design and capacity to vehicles in regular service. All vehicles shall comply with all laws and regulations including but not limited to the California Air Resources Board regulations. All front loader, rear loader, side loader and Roll Off Box collection vehicles listed in Attachment F shall be dedicated one hundred percent (100%) to use in City, and shall not be used to collect any material in any other location at any time except as described in Section 7.01. Collection routes within the City for MSW, Recyclable Materials, Food Scraps, Yard Trimmings, and Construction and Demolition Debris shall collect only materials from within City such that when the Collection vehicles are weighed at the Disposal facility and/or at the Processing Facilities, one hundred percent (100%) of the Tons in each vehicle originate solely from City with the exception of shared vehicles described in Section 7.01. With regard to such shared vehicles, the Tons in such vehicles shall be allocated between the City of Laguna Niguel and the other jurisdiction(s) where the vehicles are utilized, using the reports submitted by Contractor pursuant to Article 9 and Attachment K.

**7.03.B Alternative Fuel Vehicles.** All Residential Premises and "Commercial and Business Establishments" Collection vehicles (including all side loaders, rear loaders, front loaders, Roll Off, and any other types of vehicles) shall operate in full compliance with the requirements of the California Air Resources Board and the South Coast Air Quality Management District's rules and regulations

including, but not limited to, Rule 1193. Route supervisor's vehicles and all other ancillary vehicles that will operate on a routine basis in the City shall comply with all applicable laws, rules, and regulations, including but not limited to the California Air Resources Board and South Coast Air Quality Management District regulations.

**7.03.C Vehicle Identification.** The wording "Serving the City of Laguna Niguel" and the name of Contractor, Contractor's local telephone number, and a unique vehicle identification number for each vehicle shall be prominently displayed on all Collection vehicles. Alternative Fuel Vehicles shall display a statement as to the type of alternative fuel being used. City shall approve all details, including size, color and location of text, identification numbers and logo. At the direction of City, Contractor shall place attractive signage and wording approved by City to convey messages and public education about diversion programs such as "Laguna Niguel Recycles" on the side of the packer compartment of the vehicles. Contractor shall provide such special signage (or a truck wrap) on a minimum of five (5) Collection vehicles and the message shall be changed at least once each year.

**7.03.D Cleaning and Maintenance.**

**7.03.D.1 General.** Contractor shall maintain all of its equipment used in providing service under this Agreement in a safe, neat, clean and operable condition at all times.

**7.03.D.2 Cleaning.** The exterior and interior of vehicles used in the Collection of MSW, Recyclable Materials, Food

Scraps, Yard Trimmings, and Construction and Demolition Debris shall be thoroughly washed by Contractor at least once a week or more often as needed to maintain a clean appearance and thoroughly steam cleaned at least once a month or more often as needed to maintain a clean appearance. In addition, the interior collection compartment of vehicles used for the collection of Food Scraps shall be thoroughly washed on a daily basis. City may inspect vehicles at any time to determine compliance with sanitation requirements and aesthetic conditions. Contractor shall make vehicles available to the Orange County Department of Environmental Management and the City for inspection, at any frequency it requests.

**7.03.D.3 Painting.** All vehicles used in Collection of MSW, Yard Trimmings, Recyclable Materials, Food Scraps, and Construction and Demolition Debris shall be repainted by Contractor at least once every five (5) years, unless the City determines that repainting specific vehicles at that frequency is not necessary because the vehicle's appearance is satisfactory or unless the City determines that repainting a specific vehicle earlier (due to graffiti, wind damage, etc.) is necessary to ensure that the vehicle gives the appearance of having been repainted within the preceding sixty (60)

months. All graffiti shall be removed or painted over within forty-eight (48) hours of discovery.

**7.03.D.4 Maintenance.** Contractor shall inspect each vehicle daily to ensure that the vehicle and all equipment is operating properly and in compliance with this Agreement. Vehicles which are not operating properly shall be taken out of service until they are repaired and do operate properly. Contractor shall perform or cause to be performed 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 part or vehicle identification, date, and mileage, and shall make such records available to the City upon request.

**7.03.D.5 Repairs.** Contractor shall repair, or arrange for the repair of, all vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all vehicles and 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 part or vehicle identification, date/mileage,

nature of repair and the signature of a maintenance supervisor that the repair has been properly performed.

**7.03.D.6 Storage.** Contractor shall arrange to store all vehicles and other equipment in safe and secure location(s). Facilities used for storage shall comply with all zoning and land use requirements applicable to the facility. Contractor shall not store vehicles or equipment (including Bins, Carts, and Roll Off Boxes) in parking lots, vacant lots or any other non-permitted area. City shall have access to Contractor's regular vehicle and equipment storage facilities at all times.

**7.03.D.7 Leaking Vehicles.** In the event that City receives a report of a leaking vehicle, Contractor shall, upon notification by City, immediately take the vehicle out of service and repair the leak. Contractor shall be responsible for cleanup of any spilled fluids whether on public streets, private streets, public property or private property.

**7.03.D.8 Brake Inspections.** The brake system of each vehicle used in performance of this Agreement shall be inspected and certified annually by a state licensed brake inspection facility. Notice of certification shall be filed with the City within thirty (30) days after each certification, but in no event later than May 1 of each year of the Term

beginning May 1, 2018. Failure to submit the required certification shall be grounds for termination of this Agreement.

**7.03.D.9 Operation.** Vehicles shall be operated in compliance with the California Vehicle Code and all applicable safety regulations and local ordinances. Vehicles shall be operated only by employees of Contractor who are appropriately licensed by the California Department of Motor Vehicles. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by state or local weight restrictions on vehicles. Contractor is solely responsible for paying any fines imposed by the California Highway Patrol, or other regulatory agencies, for violation of these requirements.

***7.04 MSW and Recyclable Materials Containers.***

**7.04.A General.** Contractor shall furnish (and deliver to Customers) all Containers for storage of (i) MSW, (ii) Recyclable Materials, (iii) Yard Trimmings, (iv) Food Scraps, and (v) Construction and Demolition Debris of the types, sizes and color-coding, and according to the timing as described in Attachment B. The type, size and number of containers shall be sufficient to contain, with the lid closed, all MSW, Recyclable Materials, Yard Trimmings, and Food Scraps generated between collections. All Containers provided by the Contractor shall conform to the specifications in Attachment E. For purposes of this section and

Attachment B, "new" means the bins, carts and compactors have been purchased from vendors and have not been previously used for storage of any materials or MSW. "New" does not include refurbished, reconditioned or repainted containers or compactors.

**7.04.B Repair, Replacement, and Exchange.** Contractor shall repair or replace any Container which is damaged, broken, lost or stolen; provided that Contractor may charge Customer the current market price for a new Container for damage or loss due to Customer-caused damage, whether such damage was negligent or intentional. Contractor shall repair or replace all Containers which do not meet vendors' warranties and the City required Container specifications as set forth in Attachment E. Contractor shall not have to replace a non-repairable Compactor not owned or leased by it to a Customer.

Upon request from a Residential Premises Customer, Contractor shall exchange a Cart that is in Customer's possession and not damaged, broken, lost or stolen for a new Cart within fourteen calendar (14) days of request. Contractor shall charge the Customer the fee as set forth in Attachment D for a Cart exchange.

**7.04.C Cleaning, Painting and Maintenance of Contractor-Furnished Containers.** Contractor shall maintain all Contractor-furnished Containers in a functional condition and so as to present an attractive appearance. All Contractor-furnished Bins shall be permanently labeled on the front (in a contrasting color so as to present an attractive appearance) with the size of the

Bin (e.g. "3 Yard"). Such Containers shall be painted and repainted as requested by City or Contractor shall replace any Container with a new or re-conditioned Container, of like-size, as directed by City. Contractor-furnished Containers that have been painted or marked with graffiti shall be repainted or removed from the Premises by Contractor within twenty-four (24) hours of notification by the Customer or City. At the same time as such Containers are removed, they shall be replaced by like-sized Containers furnished by Contractor without evidence of graffiti. Contractor shall clean and maintain all Contractor-furnished Containers in a safe and sanitary condition and whenever the City, or another agency with jurisdiction as a regulator, determines that cleaning is required to abate a health concern or nuisance condition.

#### ***7.05 Personnel.***

**7.05.A General.** Contractor shall furnish such competent and qualified drivers, laborers, mechanical, supervisory, clerical, managerial and other personnel as may be necessary to provide the services required by this Agreement in a safe, efficient, reliable and courteous manner. The minimum complement of employees which Contractor will provide for the scope of work described in this Agreement shall be as set forth on Attachment G.

**7.05.B Driver Qualifications.** All drivers shall be trained and qualified in the operation of waste Collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles. Each driver shall carry his/her license during work hours.

**7.05.C Uniforms.** Contractor shall require its drivers, and all other employees who come into contact with the public in the City during working hours, to wear standardized uniforms bearing the Contractor's name, and to carry an identification badge or other means of identifying the employee. Such uniforms shall present a freshly cleaned appearance. Employees shall be instructed to present employment identification cards to City staff, customers, security guards and law enforcement officers upon request, during work hours.

**7.05.D Safety Training.** Contractor shall provide suitable operational and safety training for all of its employees who utilize or operate vehicles or equipment for Collection or processing of MSW, Recyclable Materials, Yard Trimmings, Food Scraps, and Construction and Demolition Debris or who are otherwise directly involved in such Collection or processing.

**7.05.E No Gratuities.** Contractor shall not permit any officer, agent or employee to demand or solicit, directly or indirectly, or to accept, either directly or indirectly, any additional compensation or gratuity from members of the public, any City representative or employee, or any other Person or entity for the Collection of MSW, Recyclable Materials, Yard Trimmings, Food Scraps, Construction and Demolition Debris or any other material under this Agreement.

**7.05.F Employee Conduct and Courtesy.** Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct

Collection crews to perform the work as quietly as possible. If any employee is found not to be courteous 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 behavior, Contractor shall, upon request of City, reassign the employee to duties not entailing contact with the public while the Contractor is pursuing its investigation or disciplinary process.

**7.05.G Provision of Two Recycling/Public Education Coordinators.**

Contractor shall provide two (2) full time Recycling and Public Education Coordinators ("Recycling Coordinators") to implement Diversion programs in the City of Laguna Niguel. The minimum duties, work tasks, and requirements for both Recycling Coordinators shall be as described in Attachment AA, which is incorporated herein by this reference. Each coordinator will devote 100% of his or her time (the equivalent of at least 2,000 work hours per calendar year) to these activities exclusively for City. The Recycling Coordinators identified in Attachment G, shall have a minimum of three (3) years experience in the design, implementation and operation of Recycling, Composting and Diversion Programs, interaction with the public, and detailed knowledge of the requirements of the Act. This shall not be an entry-level position and Contractor shall provide two (2) Recycling Coordinators that are fully trained and experienced as described herein on or before January 1 2019. If Contractor fails to provide two (2) full-time Recycling Coordinators on or before July 1, 2019, the

liquidated damages in Section 13.09 F shall apply. In the event of resignation of a Coordinator, Contractor shall have a maximum of ninety (90) calendar days to replace the Coordinator before the liquidated damages in Section 13.09 apply. Contractor shall notify City, in writing, of the name, education, background and experience, including a resume, and a list of three (3) references for each Coordinator prior to commencing operations and whenever there is a change in the staffing of the positions. Upon City request, Contractor shall designate a different Coordinator if either Coordinator does not meet the requirements enumerated herein and/or if the City is otherwise dissatisfied with the performance of the designated Coordinator. The Coordinator's duties shall include, but not be limited to: (i) conducting waste audits at Commercial and Business Establishments: (ii) preparing Recycling and Diversion plans for businesses, institutions and other waste generators in City: (iii) routinely auditing each of the Diversion Programs described in Article 4 and Attachment B, including photographing said programs and reporting to City on the results of each program as detailed in Attachment B; (iv) preparing public education materials as required in this Agreement as well as other public education materials that may be requested by City; (v) attending all City-sponsored special events where Recycling and the environment are the theme or topic; (vi) coordinating Recycling programs at all City-sponsored special events for the diversion of cardboard, glass, plastic beverage containers, aluminum cans, newspaper and mixed waste paper that is generated by the event; (vii) implementing and maintaining the Recycling program at City Hall and all other

City facilities including responding to questions about the program; (viii) speaking to community groups, schools, homeowner's associations and other organizations about the City's Diversion Programs; (ix) acting as a community resource with regard to Recycling and Diversion Programs; (x) working in a full and transparent manner with the City and its agents in troubleshooting and implementing programs, including audits, processing, and prices for Recyclable Materials, Food Scraps, Yard Trimmings; and markets for energy and Anaerobic Digestate produced by Anaerobic Digestion and (xi) such other duties as may be assigned by City. City reserves the right to re-direct the work efforts of the coordinator and to prioritize the tasks to be completed as needed throughout the Term of this Agreement.

**7.05.H Initial Hiring.** Prior to commencement of operations, Contractor shall hire the necessary complement of employees. Contractor shall conduct a background check of each applicant which will, at a minimum, include a check of his/her driving record through the California Department of Motor Vehicles, record of criminal convictions, and references. All applicants shall be required to take a standard test for use of illegal drugs and alcohol as a condition of employment. Drivers shall be required to demonstrate proficiency in the English language; at least one person proficient in spoken English shall be on every Collection vehicle when that vehicle is in service. Contractor will furnish City with a copy of its training manual and schedule of training of new employees; City may require Contractor to include specific topics in such manual and training program. City may attend and observe any safety or operational training classes.

Nothing in these Sections 7.04.G and H shall be construed to give City control over the selection or supervision of Contractor's employees.

**7.05.I Ongoing Training and Testing.** Contractor shall provide regular safety training on an ongoing basis and shall conduct random drug and alcohol testing of employees in safety-sensitive positions in compliance with regulations issued by the U.S. Department of Transportation.

**7.05.J Use of Workers Not Employed by Contractor.** If Contractor engages any workers through an independent contractor, such as an employment agency, it shall ensure that such contractor or agency:

1. complies with the nondiscrimination requirements in Section 14.01; and
2. Maintains Comprehensive General Liability, workers compensation and Employer's Liability insurance covering such workers in the amount required by Section 11.02A and with policies meeting the other requirements of Section 11.02.

Contractor is responsible for providing qualified and competent workers, whether as direct employees or through workers furnished by an independent contractor. Contractor is also responsible for providing sufficient training to all workers so that they can perform the work in a safe and competent manner and are thoroughly familiar with the work that Contractor is required to perform and the standards it is required to meet, under this Agreement.

All drivers, mechanics, supervisory and managerial workers shall be direct employees of Contractor.

## ARTICLE 8: OTHER COLLECTION-RELATED SERVICES

### ***8.01 Billing.***

**8.01.A General.** Contractor shall: (i) bill Customers for MSW and Recyclable Materials, Food Scraps, Yard Trimmings, Wood and Construction and Demolition Debris Collection at the City-established rates in Attachment D, as adjusted per the Agreement; (ii) maintain accurate billing and payment records; and (iii) bill Customers on a monthly, bimonthly or quarterly schedule as approved by City. Customers' bills shall be itemized showing the charges for each classification of services. Customer billing shall be performed pursuant to the requirements contained in Attachment B, Section 1.

**8.01.B City Inserts.** City may direct Contractor to produce and insert mailers with billings for Proposition 218 rate notices, and relating to City-sponsored events, integrated waste management activities, other environmental programs, and actual rate increases (once approved by the City Council) at least four (4) times per year. If a postage increase is incurred for the City insert, the City will be responsible for paying said increase. Contractor shall produce and mail said notices to all Customers, even those with online bill pay or direct debit bill pay.

**8.01.C Delinquent Accounts.** 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. City shall not

be responsible for any uncollected amounts and Contractor shall not be compensated for any uncollected or uncollectible bad debts.

**8.01.D Billing Records.** Contractor shall keep records of all billing documents and customer account records including, but not limited to, invoices, customer payment coupons mailed with the invoice and collection notices, for a period of seven (7) years after the date of receipt or issuance. Contractor may, at its option, maintain those records in electronic form, hard copy, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner.

***8.02 Public/Customer Service and Accessibility.***

**8.02.A Office Hours and Location.** Contractor shall maintain an office located either in the City or within a twenty-five (25) mile radius of the City limits. The office will be available for customers to pay bills, subscribe to service, change service, stop service and otherwise contact Contractor. Contractor's office shall be open to the public from 8 a.m. to 5 p.m. Monday through Friday. The office may be closed on Saturdays, Sundays and holidays as defined in this Agreement.

**8.02.B Availability of Representative.** A knowledgeable representative of the Contractor shall be available during office hours to communicate with the City and members of the public in person and by telephone and to assist customers making payment in person.

**8.02.C Telephone.** Contractor shall maintain a telephone in operation at its office during office hours. Incoming calls will be answered in a manner satisfactory to the City. Contractor shall install telephone equipment sufficient to handle the volume of calls typically experienced on the busiest weekday. Contractor shall also maintain an emergency telephone number for use during other than normal business hours and shall provide that number to City. Contractor shall have a representative, or an answering service to contact such representative, available at the emergency telephone number during hours when the office is closed. Contractor shall arrange for the regular telephone number to be listed in all telephone directories (including online directors) generally distributed and available in the City and on all Contractor's bills and invoices.

Contractor must ensure that telephone calls to it from locations within the City are billed as "local calls" by all telephone companies.

If City receives complaints that Customers are unable to reach Contractor's office by phone, or are subject to excessive waiting time "on hold" or are required to navigate through a complex voice mail system prior to reaching a customer service representative, City may require that Contractor install additional telephone lines and/or simplify its voicemail system.

**8.02.D Correspondence.** Contractor shall respond to all written correspondence including all faxes and e-mail or other electronic correspondence from City or Customers within five (5) business days.

**8.02.E Electronic Payment of Bills.** Contractor shall provide electronic access to Customers for the following: (i) Sign up for service, (ii) Changes to service, (iii) Discontinuation of service, and (iv) Payment of Bills.

**8.02.F Maps, Schedules, Consumer Information.** Contractor shall furnish the City with maps and schedules for all Collection routes on or before October 1, 2018, and shall update such maps and schedules whenever a change occurs. Contractor shall have current maps and schedules available for inspection by the public at its business office. Contractor shall submit a new revised set of maps and schedules to City on May 1 of each year of the Term commencing October 1, 2019.

In addition, Contractor shall prepare and have available brochures containing information about the Collection of MSW and Recyclable Materials including: schedules of Collections, curbside procedures, and other useful information. Information brochures shall be mailed to City Residents or Businesses upon request and shall also be distributed to all new Customers. Such brochures are in addition to the specific public information and outreach materials described in Attachment B.

Contractor will submit drafts of the maps, schedules and brochures to City prior to distribution and will incorporate City's comments in the final version distributed to the public.

**8.03 Service Complaints.** Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer

complaints relating to service and billing. Contractor shall record in a separate log, the format of which is approved by the City, all complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. This complaint log shall be available for inspection by City and information on complaints received and their resolution shall be submitted as part of the Monthly Reports described in Attachment K, Item #9.

Contractor shall respond to all complaints from Customers within eight (8) working hours of its receipt of notice of the complaint. In particular, if a complaint involves a failure to collect MSW or Food Scraps from a Premises as required by this Agreement, Contractor shall collect the MSW or Food Scraps in question within such eight (8) working hour period, provided it has been placed for Collection in accordance with the City's Municipal Code. If the complaint is received after normal working hours, Contractor shall respond to the complaint within eight (8) working hours of the time Contractor's employees receive the complaint information (i.e. for a complaint left at 7:00 p.m. on a weekday, Contractor's employees would receive the complaint at 8:00 a.m. the following morning and would resolve the complaint before 4:00 p.m. the same day). Contractor shall respond to complaints of a missed pickup of Recyclable Materials, Yard Trimmings, Wood or Construction and Demolition Debris within eight business hours of receipt and shall complete the missed pickup within forty-eight (48) hours of receipt, and sooner if possible.

**8.04 Right to Terminate Service to a Premises.** The Contractor may suspend or terminate MSW Collection services provided to any Premises if the Owner or occupant

thereof (or other party responsible for payment) is delinquent in payment of such bills as described in Section 1.1.1 of Attachment B.

Contractor will promptly notify City of its intention to suspend or terminate service to a Customer.

**8.05 Change in Collection Schedule.** Contractor shall obtain written approval from City prior to any change in Collection operations which results in a change in the day on which Collection occurs at Residential Premises. Contractor will comply with the requirements in Attachment B regarding notice to customers of changes in operations.

**8.06 Report of Accumulation of MSW or Unauthorized Dumping.** Contractor shall direct its drivers to note: (i) the addresses of any Premises at which they observe that MSW is accumulating and is not being placed for Collection and (ii) the address, or other location description, at which MSW has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to City within two (2) working days of such observation.

## ARTICLE 9: RECORD KEEPING, REPORTING, INSPECTIONS AND AUDITS

**9.01 General.** Contractor recognizes that maintenance of accurate and complete records of its operations and timely submission to City of accurate and complete reports is an essential aspect of the services to be provided by it under this Agreement.

**9.02 Record Keeping.** Contractor shall maintain accurate records of: (i) personnel; (ii) equipment; (iii) Collection operations; (iv) tonnages and Disposal used for MSW and Disposal of Residue from the following facilities: Clean MRF, Composting Facility, Food Scrap Processing Facility(ies), Construction and Demolition Debris Processing Facility (v) Diverted Tons of Recyclable Materials, Yard Trimmings, Wood, Food Scraps and Construction and Demolition Debris; (vi) Customer service; (vii) billing and payment; (viii) sale of Recyclable Materials, Compost, Construction and Demolition materials, and any and all energy, and all other revenue-generating products; (ix) financial matters; and (x) other matters in such detail and format necessary to compile the reports required by this Agreement, including, but not limited to, all reports listed in Attachments K and N. All records of activities of Contractor in fulfilling the requirements of this Agreement, including but not limited to the above-listed records, shall be maintained by Contractor for the entire Term of the Agreement. Contractor may, at its option, maintain those records in electronic form, hard copy, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner.

**9.03 Reporting.** Contractor shall compile and submit to City complete and accurate reports required by this Agreement, including but not limited to the following:

**9.03.A Reports Listed in Attachment K.** Monthly, quarterly and annual reports of Tonnages, Collection and Diversion operations, and other items.

**9.03.B Reports Listed in Attachment N.** Results of Characterization Studies of all Processing Facilities and results of all On-Site Field Container Contamination Audits.

**9.04 Inspection by City.** The City shall have the right, but not the obligation, to observe and inspect all of the Contractor's operations involved in providing services under this Agreement to determine whether Contractor is performing in accordance with this Agreement and applicable laws and regulations. Contractor shall cooperate fully with such inspections, including inspections and observations of operations at all Processing Facilities. In connection therewith, the City shall have the right to enter any of Contractor's facilities, observe operations for an unlimited amount of time, photograph operations and record by both written and electronic media such observations, measurements and quality of Recovered and/or processed materials. Where photo-documentation or other media capture is required by City or its agents to verify Contractor's claims and/or reported tonnages, Diversion or other information, such material shall be stored at Contractor's facility in a location secured to Contractor's satisfaction. The City shall have the right to speak with any of Contractor's employees, where it is necessary to obtain clarification or pertinent detail that can best be provided by the employee(s), and to receive a response to any inquiries directed to such employees; and review and make copies (at City's expense) of any and all of Contractor's operational and business records related to this Agreement. If City so requests, Contractor shall make specified personnel available to accompany City

employees and/or City's agents on inspections. City's access to, and observation of activities and operations at each Processing Facility, shall not be restricted or impaired in any way by Contractor.

City may periodically investigate Contractor's financial status to determine Contractor's financial capacity to continue to perform in accordance with this Agreement. Such investigations will be done at the sole expense of City, using such City employees or independent agents as City deems appropriate. Contractor shall cooperate during such investigations and shall make available for inspection such records as the City, its agents and/or authorized personnel, may request.

Contractor shall maintain a complete roster of employees providing service under this Agreement. The roster shall contain the name, social security number, job classification and such other information as City may require. The City may inspect the roster, and make a copy thereof at its expense, at any time during business hours. City shall have the right to observe Containers of MSW, Recyclable Materials, Yard Trimmings, Wood, Food Scraps, Construction and Demolition Debris and all other materials for the purpose of conducting waste audits and Contamination audits as needed during the Term.

**9.05 Compliance Reporting.** Contractor shall submit monthly, quarterly and annual reports to the City documenting the disposition of MSW, Recyclable Materials, Yard Trimmings, Wood, Compost, Food Scraps, Anaerobic Digestate (if applicable), Bioengineered Feedstock (if applicable) and energy produced by the Anaerobic Digestion Facility (if applicable) and shall format such reports so that they may be used by the City for City's compliance with the reporting requirements of the Act or any other

subsequently enacted federal, state or local laws, rules, or regulations governing integrated waste management. Contractor shall also comply with all requirements of AB 901 (PRC Sections 41821.5-41821.8) as it may be amended, and all regulations promulgated thereto, regarding reporting Tons to CalRecycle, the City and other agencies. The aggregation of tonnages permitted by AB 901 shall not alter any of Contractor's reporting requirements in this Agreement. The confidentiality provisions of AB 901 shall not apply to any of Contractor's reports submitted pursuant to this Agreement. All Contractor's reports are subject to audit by City, or by a third-party designated by City. The accuracy of all required reports to be submitted by Contractor are of paramount importance to City. Such reports show how Contractor is tracking and allocating Diverted Tons, Disposed Tons, Residue Tons and Tons delivered to, and marketed from, Processing Facilities. The number of Tons Diverted and Disposed directly impacts both the City's Diversion rate as calculated by the Act, and the City's costs of Diversion and of compliance with the Act. Therefore, City may take all necessary steps and actions to audit, analyze and review any tonnage discrepancies or any other discrepancies, in Contractor's calculations, allocations, tonnage tracking and submitted documentation and records.

#### **9.05.A Reporting of Multi-Family and Commercial Tons Separately.**

As described in the definition of Commercial and Business Establishments in Attachment A, Contractor shall report all Tons Collected at Multi-Family Premises separately from Commercial Tons. This includes but is not limited to, Tons of MSW, Recyclable Materials, Food Scraps, Yard Trimmings, Wood and Construction and Demolition Debris. Contractor may accomplish the separate tracking and reporting of

Multi-Family and Commercial Tons by any of the following: (i) use on-board scales and weigh each Bin or Cart as it is emptied into the Collection vehicle, record the weight and type of Customer for each lift (Multi-Family or Commercial) and report the Tons for each Customer type daily for each route; (ii) perform a Sector-Specific Density-on-Service Audit for Commercial and Multi-family routes and use the results to allocate Tons collected by weight using separate densities (pounds per cubic yard) measured for Multi-Family and Commercial on a semi-annual basis according to the methodology in Attachment H; or (iii) Collect Multi-Family and Commercial Tons on separate routes and report Tons Collected for each individual route. In the event that there is a discrepancy between the levels of Contamination observed in on-site field Container Contamination audits of Multi-Family or Commercial Containers, versus the level of Contamination determined by the Processing Facility characterization conducted pursuant to Attachment N, Contractor shall diligently work with City to identify the source(s) of Contamination and reduce them to the limits required by law in order to comply with the Act. In the event such efforts do not result in agreement between the Contamination levels identified by the on-site field Container Contamination audits and the Contamination levels identified by the Processing Facility characterization within plus or minus two percent (2%) of the measured results, City may direct Contractor to Collect Multi-Family and Commercial Tons in separate Collection vehicles or, in the alternative, to use on-board scales, at Contractor's sole expense.

#### **9.05.B Material Discrepancy in Data Reported.**

In the event that City discovers any material discrepancy in Contractor's reported Diversion, Disposal, Tonnages, or any reported data required by this Agreement, City

will notify Contractor and Contractor shall have fourteen (14) calendar days to explain or otherwise resolve the discrepancy or discrepancies to the satisfaction of City. If there remains any doubt or question about the accuracy of Contractor's calculations, allocations, documentation or disposition of Tons of MSW, Recyclable Materials, Yard Trimmings, Wood, Food Scraps, Construction and Demolition Debris, Compost, Bioengineered Feedstock (if applicable), Digestate (if applicable) or any other materials, City may undertake a detailed examination of all information, documentation, calculations and other data.

Contractor shall reimburse City's actual costs up to seventy-five thousand dollars (\$75,000) in each calendar year for such analysis, research, and review. Contractor shall cooperate fully with City's efforts and shall provide in a timely manner all additional City-requested documentation, information, and records (both electronic and hard copy) and shall provide access to all City requested documents and records both of Contractor and of the Processing Facilities used to process Tons Collected in City.

City will invoice Contractor for the actual cost of the additional tonnage and allocation review and Contractor shall pay the invoice within thirty (30) days of receipt. In the event that Contractor fails to pay City's invoice within thirty (30) days of receipt, the liquidated damages listed in Section 13.09 for late payment shall apply.

**9.06 Annual Route Audit.** Contractor shall conduct an annual audit, during the month of July of each year of this Agreement, of all Collection routes for MSW and Recyclable Materials, Food Scraps, Yard Trimmings, and Wood. If City has directed Co-Collection of Food Scraps and Yard Trimmings for any Customers, audits of such Co-Collection routes shall also be performed. The audit shall include, at a minimum: (i) the route

number, (ii) identification number of vehicles servicing each route, (iii) number and type of accounts serviced by route and by truck, (iv) number and sizes of Containers collected together with the frequency of Collection by route and by truck, (v) weight of MSW collected, (vi) weights by route and by truck of Single-Material Recyclables, Single Stream Recyclable Materials, Yard Trimmings, Food Scraps, Wood, (and Co-Collected Food Scraps and Yard Trimmings if City has directed any such Co-Collection programs), (vii) densities for all routes audited in pounds per cubic yard, and (viii) any pertinent operational details. Results of the route audit shall be delivered to City in their entirety, including, but not limited to, maps of routes with each route numbered, survey sheets, logs, route lists, forms used to gather information, and other similar documents, within ten (10) working days of completion of the audit, and in no event later than August 30 of each year of the Term. The initial audit shall be performed in July 2019 with the report due by August 30, 2019. Said audit may be undertaken directly by Contractor or on behalf of Contractor by another party, but in either event shall be completed at Contractor's sole expense.

**9.07 Characterization Studies and In-Field Container Contamination Audits.**  
Contractor shall conduct the following characterization studies and audits as described in Attachment N:

**9.07.A Characterization Studies.** Contractor shall conduct characterization studies of the streams of materials being delivered to each Processing Facility using the protocols and at the frequencies described in Attachment N. The first Processing Facility characterization studies shall be conducted during 2019 as described in Attachment N. The characterization study reports shall include the items

listed in Attachment N and be submitted to City at the frequencies described therein. City shall have the right to have City staff or City's representatives present during any of the studies. Contractor shall give City a minimum of fifteen (15) calendar days written notice of the date and time Contractor shall conduct each study. The characterization studies and the reports on results shall be performed and prepared at Contractor's sole expense.

The results of the characterization study shall be put into use the first day of the month following submittal of the report to the City and approval of the report and allocation method by City, and shall be used to report Tons Diverted and Disposed by each Processing Facility for the City of Laguna Niguel in the monthly reports submitted to City pursuant to Attachment K. Such results shall be used to report Tons Diverted and Disposed by each Processing Facility for the City of Laguna Niguel until the results of the next characterization study are approved by City. If and when Contractor is required to report to CalRecycle or any other agency, jurisdiction-specific Tons Diverted and Tons of Residue for each Processing Facility used by Contractor to process City's materials, Contractor shall report to CalRecycle figures that are consistent with the results of the Processing Facility characterization studies described herein.

**9.07.B In-Field Container Contamination Audits.** Contractor shall also conduct on-site field Container Contamination audits at Residential, Commercial and Business Establishments, using the protocols and at the frequencies described in Attachment N. The Contamination audit reports shall include the items listed in Attachment N and be submitted to City at the frequencies described therein. In-field Contamination audits shall commence as described in Attachment N. City shall have

the right to have City staff or City's representatives present during any of the audits. Contractor shall provide City a schedule and list of locations/routes where audits will be conducted upon City request. The audits and the reports on results shall be performed and prepared at Contractor's sole expense.

**9.08 Route Density Audits – Residential, Multi-Family and Commercial.** Contractor shall, on a quarterly basis, conduct the route density audits described in Attachment H. The results will be used by City to convert visual volumetric measurements of Contamination observed during the in-field Container Contamination audits described in Section 9.07 B into weight-based Contamination data. In the event the results of the route density audits differ by twenty-five percent (25%) or more from the densities found during the characterization studies described in Section 9.07 A, Contractor's Recycling Coordinators shall work with all affected Customers to right-size service levels (including evaluating Container size, number of Containers and Collection frequency) as described in Section 3.3.6 of Attachment B.

**9.09 Annual City Review of Contract Audits and Results.** Each year of the Term, City shall have the right, but not the obligation, to conduct a review of the procedures used to perform all audits and characterization studies described in Sections 9.05, 9.06, 9.07 and 9.08 and the results of said audits and studies. If City desires to review the audit and/or study results and/or procedures, City will contact Contractor to schedule a meeting or series of meetings to discuss the procedures and results. At City's sole discretion, Contractor shall change the audit and/or study protocol, timing and frequency as directed by City and shall put such changes into effect with the next audit and/or study. City's review of audit and study procedures may include review of Contractor

and Processing Facility records and on-site visits to Contractor's facilities and Processing Facilities. City's access to, and observation of activities and operations at each Processing Facility shall not be restricted or impaired in any way by Contractor.

**9.10 Reporting of Adverse Information.** Contractor shall immediately provide the City three (3) 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 Contractor from, the United States, U. S. Environmental Protection Agency, California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, state or local agency, including but not limited to any federal or state court. Contractor's routine correspondence with said agencies need not be submitted to City, but shall be made available to the City promptly upon City's written request.

## ARTICLE 10: INDEPENDENT CONTRACTOR

**10.01 Contractor an Independent Contractor.** In the performance of services under this Agreement, the Contractor shall be, and is, an independent contractor, and is not an agent or employee of the City. Contractor has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all Persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's employees and other agents.

**10.02 No Partnership or Joint Venture Created.** Nothing in this Agreement shall be construed as creating a partnership or joint venture between the City and Contractor, or as giving the City a duty to supervise or control the acts or omissions of any Person performing services or work under the Agreement.

**10.03 No Entitlement to City Benefits.** Neither Contractor nor its officers, employees, agents or subcontractors shall be entitled to any retirement benefits, workers' compensation benefits or any other benefits which accrue to any City employees, and Contractor expressly waives any claim it may have to acquire to such benefits. Contractor agrees to defend and indemnify City for any claims brought by Contractor's employees against City for such benefits.

## **ARTICLE 11: INDEMNITY, INSURANCE, BOND**

**11.01 General Indemnification.** Contractor shall indemnify, defend and hold harmless City, its officers, employees and agents, from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature including, but not limited to, injury to and death of any person and damage to property or for contribution or indemnity claimed by third parties (collectively, the "Claims"), arising out of or occasioned in any way by, directly or indirectly, City's grant of this Franchise to Contractor, Contractor's breach of its obligations under this Agreement, or Contractor's performance of, or its failure to perform, its obligations under this Agreement. The foregoing indemnity shall not apply to the extent that the Claim is caused solely by the sole negligence or the intentional misconduct of City, its officers, employees or agents, but shall apply if the Claim is caused by the joint negligence of Contractor or other Persons. Upon the occurrence of any Claim, Contractor, at Contractor's sole cost and expense, shall defend (with attorneys reasonably acceptable to City) City, its officers, employees, and agents. Contractor's duty to indemnify and defend shall survive the expiration or earlier termination of this Agreement.

### **11.02 Insurance.**

**11.02.A Types and Amounts of Coverage.** Contractor shall procure from an insurance company or companies licensed to do business in the State of California and shall maintain in force at all times during the Term the following types and amounts of insurance:

**11.02.A.1 Workers' Compensation and Employer's Liability.**

Contractor shall maintain workers' compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State of California. Contractor shall maintain employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident or disease. Contractor shall not be obligated to carry workers compensation insurance if (i) it qualifies under California law and continuously complies with all statutory obligations to self-insure against such risks; (ii) furnishes a certificate of Permission to Self Insure issued by the Department of Industrial Relations; and (iii) furnishes updated certificates of Permission to Self Insure periodically to evidence continuous self insurance.

**11.02.A.2 Comprehensive General Liability (and Automobile Liability).** Contractor shall maintain comprehensive general liability insurance with a combined single limit of not less than Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) annual aggregate covering all claims and all legal liability for personal injury, bodily injury, death, and property damage, including the loss of use thereof, arising out of, or occasioned in any way by, directly or indirectly, Contractor's performance of, or its failure to perform, services under this Agreement.

The insurance required by this subsection shall include:

- (i) Premises Operations (including use of owned and non-owned equipment);
- (ii) Products and Completed Operations (including protection against liability resulting from use of Recyclable Materials by another Person);
- (iii) Personal Injury Liability with employment exclusion deleted;
- (iv) Broad Form Blanket Contractual with no exclusions for bodily injury, personal injury or property damage (including coverage for the indemnity obligations contained herein);
- (v) Owned, Non-Owned, and Hired Motor Vehicles;
- (vi) Broad Form Property Damage.

The comprehensive general liability insurance shall be written on an "occurrence" basis (rather than a "claims made" basis) in a form at least as broad as the most current version of the Insurance Service Office commercial general liability occurrence policy form (CG0001). If occurrence coverage is not obtainable, Contractor shall arrange for "tail coverage" on a "claims made" policy to protect City from claims filed within four years after the expiration or termination of this Agreement relating to incidents that occurred prior to such expiration or termination. Any excess or umbrella policies shall be on a "following form" basis.

**11.02.A.3 Pollution Liability.** Contractor shall maintain contractor's environmental liability insurance with limits in an amount of not less than One Million Dollars (\$1,000,000) per occurrence and annual aggregate covering claims for on-site, under-site, or off-site bodily injury and property

damage and regulatory fines as a result of pollution conditions arising out of its operations under this Agreement.

**11.02.A.4 Physical Damage.** Contractor shall maintain comprehensive (fire and theft) physical damage insurance covering the vehicles and equipment used in providing service to City under this Agreement, with a deductible or self-insured retention not greater than One Hundred Thousand Dollars (\$100,000). The deductible limit may be increased by City with acceptable proof of self-insurance. Notwithstanding the foregoing, Contractor shall be allowed to self-insure for physical damage to its vehicles provided Contractor provides adequate audited financial information to City and City is reasonably satisfied that Contractor has the financial net worth to cover any losses.

**11.02.B Acceptability of Insureds.** The insurance policies required by this section shall be issued by an insurance company or companies admitted to do business in the State of California, subject to the jurisdiction of the California Insurance Commissioner, and with a rating in the most recent edition of Best's Insurance Reports of size category VIII or larger and a rating classification of A or better.

**11.02.C Required Endorsements.** Without limiting the generality of Sections 11.02.A and B, the policies shall contain endorsements making the City and its officers, employees, and agents an additional insured, and shall further contain additional endorsements in substantially the following form:

### **11.02.C.1 Workers' Compensation and Employers' Liability Policy.**

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

CITY OF LAGUNA NIGUEL  
Office of the City Manager  
30111 Crown Valley Parkway  
Laguna Niguel, California 92677  
Attention: City Manager

"Insurer waives all right of subrogation against City and its officers and employees for injuries or illnesses arising from work performed for City."

### **11.02.C.2 Comprehensive General Liability Policy; Pollution Liability Policy.**

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

CITY OF LAGUNA  
NIGUEL  
Office of the City Manager  
30111 Crown Valley  
Parkway  
Laguna Niguel, California  
92677  
Attention: City Manager

"This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by the City of Laguna Niguel, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

"Inclusion of the City of Laguna Niguel 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 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 company's liability as set forth in the policy beyond the amount shown or to which the company would have been liable if only one party had been named as an insured."

#### **11.02.C.3 Physical Damage Policy.**

Notice of cancellation, reduction in coverage or non-renewal, as provided in Section 11.02.

Cross liability endorsement, as provided in Section 11.02.

Waiver of subrogation against City.

**11.02.D Delivery of Proof of Coverage.** No later than ten (10) calendar days after execution of this Agreement by both parties, Contractor shall furnish City one or more certificates of insurance on a standard ACORD form and required endorsements substantiating that each of the coverages and endorsements required hereunder are in force, in form and substance satisfactory to City. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall be accompanied by all required endorsements. If City requests, copies of each policy, together with all endorsements, shall also be promptly delivered to City in one complete package.

Contractor shall furnish renewal certificates to City to demonstrate maintenance of the required coverages throughout the Term. Each year on or before the renewal date for all insurance policies required herein, Contractor shall deliver to City a new package containing all insurance certificates with all of the required endorsements and copies of all insurance policies required by this Agreement.

#### **11.02.E Other Insurance Requirements.**

1. In the event performance of any service is delegated to a subcontractor, Contractor shall require such subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for

all of the subcontractor's employees engaged in the work. The liability insurance required by Subsection 11.02.A.2 shall cover all subcontractors or the subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 11.02.

2. 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, including those imposed by Section 11.01. If any claim is made by any third Person against Contractor or any 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.

3. If Contractor fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any monies due Contractor. Alternatively, the City may treat the failure as a Contractor Default.

4. City is not responsible for payment of premiums for or deductibles under any required insurance coverages.

**11.03 Faithful Performance Bond.** Not later than ten (10) calendar days after execution of this Agreement by both parties, Contractor shall file with City a bond securing the Contractor's faithful performance of its obligations under this Agreement. The principal sum of the bond shall be Five Hundred Thousand Dollars (\$500,000). The

form of the bond shall be as set out in Attachment L. The bond shall be executed as surety by a corporation admitted to issue surety bonds in the State of California, regulated by the California Insurance Commissioner and with a financial condition and record of service satisfactory to City.

The term of the bond shall be not less than twelve (12) months, or until December 31, 2019, whichever occurs first. The bond shall be extended, or replaced by a new bond in the same principal sum, for the same term (i.e., twelve (12) months) and in the same form, annually thereafter. Not less than ninety (90) days before the expiration of the initial bond, the Contractor shall furnish either a replacement bond or a continuation certificate substantially in the form attached as Attachment M, executed by the surety.

It is the intention of this Section 11 that there be in full force and effect at all times a bond securing the Contractor's faithful performance of the Agreement, throughout its Term.

**11.04 Alternative Security.** City may, in its sole discretion, allow Contractor to provide alternative security in the amount set forth in Section 11.03, in the form of (a) a prepaid irrevocable standby letter of credit in form and substance satisfactory to City and approved by the City Attorney and issued by a financial institution acceptable to City, or (b) a certificate of deposit in the name of the City with a term satisfactory to City and with a financial institution acceptable to City.

**11.05 Hazardous Waste Indemnification.**

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

specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City) reimburse, indemnify, and hold City and its past and present officers, council members, employees, consultants and agents (hereinafter "Indemnified Parties") harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, administrative actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

1. Results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnified Party is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Waste (as defined herein); or
2. Relates to material collected, transported, recycled, processed, treated or disposed of by Contractor.

**11.05.B** Contractor's obligations pursuant to this section shall apply, without limitation, to:

1. Any Claims brought pursuant to or based on the provisions of the Comprehensive Environmental Response, Compensation and Liability Act

(“CERCLA”), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 9601 et seq., the California Hazardous Substances Account Act (California Health & Safety Code Sections 25300 et seq.), the California Hazardous Waste Control Laws (California Health & Safety Code Sections 25100 et seq.), the California Porter-Cologne Act (California Water Code Section 13000 et seq.), and any and all amendments and regulations thereto, and any other Federal, State, regional or local environmental statutory or regulatory provision;

2. Any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation 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.

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

**11.05.D** For purposes of this Agreement, the term "Hazardous Waste" shall mean any "hazardous material," as that term is defined under California Health & Safety Code Section 25501(1); any "hazardous substance," as that term is defined herein or under California Health & Safety Code Sections 25281(f), 25501(e), 25501.1 and under Title 42, Section 9601(14) of the United States Code; any "Hazardous Waste," as that term is defined under Title 42, Section 6093(5) of the United States Code and under California Health & Safety Code Section 2550(m); 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 Waste" shall also include any and all amendments to the above-referenced statutory and regulatory provisions made before or after the date of execution of this Agreement.

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

**11.06 *Integrated Waste Management Act Indemnification.*** The parties agree that Contractor's implementation of all programs in Attachment B is vital to the City's compliance with the Act. Therefore, Contractor agrees to indemnify and hold harmless the Indemnitees against all fines and/or penalties imposed by CalRecycle: (i) based on Contractor's failure to comply with laws, regulations or permits issued or enforced by CalRecycle or the City; (ii) caused or contributed to by the Contractor's failure to perform

its obligations under this Agreement, including, but not limited to, implementation of all programs in Attachment B in the timeframes required. This indemnity obligation is subject to the limitations and conditions in Public Resources Code Section 40059.1 but is enforceable to the maximum extent allowable by that Section. In the event that CalRecycle imposes penalties, fees and/or sanctions against City, Contractor shall, in addition to paying the fines and penalties, pay all City's costs and fees for staff time, consultants, attorneys and all other costs of defending and resolving the issue of CalRecycle issuing fines, penalties and/or sanctions against City.

***11.07 Indemnification For Land Application and/or Use(s) of Anaerobic Digestate.***

In the event City agrees to approve land application of Anaerobic Digestate pursuant to Section 6.04 and/or if Contractor land applies Anaerobic Digestate without City approval, and/or if Contractor sells, donates or otherwise consents to use of Anaerobic Digestate for any purpose, Contractor agrees to indemnify City as follows:

A. Without regard to any insurance coverage or requirements, and without limiting the general indemnification obligation or the Hazardous Waste Indemnification contained in this Article 11 in any way, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City) reimburse, indemnify, and hold City and its past and present officers, council members, employees, consultants and agents (hereinafter "Indemnified Parties") harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, administrative orders, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to

response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

1. Results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnified Party is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Anaerobic Digestate (as defined in Attachment A) or any constituent, compound, chemical or component contained in Anaerobic Digestate, including any condition caused by land application of Anaerobic Digestate.

**B.** Contractor's obligations pursuant to this Section 11.07 shall apply in addition to all other indemnification obligations set forth in this Agreement, and shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate or subcontractor of Contractor, and irrespective of any alleged negligent act or omission of an Indemnified Party. Contractor's obligations pursuant to this Section 11.07 shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

## ARTICLE 12: COMPENSATION TO CONTRACTOR

**12.01 General.** Contractor shall perform the services required by this Agreement in consideration for: (i) the right to charge customers the rates set forth on Attachment D as they may be adjusted as provided in this Article, and (ii) the right to retain all revenues, if any, from the sale of Recyclable Materials, Yard Trimmings, Food Scraps (including revenue from creation, sale and use of energy and compost) and Construction and Demolition Debris Collected by Contractor. The revenues received from these sources shall be the full, entire and complete compensation due to Contractor for all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, profit and all other things necessary to perform all the services required by this Agreement in the manner and at the times prescribed. City shall not be obligated to make any payments to Contractor under this Agreement, including payments to compensate Contractor for delinquent or uncollectible amounts charged to Customers.

**12.02 Initial Rates.** The rates which Contractor may charge for services provided from January 1, 2019 through June 30, 2019, shall be those set forth in Attachment D-1. Rates are established to incentivize waste Generators to Divert as much MSW as possible in order to reduce their monthly collection bill. The initial rates are established to provide Collection of Single Stream Recyclable Materials and Single-Material Recyclable Materials at Business and Commercial Establishments and of Food Scraps at food-generating Business and Commercial Establishments at a cost that is fifty percent (50%) less than MSW Collection service.

If there is a service that Contractor believes it is required to provide and for which there is no City-approved rate in Attachment D, Contractor shall notify City. The City

may, in its sole discretion, establish a rate for the new service, following completion of any proceedings required under Article XIIIID, Section 6, of the California Constitution or other applicable law. Unless and until City establishes a rate for such service, Contractor shall not provide nor charge for the service. City shall have no obligation or duty to establish a rate for such service.

Contractor shall charge the appropriate rate for the size Container provided.

**12.03 Annual Rate Adjustments.** The rates for services provided from July 1, 2019 through June 30, 2020 shall be the rates in Attachment D-2, adjusted in accordance with Attachment J. Such rates shall become effective following completion of City Council approval and the proceedings required under Article XIIIID, Section 6 of the California Constitution, and contingent upon the City not receiving a majority protest against the rate increase as part of such proceedings.

Annually, as of July 1 for each ensuing year of the Term, the rates shall be adjusted in accordance with Attachment J, following completion of the proceedings required under Article XIIIID, Section 6 of the California Constitution, and contingent upon the City not receiving a majority protest against the rate increase as part of such proceedings.

The parties recognize that rates established under this Contract may be considered fees or charges for property-related services pursuant to California Constitution Article XIIIID. The City intends to comply with the requirements of that Article when adjusting rates, including but not limited to, those rates set forth in Attachments D-1 and D-2. If a proposed rate adjustment may not be enacted as a result of a protest pursuant to Article XIIIID, Section 6, or if rates in effect are reduced as a

result of an initiative measure authorized by Article XIIID, Section 3, the City's inability to increase or maintain the rates as contemplated shall not constitute a breach of this Agreement.

Contractor shall be responsible for printing and distribution by first-class mail of any and all required legal notices of proposed annual rate adjustments including, but not limited to the following: an annual notice of rate increase; a notice of rate setting for a five (5) year period and each annual notice of rate increase thereafter as described in Government Code Section 53755 as it may be amended in the future. Notices shall be mailed to all Customers and property owners in City, with Contractor utilizing its best efforts to avoid duplication of mailings to the same Person or Commercial and Business Establishment, but when in doubt, erring on the side of mailing such that all Customers and property owners are notified of the proposed rate adjustments.

Content of the notices shall be submitted to City for approval at least seven (7) days prior to mailing, or City may choose to provide the content and layout of the notice to Contractor. In that event, Contractor shall promptly have the notice set up for final printing, proofed, printed and mailed within fifteen (15) day of receipt of the notice content from City. If City provides the content for the notice, Contractor shall utilize the content of such notices as provided by City. City shall make the determination as to whether or not such notice may be included on or with Contractor's regular bills to Customers and if not, City may require that Contractor prepare and send a separate mailing. The decision of the City shall be final.

**12.04 Disposal Charge Adjustments.** If the Disposal Charge at Orange County Landfills (or any other City-designated Disposal Site then in use) is changed (increased or decreased) for whatever reason including, but not limited to, new or increased taxes or regulatory fees, the Disposal portion of the rates shall be adjusted according to the instructions provided in Attachment J, following completion of the proceedings required under Article XIID, Section 6 of the California Constitution, and contingent upon the City not receiving a majority protest against the rate increase as part of such proceedings. Disposal Charges are a pass through cost and Contractor shall not be entitled to receive or charge any profit, markup, overhead or administrative costs on Disposal Charges.

**12.05 Franchise Fee** In consideration of the rights granted to Contractor hereunder, and in order to offset the City's costs in administering this Agreement including, but not limited to, planning, monitoring, and implementation of additional Diversion programs, additional public education on Diversion programs, technical consulting assistance on solid waste, recycling and other related issues, preparation of any studies required by the City or by CalRecycle related to compliance with the Act, preparation of required reports and documentation under the Act, monitoring of Contractor's performance under this Agreement, and any other City costs related to compliance with the Act, Contractor shall pay to the City a fee equal to five percent (5%) of Contractor's gross revenues derived from providing services under this Agreement (the "Franchise Fee") less any revenues derived from rental or leasing of compactor units to Customers within City. Contractor shall remit the Franchise Fee monthly, within 30 days of the end of the calendar month for which the Franchise Fee is paid. Any overpayment to the City

through error or otherwise shall be offset against the next payment due from Contractor without interest. Acceptance by the City of any payment due under this paragraph shall not be deemed to be a waiver by the City of any breach of this Agreement, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City. In case of dispute between the City and Contractor regarding any amounts due, Contractor shall pay the undisputed portion of the amount claimed by the City as due and notify the City in writing at the time of payment as to any payment that is paid under protest, specifying the basis of its claim of overpayment. In addition, City may, in its sole discretion, increase the Franchise Fee at any time during the Term, by approving a commensurate increase in the rates set forth in Attachment D that is over and above the increases described in Sections 12.03, 12.04, 12.07, 12.08 and 12.09. If City chooses to increase the Franchise Fee in this manner City shall notify Contractor in writing of the amount of the change, and the effective date of the change.

**12.06 Late Fees.** If the Franchise Fee is not paid on time as described in Section 12.05 the Contractor shall pay City a late fee, and not as interest, in an amount equal to ten percent (10%) of the amount owing for that month. Contractor shall pay an additional ten percent (10%) late fee for each additional thirty (30) day period that any amount of the Franchise Fee or both, remains unpaid. Contractor agrees that the late fees described herein reasonably reflect the City's costs to process delinquency calculations and notices, and to monitor the Contractor's services, all in an effort to collect delinquent Franchise Fees which, together with all other remedies afforded City under this Agreement (including any award of attorney's fees and costs), and in accordance

with applicable laws, are intended to compensate City for any collection efforts in the event of Contractor's default in the payment of the Franchise Fee.

**12.07 Adjustments to Rates Based on City-Directed Changes In Scope of Work.** If the City has directed a change in the scope of work under Section 4.13 and either party believes that such change will increase or decrease the costs of providing service, the party which believes the rates should be adjusted shall, within thirty (30) calendar days after issuance of the notice of scope change, submit to the other party a proposed adjustment with complete supporting documentation of the cost calculations therein, and the parties shall thereafter meet and discuss the matter. City may request additional documentation, calculations and other information from Contractor in order to analyze information submitted by Contractor, or in order to make its own internal calculations of the cost change. Once the parties have formulated a cost adjustment, the City Council shall review the proposed adjustment and in the City Council's sole discretion, make the determination as to the appropriate amount of the adjustment. Only changes in Contractor's costs will be considered. No adjustment will be made to Contractor's compensation due to loss or reduction in any of the following: (a) Contractor's profits, (b) Contractor's revenues including, but not limited to, Processing Fees at a Contractor-owned and/or Contractor-operated Processing Facility; revenues from sale of Recyclable Materials, Compost, Food Scraps, Wood, and/or Processed Construction and Demolition Debris; revenues from sale of energy and/or other products produced at an Anaerobic Digestion Facility or received from sale or use of Engineered Feedstock.

**12.08 Payment of AB 939 Public Education Fee.** Contractor shall collect in rates the sum of \$20,000 per year (nine cents [\$0.09] per household per month) to be used for creation, production and distribution of public education materials to inform Customers about AB 939 requirements and Diversion programs available in City. Each quarter, beginning January 2019, Contractor shall submit to City a spreadsheet showing the quarterly contribution to the AB 939 Public Education fund which shall be one-fourth (1/4<sup>th</sup>) of the annual sum. Said spreadsheet shall provide City with an accounting of the balance in the fund, any interest earned, and the specific items and costs for each that funds have been used for. All expenditures from the AB 939 Public Education Fund shall be submitted to City for approval prior to expenditure. City may direct expenditures for specific items including but not limited to, design, production, printing and distribution of brochures, notices, and other public education materials, bill inserts, newspaper ads, and similar public outreach materials. Commencing July 1, 2019 and continuing thereafter until the end of the term of the Agreement, the AB 939 Public Education Fee shall be increased annually in an amount equal to the amount derived as follows: Multiply (A) the previous AB 939 Public Education Fee by (B) the percentage increase in the Los Angeles-Riverside-Orange County Average Consumer Price Index for "All Urban Consumers" published by the Bureau of Labor Statistics during the most recent 12 month period for which data for this index is available. Divide the result by the number of residential households in Laguna Niguel. Divide that number by 12 (12 months). The result is the new monthly amount to be collected in the residential rates. If the Bureau of Labor Statistics ceases publication of this index, City may select another index to serve as the basis of the calculation. City reserves the right to increase,

decrease or direct cessation of collection of the AB 939 Public Education Fee at any time. At any time the Fee amount is adjusted by City (including annual CPI adjustments), Contractor's rates shall be adjusted accordingly.

City reserves the right to increase, decrease or abolish the Public Education Fee at any time. In such event, City will provide written notice to Contractor and rates will be adjusted accordingly.

**12.09 Other Fees.** The City shall have the right to establish other fees and to collect such fees from Contractor, as City deems necessary in City's sole discretion. The amount, time and method of payment will be established similar to that described in Section 12.05. City shall provide Contractor with written notice of the establishment of any new fees along with the corresponding change in rates and remittance schedule.

## ARTICLE 13: DEFAULT AND REMEDIES

**13.01 Events of Default.** Each of the following shall constitute an event of default (“Contractor Default”) hereunder:

**13.01.A** (i) Contractor fails to perform its obligations under Articles 4, 5, 6 or 7 of this Agreement and the failure to perform is not cured within two (2) business days after receiving notice from the City specifying the breach; or (ii) in the case of any other breach of this Agreement, the breach continues for more than fifteen (15) calendar days after written notice from the City for the correction thereof.

**13.01.B** There is a seizure or attachment of, or levy affecting possession of, the operating equipment of Contractor, including without limitation, its vehicles, maintenance or office facilities, of such proportion as to substantially impair Contractor's ability to perform under this Agreement, and which is not released, bonded or otherwise lifted within two (2) business days.

**13.01.C** There is any termination or suspension from any cause (including labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action) of the Contractor's ability to collect MSW, Recyclable Materials, Yard Trimmings, Food Scraps or Construction and Demolition Debris for more than five (5) business days.

**13.01.D** Contractor files a voluntary case for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or shall consent to the appointment of or taking of possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or similar official)

of Contractor for any part of Contractor's operating assets or any substantial part of Contractor's operating assets or any substantial part of Contractor's property used to provide service to City pursuant to this Agreement, or shall make any general assignment for the benefit of Contractor's creditors, or shall fail generally to pay Contractor's debts as they become due or shall take any action in furtherance of any of the foregoing.

**13.01.E** A court having jurisdiction enters a decree or order for relief in respect of the Agreement, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or Contractor consents to or fails to oppose any such proceeding, and such proceeding shall remain undismissed or unstayed for a period of ninety (90) days or any such court enters a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Contractor or for any part of the Contractor's operating equipment or assets, or orders the winding up or liquidation of the affairs of the Contractor.

**13.01.F** Contractor fails to timely furnish an initial bond, or fails to furnish a replacement bond or a continuation certificate of the existing bond prior to expiration of the performance bond, as required by Section 11.03 of the Agreement, or Contractor fails to maintain all required insurance coverages in force at all times. The default shall occur immediately upon such failure without any necessity for notice from City of the breach. City shall have the right to give notice of termination under Section 13.02 immediately upon such default. Notwithstanding any other provision of this Agreement to the contrary, Contractor

shall not be entitled to an opportunity to cure any default comprising the failure to maintain all required insurance and/or the required bond.

**13.01.G** Contractor fails to provide reasonable assurance of performance required under Section 14.10.

**13.01.H** A representation or warranty contained in Article 2 proves to be false or misleading in a material respect as of the date such representation or warranty was made.

**13.01.I** Contractor falsifies tonnage reports or provides information that is materially misleading in any report or documentation provided to the City.

**13.01.J** Contractor fails to honor any of its indemnity obligations herein.

**13.01.K** Contractor, or any of its officers or employees is convicted of a felony in connection with performance of this Agreement.

**13.01.L** Contractor is found to have violated the Act, any Environmental Law, or any permit, order or rule of any regulatory agency in connection with Contractor's performance of this Agreement and such finding has become final and not subject to further appeal.

***13.02 Right to Suspend or Terminate Upon Default.***

**13.02.A** Upon any Contractor Default, City shall have the right to suspend or terminate this Agreement, in whole or in part. Such suspension or termination shall be effective thirty (30) days after City has given notice of suspension or

termination to Contractor, except that such notice may be effective immediately if the Contractor Default is one which endangers the health, welfare or safety of the public. Notice may be given orally in person or by telephone to the representative of Contractor designated in or under Section 14.06 (or, if he/she is unavailable, to a responsible employee of Contractor) and shall be effective immediately. Written confirmation of such oral notice of suspension or termination shall be sent by personal delivery, facsimile, or other expedited means of delivery to Contractor within twenty-four (24) hours of the oral notification. Contractor shall continue to perform the portion of the Agreement not suspended, in full conformity with its terms.

**13.02.B** In the event of non-performance by Contractor due to a Force Majeure event, the provisions of Section 14.12 shall apply.

**13.03 Specific Performance.** By virtue of the nature of this Agreement, the urgency of timely, continuous and high-quality service, the lead time required to effect alternative service, and the rights granted by City to Contractor, the remedy of damages for a breach hereof by Contractor is inadequate, and the City shall be entitled to injunctive relief to require Contractor to perform its obligations herein.

**13.04 Use of Contractor Property Upon Default.** In the event that Contractor fails to perform any of its obligations under Articles 4, 5, 6 or 7 and fails to perform such work within two (2) business days after notice from City, City shall have the right to use any of Contractor's land, equipment, facilities and other property reasonably necessary for the provision of services hereunder and the billing and collection of fees for those services.

The City shall have the right to continue use of such property until other suitable arrangements can be made for the provision of such services, which may include the award of a contract to another service provider.

**13.05 Right to Perform.** If this Agreement is suspended and/or terminated due to a Contractor Default, City shall have the right to perform and complete, by contract with a third party or otherwise, the work herein or such part thereof as it may deem necessary and to procure labor, equipment, and materials and incur all other expenses necessary for completion of the work and services provided for herein. In such event Contractor shall pay City for the expenses incurred. If City has invoked its rights under Section 13.04, City shall comply with the provisions of Section 13.06. In addition, City reserves the right to access and utilize the proceeds of the Faithful Performance Bond or Alternative Security provided by Contractor pursuant to Article 11.

**13.06 Payment for Use of Contractor's Property.** If the City invokes its rights to use Contractor's equipment, facilities, and other property pursuant to Section 13.04, and such use continues after the period of time for which Contractor has already received revenue from Customers for services performed, Contractor shall be entitled to the reasonable rental value of such property, which shall be offset against the damages due the City as a result of Contractor's Default. Contractor agrees that it will fully cooperate with the City to effect the City's use of such property. The City may immediately engage all or any personnel necessary for the provision of services, including, if the City so desires, employees previously employed by Contractor. Contractor further agrees, if the City so requests, to assist the City in securing the services of any or all management or office personnel employed by Contractor whose skills are reasonably

necessary for the continuation of services. The City agrees that it assumes complete responsibility for the proper, normal use of such equipment and facilities while in its possession. Contractor agrees that the City's exercise of its rights under this section:

- (i) does not constitute a taking of private property for which compensation must be paid;
- (ii) will not create any liability on the part of the City to Contractor other than the payment of reasonable rental value as provided for in this subsection;
- (iii) does not exempt Contractor from the indemnity provisions of Article 11 which are meant to extend to circumstances arising under this Section.

**13.07 Damages.** Contractor shall be liable to City for all direct, incidental, special and consequential damages arising out of Contractor's Default. This section is intended to be declarative of existing California law.

**13.08 City's Remedies Cumulative.** City's rights to suspend or terminate the Agreement under Section 13.02, to obtain specific performance under Section 13.03, to cure under Section 13.04 and to perform under Section 13.05 are not exclusive, and City's exercise of one such right shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and equitable rights and remedies that the City may have, including a legal action for damages, including all direct, indirect, incidental, consequential and/or special damages under Section 13.07.

**13.09 Liquidated Damages.** The parties acknowledge that consistent, courteous and efficient Collection of MSW, Recyclable Materials, Food Scraps, Yard Trimmings, Wood and Construction and Demolition Debris is of utmost importance and City has considered and relied on Contractor's representations as to its quality of service commitment in entering into this Agreement. The parties further recognize that

quantified standards of performance are necessary and appropriate to ensure consistent and reliable service. The parties further recognize that if Contractor fails to achieve the performance standards, City and its residents will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of damages that City will suffer. Therefore, 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 City that reasonably could be anticipated, and anticipation that proof of actual damages would be costly or inconvenient. 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 had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision at the time that this Agreement was made.

Contractor Initial Here: \_\_\_\_\_

City Initial Here: \_\_\_\_\_

Contractor agrees to pay to City (as liquidated damages and not as a penalty) the amount set forth below, all of which shall be adjusted upward annually using the procedure and calculations set forth in Section 12.03 herein and Attachment J:

### **13.09.A Collection Reliability.**

1. For each failure to commence service to a new customer account within seven calendar (7) days after order, in excess of two (2) such failures annually: ..... \$150.00
2. For each failure to collect MSW, Recyclable Materials, Food Scraps, or Yard Trimmings/Wood at a Commercial or Multi-Family Premises which has been properly set out for Collection, from an established

customer account, on the scheduled Collection day, in excess of five (5) such failures annually:..... \$500.00

3. For each failure to collect a Container containing MSW, Recyclable Materials, Food Scraps, or Yard Trimmings from a Residential Premises which has been properly set out for Collection, from an established Customer, on the scheduled Collection day, in excess of two-hundred fifty (250) such failures annually:..... \$100.00

4. For each failure to collect MSW, Recyclable Materials, Food Scraps or Yard Trimmings/Wood which has been properly set out for Collection, from the same customer on two (2) consecutive scheduled pick up days:..... \$250.00

**13.09.B Collection Quality.**

1. For each occurrence of damage to private property which is not corrected to the satisfaction of the property owner within thirty (30) days and which exceed two (2) such occurrences annually: ..... \$500.00

2. For each failure to properly return any empty container to avoid pedestrian or vehicular traffic impediments or to place any Cart in an upright position with lid securely closed, in excess of five (5) such occurrences annually: ..... \$150.00

3. For each occurrence of discourteous behavior to a customer:..... \$250.00

4. For each occurrence of excessive noise: ..... \$500.00

5. For each instance of collecting MSW, Recyclable Materials, Yard Trimmings, Food Scraps or Construction and Demolition Debris outside of Collection hours described in Section 4.08: ..... \$100.00

6. For each failure to clean up MSW, Recyclable Materials, Food Scraps or Yard Trimmings/Wood spilled from Containers, in excess of five (5) such failures annually: ..... \$500.00

- 7. For each occurrence of collecting MSW, Recyclable Materials, Food Scraps or Yard Trimmings/Wood during unauthorized hours, in excess of three (3) such occurrences annually: ..... \$500.00
- 8. For each failure to conform to the requirements of Sections 7.03.D.2, Cleaning; 7.03.D.3, Painting; 7.03.D.4, Maintenance; 7.03.D.8, Brake Inspections; 7.03.E, Operation; 7.04.C, Cleaning, Painting and Maintenance of Contractor-Furnished Containers; 7.05.B, Driver Qualifications; and 7.05.C, Uniforms, which exceed in any one or a combination of categories above three (3) such occurrences annually: ..... \$500.00

#### **13.09.C Responsiveness to Customer.**

- 1. For each failure to initially respond to a customer complaint within eight (8) working hours: ..... \$200.00
- 2. For each failure to carry out responsibilities for establishing service: ..... \$500.00
- 3. For each failure to conform to the litter abatement requirements of Section 4.11: ..... \$500.00
- 4. For each failure to prepare recycling plan per Section 3.3.6 (ii) of Attachment B, within 7 days of Customer or City request ..... \$500.00

#### **13.09.D Timeliness of Submissions to City.**

Any report required to be submitted to City by Contractor pursuant to this Agreement shall be considered late until such time as a correct and complete report is received by City. For each calendar day a report is late, the daily liquidated damage amount shall be:

- 1. Monthly report ..... \$250.00 per day
- 2. Quarterly report ..... \$500.00 per day
- 3. Annual report ..... \$750.00 per day

**13.09.E Accuracy of Billing.**

Each customer billing that is not prepared in accordance with City's approved schedule of rates: .....\$250.00

**13.09.F Recycling Coordinators.**

Each day City does not receive services of two (2) Recycling Coordinators (excluding Coordinators' holiday, vacation and sick leave days) including any day that City determines that either of the Recycling Coordinators is performing work for any other jurisdiction or entity that is unrelated to the duties of the Coordinator described herein [See Section 7.05.G describing exception for time for hiring of replacement Coordinator]: .....\$500.00

**13.09.G Alternative Fuel Vehicles.**

Each day Contractor fails to have in service Alternative Fuel Vehicles as required by Article 7: .....\$500.00

**13.09.H Compliance Reporting Audit.**

Each day, after the due date (City invoice must be paid within 30 days of the date on City invoice) Contractor fails to reimburse City for research and analysis of material data discrepancy as described in Section 9.05B: .....\$250.00

City may determine the occurrence of events giving rise to liquidated damages through the observation of its own employees, agents or representatives or through investigation of customer complaints.

Prior to assessing liquidated damages, City shall give Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. 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. Contractor may, within ten (10) days after receiving the notice, request a meeting with the City Manager or his or her designee. 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 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 or her designee shall be final.

**13.09.I Amount.** The City may assess liquidated damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.

**13.09.J Payment.** Contractor shall pay any liquidated damages assessed by City within ten (10) days after they are assessed.

City's right to recover liquidated damages for Contractor's failure to meet the service performance standards shall not preclude City from obtaining equitable relief for persistent failures to meet such standards nor from terminating the Agreement for such persistent failures.

**13.10 City Default.** City shall be in default under this Agreement ("City Default") in the event City commits a material breach of the Agreement and fails to cure such breach within thirty (30) days after receiving notice from the Contractor specifying the breach, provided that if the nature of the breach is such that it will reasonably require more than

thirty (30) days to cure, City shall not be in default so long as City promptly commences the cure and diligently proceeds to completion of the cure.

In the event of a City Default Contractor shall continue to perform all of its obligations hereunder until a court of competent jurisdiction has issued a final judgment declaring that there is a City Default.

## ARTICLE 14: OTHER AGREEMENTS OF THE PARTIES

**14.1 Compliance with Law; Non-Discrimination.** In providing the services required under this Agreement, Contractor shall at all times comply with all applicable laws of the United States, the State of California and City, with all applicable rules and 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 and with all permits affecting the services to be provided. Contractor shall not discriminate nor permit discrimination against any Person in a manner prohibited by federal or state law.

**14.2 Assignment.** Contractor acknowledges that this Agreement involves rendering a vital service to the City's residents and businesses, and that the City has selected Contractor to perform the services specified herein based on: (i) Contractor's experience, skill and reputation for conducting their operations in a safe, effective and responsible fashion, and (ii) Contractor's financial resources to maintain the required equipment and services 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 Contractor to perform the services to be rendered by Contractor under this Agreement.

**14.2.A City Consent Required.** Contractor shall not assign its rights or delegate or otherwise transfer its obligations under this Agreement to any other Person without the prior written consent of City. Any such assignment made without the consent of City shall be void and the attempted assignment shall constitute a Contractor Default.

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

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

1. Contractor shall pay City its reasonable expenses for consultants, attorneys' 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. Contractor shall furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;

3. Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of solid waste/recycling management experience on a scale equal to or exceeding the scale of operations conducted by Contractor; (ii) that the proposed assignee has experience, expertise and a verified history of successful implementation of collection, processing and diversion of Recyclable Materials, Food Scraps, Yard Trimmings/Wood and Construction and Demolition Debris and further, has a verified history of successful and continuous implementation of such programs in compliance with the requirements of AB 341, AB 1826 and SB 1383 in the last five (5) years; (iii) the proposed assignee has not been the subject of any administrative or judicial proceedings initiated by a federal, state or local agency having jurisdiction over its operations due to an alleged failure to comply with federal, state or local laws or that the proposed assignee has provided City with a complete list of such proceedings and their status; (iv) that the proposed assignee conducts its operations in a safe and environmentally conscientious

manner, in accordance with sound waste management practices in full compliance with all federal, state and local laws regulating the Collection and Disposal of MSW and all Environmental Laws; (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

**14.3 Subcontracting.** Contractor shall not engage any subcontractors to perform any of the services required of it by this Agreement without the prior written consent of City. Contractor shall notify the City no later than ninety (90) days prior to the date on which it proposes to enter into a subcontract. City may approve or deny any such request in its sole discretion.

Contractor may, in cases of emergency, engage subcontractors for up to seven (7) consecutive calendar days. Contractor shall give prompt notice to City of any such emergency subcontracting and any such engagement must be approved by City in writing if it is to extend beyond seven (7) calendar days, or if Contractor wishes to renew it after an interval of less than thirty (30) calendar days.

**14.4 No Affiliated Entity.** Contractor will not form or use any Affiliated Entity to perform any of the services or activities which Contractor is required or allowed to perform under this Agreement, other than as a subcontractor approved by City under Section 14.03.

**14.5 Contractor's Investigation; No Warranties by City.** 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, and the Recycling and

Source Reduction programs now in effect in the City including but not limited to Recyclable Materials, Food Scrap, Yard Trimmings/Wood and Construction and Demolition Debris collection, processing and diversion programs.

Contractor has carefully reviewed the information in the Source Reduction and Recycling Element adopted by the City under the Act. Contractor has operated collection operations in City since 1992 and represents it has extensive knowledge of and experience with all local conditions concerning provision of services required pursuant to this Agreement.

The City expressly disclaims any warranties, either express or implied, as to the merchantability or fitness for any particular purpose of Recyclable Materials, Yard Trimmings, wood, Food Scraps and Construction and Demolition Debris to be collected pursuant to this Agreement.

**14.6 Notice.** All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall, except as provided in Section 13.02, 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 (certified mail, return receipt requested), addressed as follows:

If to City:                   City Manager  
                                  City of Laguna Niguel  
                                 30111 Crown Valley Parkway  
                                 Laguna Niguel, California 92677

with a copy to the Laguna Niguel City Attorney at the same address

If to Contractor: Dean Ruffridge, Senior Vice President  
CR&R Incorporated  
11292 Western Avenue  
Stanton, California 90680

A notice given in accordance with this Section may change the address to which communications may be delivered from time to time.

***14.7 Representatives of the Parties.***

**14.7.A Representatives of City.** References in this Agreement to "City" shall mean the Laguna Niguel City Council and all actions to be taken by 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 officials and may permit such officials, in turn, to delegate in writing some or all of such authority to subordinate officers. Contractor may rely upon actions taken by such delegates if they are within the scope of the authority properly delegated to them.

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

**14.8 Right to Inspect Contractor Operations.** City shall have the right, but not the obligation, to observe and inspect all of the Contractor's operations under this

Agreement. In addition, upon reasonable notice and without interference with Contractor's operations, City may review and copy any of Contractor's operational and business records related to this Agreement. If City so requests, Contractor shall make specified personnel available to accompany City employees on inspections and to answer questions and shall provide electronic copies of records stored in electronic media.

**14.9 Maintenance and Review of Records, Submission of Reports.** Contractor shall compile, on a daily basis, accurate records of its operations in sufficient detail to allow for accurate determinations of all matters that require periodic determination under this Agreement. City shall have the right during regular business hours to review and make copies of (at City's expense) any documents relevant to this Agreement, including, but not limited to, Contractor's billing and collection records, tonnage reports, material diversion tonnages, route lists, maps and records maintained in electronic, magnetic and other media.

Contractor shall prepare and submit complete, accurate and timely reports on forms provided or approved by City as described in Attachment K.

**14.10 Right to Demand Assurances of Performance.** If Contractor: (i) persistently suffers the imposition of liquidated damages under Section 13.09; (ii) is the subject of any labor unrest including work stoppage or slowdown, sickout, picketing or other concerted job action; (iii) appears in the reasonable judgment of City to be unable to regularly pay its bills as they become due; or (iv) is the subject of a civil or criminal proceeding brought by a federal, state, regional or local agency for violation of an Environmental Law, City may, at its option and in addition to all other remedies it may

have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as the City may require.

***14.11 Contractor Failure to Achieve Minimum Required Level of Diversion***

***Program Implementation.*** Pursuant to Public Resources Code Section 40105, City designates Contractor as City's Authorized Recycling Agent. However, the parties acknowledge and agree that it is of vital importance to City that the Diversion programs described in Attachment B be implemented in a timely manner in order for City to remain in compliance with all requirements of the Act. Therefore, the following shall apply in the event Contractor fails to achieve the minimum required levels of Diversion program implementation described herein.

**14.11.A Minimum Level of Diversion Program Implementation**

**Required By March 31, 2021.** The minimum required level of program implementation that must be completed by Contractor on or before March 31, 2021 includes implementation of the AB 341 and AB 1826 Diversion programs as follows:

**AB 341 Diversion Program.** Contractor must have fully implemented an AB 341 Single Stream and/or Single Material Recyclables Diversion program at a minimum of seventy-five percent (75%) of all Multi-Family complexes within City (as described in Section 2.3.5.1 of Attachment B), at a minimum of seventy-five percent (75%) of all Commercial and Businesses Establishments (as described in Section 3.3.1 of Attachment B), and at a minimum of seventy-five percent (75%) of all Gated Developments, HOA's and Mobile Home Parks that have centralized Bin/Cart/Roll-Off/compactor service (as described in Section 2.3.6 of Attachment B).

**AB 1826 Diversion Programs.** Contractor must have fully implemented an AB 1826 Food Scrap Diversion program at a minimum of seventy-five percent (75%) of all Commercial and Business Establishments as described in Section 3.3.3 of Attachment B.

During the period January 1 through March 31, 2021, City will evaluate Contractor's performance to determine whether or not the minimum level of Diversion program implementation has been achieved. City will review the Red/Green Tracking Spreadsheet, time and work logs of the Recycling Coordinators, all the Monthly, Quarterly, and Annual Reports listed in Attachment K submitted by Contractor up to and including the Monthly Report for March 2021. City may also conduct site visits at Customers' Premises to determine whether Contractor has achieved the minimum required Diversion program implementation. Customers that are required to have an AB 341 Diversion program and/or an AB 1826 Diversion program that, as of January 1, 2021, are on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, shall not count against Contractor in City's determination as to whether the requirements of this Section 14.11.A have been met.

If Contractor fails to achieve the minimum level of program implementation as described herein, (a) Contractor forfeits its opportunity to earn the First Extension of the Agreement described in Section 6.08 A of the Agreement, and (b) Contractor shall pay the City's costs of hiring one or more third parties including but not limited to, consultants, part-time employees, and/or other Persons as determined by City (hereinafter referred to as "City's Agents"), to implement said programs.

On or before May 1, 2021 City will notify Contractor as to whether or not Contractor has achieved the minimum required minimum level of Diversion Program implementation. In the event Contractor has not met the minimum required level of implementation, City may retain the services of one or more Persons as described herein, to complete implementation of the Diversion programs until one-hundred percent of the AB 341 and AB 1826 Diversion Programs are fully implemented. In such event Contractor shall reimburse City on a monthly basis for the work performed by City's Agents to implement the Diversion programs. City will invoice Contractor for this expense and Contractor shall pay said invoices within thirty (30) days of receipt. Contractor shall cooperate with City and City's Agents to implement Diversion programs. Such cooperation shall include sharing information and data on Customers with City and City's Agents, providing Containers for Recyclable Materials, Yard Trimmings/Wood, Food Scraps and any other Divertable Materials in a timely manner as described in the Agreement including Attachment B, Collecting Containers of Divertable Materials on the schedule agreed upon with the Customer and City and/or City's Agents, and processing the Collected materials at the City-approved Processing Facilities described in Articles 5 and 6. Contractor shall not impair, impede or in any way frustrate or otherwise interfere with the actions or efforts of City and/or City's Agents to successfully complete all steps to fully implement the required Diversion programs as described herein.

As Diversion programs are implemented by City's Agents, City's Agents will monitor and troubleshoot said programs and provide additional training, education, and site visits for the initial ninety (90) day period following program startup. At the end of

the ninety (90) day period, City's Agents will transfer responsibility for all aspects of the fully implemented program to Contractor. Contractor shall fully maintain each fully implemented program at the Customer's Premises from that point forward, including completing any and all applicable steps described in Section 3.3.6 of Attachment B.

Contractor shall continue to pay for the work of City's Agents until all of the following conditions have been met: (a) The City's Agents have implemented the remaining AB 341 and AB 1826 Diversion programs at one-hundred percent (100%) of all Customers, (b) City's Agents have transferred responsibility for all aspects of each implemented program to Contractor, and (c) Contractor is fully maintaining each implemented program as described in Section 3.3.6 of Attachment B. At such point, City shall notify Contractor in writing and shall submit any final invoice(s) for the work of City's Agents to Contractor for payment.

#### **14.11.B Minimum Level of Diversion Program Implementation**

**Required By March 31, 2024.** If Contractor fails to achieve the minimum level of program implementation as described herein, (a) Contractor forfeits its opportunity to earn the Second Extension of the Agreement described in Section 6.08 B of the Agreement, and (b) Contractor shall pay the City's costs of hiring one or more third parties including but not limited to, consultants, part-time employees, and/or other Persons (City's Agents) as determined by City to implement said programs.

The minimum required level of program implementation that must be completed by Contractor on or before March 31, 2024 includes all of the following:

**1. SB 1383 Multi-Family Food Scrap Diversion Program.**

Contractor must have fully implemented an SB 1383 Multi-Family Food Scrap Diversion program at a minimum of seventy-five percent (75%) of (a) all Multi-Family complexes (as the Multi-Family Food Scrap program is described in Sections 2.3.5.3 and 2.3.5.4 of Attachment B), and (b) at a minimum of seventy-five percent (75%) of all Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart/Compactor/Roll Off service (as described in Sections 2.3.6 and 2.3.6.1 of Attachment B).

[Note: if City has directed Contractor not to implement the SB 1383 Food Scrap program at Multi-Family complexes and at all Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart/Compactor/Roll Off service, this requirement shall not apply.]

**2. Contractor Has Not Exceeded Interim Container Contamination Caps.** Contractor must have achieved a level of Container Contamination that is at or below the following interim Contamination caps for all Residential, Commercial, Multi-Family, Gated Developments, HOA's and Mobile Home Parks within City: twenty percent (20%) by weight for Single Stream Recyclable Materials, twenty percent (20%) by weight for Food Scraps and thirty percent (30%) by weight for MSW. In the event City has directed implementation of a Co-Collection program for Food Scraps and Yard Trimmings for any sector(s) of Customers (e.g. Residential, Multi-Family, Gated Developments with Centralized Bin/Cart Collection and/or Commercial), Contractor must have

achieved a level of Container Contamination that is at or below twenty percent (20%) for such Co-Collected materials.

**3. Contractor Has Maintained Full Implementation of All AB 341 and AB 1826 Diversion Programs.** Contractor must have implemented and maintained AB 341 and AB 1826 Diversion Programs at "full implementation" (including having performed all the tasks listed in Section 3.3.6 of Attachment B) at one-hundred percent (100%) of all Customers required to have such programs as described in Attachment B. [Note: if Contractor did not achieve the minimum level of AB 341 and AB 1826 program implementation required by Section 14.11.A and Contractor paid for City's Agents to implement such programs; and one hundred percent (100%) of such programs are now operating at "full implementation" levels, Contractor shall be considered to be in compliance with this requirement to fully maintain one-hundred percent (100%) of the AB 341 and AB 1826 programs.]

During the period January 1 through March 31, 2024, City will evaluate Contractor's performance to determine whether or not the minimum level of SB 1383 Multi-Family Food Scrap Diversion program implementation has been achieved, whether the above-listed interim Container Contamination caps have been met, and whether AB 341 and AB 1826 programs have been maintained at "full implementation" at one-hundred percent (100%) of all Customers required to have such programs. In order to make a determination concerning implementation of the SB 1383 Food Scrap Diversion program and the AB 341 and AB 1826 programs, City will review the

Red/Green Tracking Spreadsheets, time and work logs of the Recycling Coordinators, all the Monthly, Quarterly, and Annual Reports listed in Attachment K, submitted by Contractor up to and including the Monthly Report for March 2024. City may also conduct site visits at Commercial and Business Establishments, Multi-Family, Gated Developments, HOA's and Mobile Home Park Customers' Premises to determine whether Contractor has achieved the minimum required Diversion program implementation.

In order to make a determination concerning Contractor's performance with regard to the interim Container Contamination caps, City will utilize the results of the Characterization studies performed at all Processing Facilities and for the MSW being delivered for Disposal. The methodology for the studies is described in Attachment N. The City will review the study results for all characterizations performed during the Term, up to and including the following: Source Separated Recyclable Materials performed in the first quarter of 2024; Food Scraps performed in the first quarter of 2024; Co-Collected Yard Trimmings and Food Scraps (if implementation of this program has been directed by City for any sector) performed in the first quarter of 2024; and the MSW waste characterization performed in the second quarter of 2023.

Customers that are required to have an AB 341 Diversion program and/or an AB 1826 Diversion program, and Customers that are required to have a Multi-Family SB 1383 Food Scrap program (including Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart/Roll-Off/compactor service) that, as of January 1, 2024, are on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports, Item #8, shall not

count against Contractor in City's determination as to whether the requirements of this Section 14.11.B have been met.

On or before May 1, 2024 City will notify Contractor as to whether or not Contractor has achieved the minimum required level of SB 1383 Food Scrap Diversion Program implementation, the required interim Container Contamination caps at all Residential, Commercial, Multi-Family, Gated Developments, HOA's and Mobile Home Parks in City, and full implementation of all AB 341 and AB 1826 programs in City. In the event Contractor has not met one, two or all three of these requirements, City may retain the services of one or more Persons as described herein, to complete implementation and/or reduce Contamination levels as follows.

If Contractor has not achieved the requirements of Section 14.11.B.1, Contractor shall pay the cost for City's Agents to implement the required SB 1383 Multi-Family Food Scrap Diversion programs until one-hundred percent of the SB 1383 Food Scrap Diversion Programs are fully implemented at all Multi-Family complexes and at all Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart/Roll-Off/compactor service in City.

If Contractor has not achieved the requirements of Section 14.11.B.2, Contractor shall pay the cost for City's Agents to reduce Contamination levels until the Container Contamination caps described in Section 3.3.6 of Attachment B are met at all Residential, Commercial, Multi-Family, Gated Developments, HOA's and Mobile Home Parks in City. [Note: this means Contractor shall pay the cost for City's Agents until the following Container Contamination caps are achieved: fifteen percent (15%) by weight

for Single Stream Recyclable Materials, five percent (5%) by weight for Food Scraps and fifteen percent (15%) by weight for MSW. In the event City has directed the implementation of a program for Co-Collection of Food Scraps with Yard Trimmings for any stream (e.g. Residential, Multi-Family, Gated Developments with Centralized Bin/Cart Collection Service, and/or Commercial) Contractor shall not have exceeded the Contamination cap of ten percent (10%) for the Co-Collected materials from such Customers. (Note: With regard to Source Separated Food Scraps Collected from any stream, Contractor must not have exceeded five percent (5%) Contamination or the greater percent allowed by the Food Scrap Processing Facility used for Food Scraps [as described in Section 3.3.6 (xi) of Attachment B] so long as Contractor has utilized said Food Scrap Processing Facility for a continuous period corresponding to the period of time that the City and/or City's Agents are correcting the deficiency(ies) and the Contamination percentage allowed by said Food Scrap Processing Facility has remained the same for that entire period.) [NOTE: The Contamination cap listed herein are not the same as the interim Container Contamination caps.]

If Contractor has not achieved the requirements of Section 14.11.B.3, Contractor shall pay the cost for City's Agents to implement the required AB 341 and/or AB 1826 Diversion programs until one-hundred percent (100%) of the Customers required to have AB 341 and/or AB 1826 programs have fully implemented programs.

Contractor shall reimburse City on a monthly basis for the work performed by City's Agents to implement the Diversion programs and/or reduce Container Contamination levels. City will invoice Contractor for this expense and Contractor shall pay said invoices within thirty (30) days of receipt. Contractor shall cooperate with City

and City's Agents to implement Diversion programs and reduce Contamination (as applicable). Such cooperation shall include sharing information and data on Customers with City and its Agents, cooperating with City's Agents including ride-alongs on Collection vehicles, providing Containers for Divertable Materials in a timely manner as described in the Agreement including Attachment B, Collecting Containers of Divertable Materials on the schedule agreed upon with the Customer and City and/or City's Agents, and processing the Collected Divertable Materials at the City-approved Processing Facility(ies) described in Articles 5 and 6. Contractor shall not impair, impede or in any way frustrate or otherwise interfere with the actions or efforts of City and/or City's Agents to successfully complete all steps to fully implement the required AB 341, AB 1826 and/or SB 1383 Diversion programs as described herein and to reduce Container Contamination to within the following levels: ten percent (10%) by weight for Single Stream Recyclable Materials, ten percent (10%) by weight for Food Scraps and twenty percent (20%) by weight for MSW.

As Diversion programs are implemented by City's Agents, City's Agents will monitor and troubleshoot said programs and provide additional training, education, and site visits for the initial ninety (90) day period following program startup. At the end of the ninety (90) day period, City's agents will transfer responsibility for all aspects of the fully implemented program to Contractor. Contractor shall fully maintain each fully implemented program at the Customer's Premises from that point forward, including completing any and all applicable steps described in Section 3.3.6 of Attachment B. With regard to reducing Container Contamination levels, a similar protocol shall be followed with City's Agents transferring responsibility to Contractor ninety (90) days after

the required Container Contamination levels have been achieved at a Customer's Premises.

Contractor shall continue to pay for the work of City's Agents until all of the following conditions have been met: (a) The City's Agents have implemented the remaining AB 341, AB 1826 and/or SB 1383 Diversion programs at one-hundred percent (100%) of all Customers, (b) City's Agents have achieved the required Container Contamination caps as described herein, (c) City's Agents have transferred responsibility for all aspects of each implemented program (including reduced Container Contamination levels, as applicable) to Contractor, and (d) Contractor is fully maintaining each implemented program as described in Section 3.3.6 of Attachment B and is including continuing to meet the required Container Contamination caps in Section 3.3.6 of Attachment B. At such point, City shall notify Contractor in writing and shall submit any final invoice(s) for the work of City's Agents to Contractor for payment.

**14.12 Force Majeure.** Neither party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to an "act of God" (including, but not limited to, flood, earthquake or other catastrophic events), war, insurrection, riot, or other similar cause not the fault of, and beyond the reasonable control of, the party claiming excuse (each, a "Force Majeure event"). The following are not force majeure events: labor unrest, picketing, strikes, work stoppage or slowdown, sickouts or other concerted job actions. A party claiming excuse under this Section must (1) have taken reasonable precautions, if possible, to avoid being affected by the cause, and (2) notify the other party in writing within five (5) calendar days after the occurrence of the event specifying the nature of

the event, the expected length of time that the party expects to be prevented from performing, and the steps which the party intends to take to restore its ability to perform. The party claiming excuse under this Section shall use its best efforts to remedy its inability to perform as quickly as possible.

**14.12.A Force Majeure.** Neither Contractor nor the City shall be excused from the performance of its obligations under this Agreement except where a party's failure to perform is due to a Force Majeure event, as defined in this Agreement.

**14.12.B Obligation to Restore Ability to Perform.** Any suspension of performance by a party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the event, and the party claiming excuse from obligation shall use its best efforts in an expeditious manner to remedy its inability to perform, and mitigate damages that may occur as result of the event.

**14.12.C Notice.** The party claiming excuse shall deliver to the other party a written notice of intent to claim excuse from performance under this Agreement by reason of a Force Majeure event. Notice required by this Section shall be given promptly in light of the circumstances, but in any event not later than five (5) calendar days after the occurrence of the Force Majeure event. Such notice shall describe in detail the claimed Force Majeure event, the services impacted by the claimed Force Majeure event, the expected length of time that the party expects to be prevented from performing, the steps which the party intends to take to restore its ability to perform, and such other information as the other party reasonably requests.

**14.12.D City's Rights in the Event of Force Majeure.** The partial or complete interruption or discontinuance of Contractor's services caused by a Force Majeure event shall not constitute an event of default under this Agreement. Notwithstanding the foregoing: (i) the City shall have the right to make use of Contractor's facilities and equipment in accordance with Sections 13.04 and 13.06 of this Agreement in the event Contractor is unable to collect and dispose of MSW and/or Food Scraps as required herein for a period of three (3) or more consecutive days or for any three (3) days in a seven (7) calendar-day period, and such non-performance is excused by a Force Majeure event; (ii) if Contractor's excuse from performance for reason of Force Majeure continues for a period of thirty (30) calendar days or more, the City shall have the right, in its sole discretion, to immediately terminate this Agreement; and (iii) if Contractor's inability to collect and dispose of MSW continues for fourteen (14) days or more from the date by which Contractor gave or should have given notice under Subsection C above, the City may terminate this Agreement.

**14.13 Cooperation During Transition.** At the expiration or earlier termination of the Term, Contractor shall cooperate fully with the City to ensure an orderly transition to any and all new service providers. In addition, during the last twelve months of the Term, Contractor shall allow prospective operators to observe its operations and shall make available to City all records and reports required to be submitted by this Agreement for use in the transition including, but not limited to, complete route lists and maps, customer account lists including customer name, address, type and frequency of service, billing

information, and number, type and location of all Containers deployed by Contractor within City.

**14.14 No Damages for Invalidation of Agreement.** If a final judgment of a court of competent jurisdiction determines that this Agreement, or any portion thereof, is illegal or was unlawfully entered into by the City, neither party shall have any claim against the other for damages of any kind (including but not limited to loss of profits) on any theory.

**14.15 Diversion Programs Not Restricted.** Nothing in this Agreement shall restrict City's participation or non-participation, or the nature or extent of its participation in, any Recycling and Diversion program, developed or operated by City, other agencies, or by one or more residents, businesses, commercial, industrial or retail operators, or other Persons, within City or other jurisdictions.

**14.16 Reports as Public Records.** The reports, records and other information submitted (or required to be submitted) by Contractor to City are public records within the meaning of that term in the California Public Records Act, Government Code Section 6250 *et seq.* Unless a particular record is exempted from disclosure by the California Public Records Act, it must be disclosed to the public by the City upon request.

## ARTICLE 15: MISCELLANEOUS PROVISIONS

**15.01 Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

**15.02 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 and the exclusive venue is the Superior Court located in Orange County.

**15.03 Binding on Successors.** The provisions of this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties.

**15.04 Parties in Interest.** Nothing in this Agreement is intended to confer any rights on any Persons other than the parties to it and their permitted successors and assigns.

**15.05 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 monies that 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.

**15.06 Attachments.** Each of the attachments, identified as Attachments "A" through "AA," is attached hereto and incorporated herein and made a part hereof by this reference.

**15.07 Entire Agreement.** This Agreement, including the Attachments, represents the full and entire agreement between the parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

**15.08 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.

**15.09 Interpretation.** This Agreement 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.

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

**15.11 Severability.** If a court of competent jurisdiction holds any non-material provision of this Agreement to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

**15.12 Costs and Attorneys' Fees.** The prevailing party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs expended in connection with such an action from the other party. However, each party shall bear its own attorneys' fees.

**15.13 References to Laws.** All references in this Agreement to laws, rules, and regulations shall be understood to include such laws, rules, and regulations as they may

be subsequently amended or recodified, unless otherwise specifically provided. In addition, references to specific governmental agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

**15.14 City's Municipal Code.** Contractor is aware of the provisions of City's Municipal Code relating to the Collection and Disposal of solid waste, specifically Title 6, Division 3, Article 2 (Solid Waste Management) of the Laguna Niguel Municipal Code, including the right of City to amend those provisions. [The parties acknowledge that City is in the process of revising the Laguna Niguel Municipal Code and such revision may result in the numbering of many sections of the code subsequent to the Effective Date. References to the Laguna Niguel Municipal Code herein shall be construed as also referring to the corresponding renumbered code sections as they may be adopted by the Laguna Niguel City Council subsequent to the Effective Date.] Contractor shall comply with all provisions of Title 16, Division 3, Article 2, as they may be amended.

City may, in its sole discretion, determine whether and in what circumstances enforcement of provisions of the City's Municipal Code relating to the obligation of owners and occupants of Premises to use the services of Contractor is in the public interest. City undertakes no obligation, by virtue of this Agreement, to Contractor to enforce such provisions through civil actions, or termination of other utility services.

The parties acknowledge that City may permit the Collection, Recycling, Diversion and/or Disposal of any or all of the following materials without seeking or securing any approval of Contractor:

- A. Recyclable Materials and/or Food Scraps separated from MSW by the Customer which the Customer sells, or for which he/she is otherwise compensated in a manner resulting in a net payment to the Customer;
- B. MSW, Recyclable Materials and/or Food Scraps that are removed from any Premises by the property owner or occupant, and that are transported by the property owner or occupant (or by his or her full-time employees) to a processing facility or a Disposal facility;
- C. MSW self-hauled pursuant to Section 16.02.015 of the Laguna Niguel Municipal Code;
- D. Recyclable Materials that are separated by the Customer and donated to youth, civic, charitable or any for-profit or non-profit entity, Person or organization;
- E. Recyclable Materials not placed for Collection by Contractor which are delivered to a permitted recycling drop off or buy-back center or facility;
- F. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, *et seq.*, California Public Resources Code;
- G. Yard Trimmings removed from a Premises by a gardening, landscaping or tree trimming company utilizing its own equipment as an incidental part of a total service offered by the company rather than as a hauling service;

**H.** The casual or emergency Collection and Disposal of MSW by City employees in the normal course of their employment; and

**I.** Animal waste and remains from butcher shops and grease collected from restaurants for use as tallow;

**J.** Hazardous Waste, regardless of the source;

**K.** Cleanup services such as 1 800 GOTJUNK and OC Junk Removal, whose primary business is the cleanup of MSW on the property of another and who, incidental to such business: (a) hauls only the MSW which he/she cleans up and no other MSW; (b) performs cleanup services such as removing junk from Commercial and Business Establishments, garages and Residential Premises, but does not remove MSW from Construction and Demolition sites; (c) uses his/her own vehicle to haul the MSW which he/she cleans up; and (d) does not use a Bin, Roll Off Box or other Container, whether or not such Bin, Roll Off Box or Container is left at the cleanup site, to accomplish the cleanup, Collection or transportation of the MSW.

**L.** Food Scraps that are collected pursuant to City's separate contract(s) and/or arrangements with third parties and Food Scraps that are collected by any Person other than Contractor, including but not limited to, non-profit entities, for-profit entities, volunteers and any other entities that provide any of the following services: (1) arrange for the collection of edible Food Scraps suitable for human consumption (as defined and described in SB 1383, PRC Section 42652 and Health and Safety Code Sections 39730.5, 39730.6, 39730.7

and 39730.8) and all amendments and regulations promulgated thereto) and for the delivery of edible Food Scraps suitable for human consumption to locations and organizations that can use them including but not limited to food banks, churches, other non-profit or charitable entities, volunteer groups, homeless shelters, delivery to individuals (eg. Meals on Wheels) and others; (2) provide telephone and/or computer apps, databases and other means to connect food donors with those that can use the edible Food Scraps and assist the parties in getting the edible Food Scraps from the donor to the recipients; (3) compile and publish, post or distribute lists of edible Food Scraps available for donation and food needed (specifying types, quantities and dates/types available and needed); (4) provide pickup, transportation and delivery of edible Food Scraps from donors to recipients; (5) provide reporting data on the pounds of edible Food Scraps diverted from Disposal from these efforts in the City; and

**M.** Food Scraps that are separated by the Customer and (1) donated or sold to food banks, shelters, churches, civic organizations, schools or any other Person or organization (whether for-profit or non-profit) for human consumption, (2) are donated or sold for use as animal feed or for other uses (including Composting, Engineered Feedstock or Anaerobic Digestion) so long as the Food Scraps are not Disposed; and (3) Food Scraps that are composted on-site by the Customer including traditional outdoor composting, use of a Compost Appliance, composting in a community garden, or other Compost system.

**15.15 Non-Discrimination.** Contractor shall not discriminate, nor permit any City-approved subcontractor to discriminate, in the provision of services or the employment of Persons engaged in the performance of this Agreement on account of race, color, religion, sex, age, national origin, ancestry, physical handicap, sexual orientation, marital status or medical condition in violation of any applicable federal, state or local law.

**15.16 Guaranty.** No later than ten (10) days before the Effective Date of this Agreement, Contractor shall furnish a properly executed Guaranty of its performance under this Agreement, in the form of Attachment Z.

**15.17 Compliance With Immigration Laws.** Contractor shall comply with all immigration laws in the performance of this Agreement.

This Agreement, consisting of one hundred fifty-one (151) pages, not including Attachments A through AA shall be executed in two (2) originals.

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

"CITY"

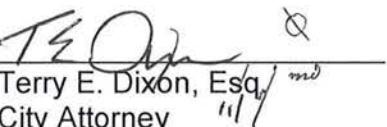
CITY OF LAGUNA NIGUEL

By:   
Kristine Ridge  
City Manager

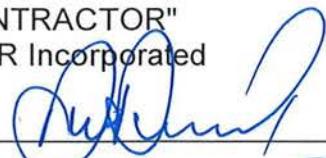
ATTEST:

  
Eileen Gomez,  
City Clerk

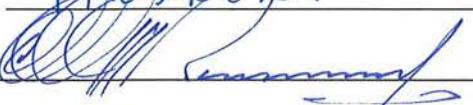
APPROVED AS TO FORM BY THE  
CITY ATTORNEY FOR THE  
CITY OF LAGUNA NIGUEL,  
CALIFORNIA

  
Terry E. Dixon, Esq. <sup>11/11/11</sup>  
City Attorney

"CONTRACTOR"  
CR&R Incorporated

By:   
Print Name: DAVID RONNENBERG

Title: PRESIDENT

By:   
Print Name: CLIFFORD RONNENBERG

Title: CEO/Chairman

[Signatures of contractor must be notarized. Need two  
signatures if contractor is a corporation. Attach  
acknowledgement.]



## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Orange)

On November 29, 2019 before me, Kim U. Nguyen, Notary Public  
(insert name and title of the officer)

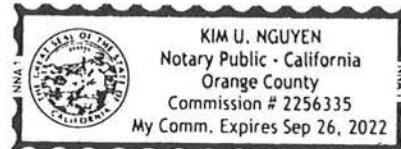
personally appeared Clifford Ronnenberg and David Ronnenberg,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)





## Attachments

- A Definitions
- B Detailed Scope of Work for Collection And Diversion Operations
- C City Facilities
- D-1-2 D-1 Rates to be Charged January 1, 2019 – June 30, 2019  
D-2 Rates to be Charged as of July 1, 2019
- E Numbers and Types of Containers to be Furnished by Contractor and Cart Specifications
- F-1-3 F-1 Collection Vehicles to be Furnished by Contractor  
F-2 Light Weight Collection Vehicles to Be Furnished by Contractor  
F-3 On-Board Technology to be Provided by Contractor on Collection Vehicles to Increase Safety and Efficiency
- G Contractor-Furnished Personnel
- H Density Audits
- I City Landfill Contract With County of Orange
- J Annual Rate and Disposal Cost Adjustments
- K Reports to be Submitted to City
- L Performance Bond
- M Bond Continuation Certificate
- N Processing Facility Characterizations and Onsite Field Container Contamination Audit Protocols
- O City-Designated Materials Recovery Processing Facility – Clean MRF
- P Bioengineered Feedstock Processing Facility
- Q Composting Facility
- R Anaerobic Digestion Processing Facility
- S Construction & Demolition Debris Processing Facility
- T List/Map of Bus Stops and Bus Shelters
- U List of City Parks
- V Not Used
- W Not Used
- X Not Used
- Y Not Used
- Z Guaranty
- AA Minimum Required Qualifications and Duties of Recycling Coordinators



ATTACHMENT A – LAGUNA NIGUEL

DEFINITIONS

**'A' Route Service:** “A’ Route Service” or “ ’A’ Route”. NOTE: ‘A’ Route Service and use of a dirty MRF shall be phased out and discontinued as of January 1, 2019 as described in Attachment B. “A Route Service” means a Collection route collecting loads of relatively dry materials with reduced contamination from wet materials such as Food Scraps and wet Yard Trimmings for processing to extract Recyclable Materials at a dirty MRF. Effective January 1, 2019 all Customers formerly receiving A Route Service shall receive Single Stream and/or Single-Material Recyclables Collection service with processing at the Clean MRF, as described in Attachment B.

**Act:** “Act” means the California Integrated Waste Management Act of 1989 (Public Resources Code Section 40000, *et seq.*) as amended and as implemented by regulations of CalRecycle or its successor.

**Affiliate:** “Affiliate” means any Person who or which is related to the Contractor by virtue of a direct or indirect ownership interest or common management. Affiliates include (1) a Person in which the Contractor has a direct or indirect ownership interest, (2) a Person which has a direct or indirect ownership interest in Contractor, and (3) a Person which is owned or controlled by any person which has a direct or indirect ownership interest in Contractor.

For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of the Internal Revenue Code, in effect as of the Effective Date, shall apply except that “ten percent (10%)” shall be substituted for “fifty percent (50%)” in Section 318(a)(2)(C) and Section 318(a)(3)(C).

**Agreement:** “Agreement” (or “Franchise” or “Franchise Agreement”) means this Agreement between the City and Contractor dated as of November 2018, including all attachments, and any amendments hereto.

**Alternative Daily Cover or “ADC”:** Alternative Daily Cover (or “ADC) means cover material other than earthen material placed on the surface of the active face of a Municipal Solid Waste landfill at the end of each operating day to control vectors, fires, odors, blowing litter and scavenging. Federal regulations require landfill operators to use six (6) inches of earth material as daily cover unless other materials are allowed as alternatives. CalRecycle has approved eleven (11) ADC material types. Generally, these materials must be processed so that they do not allow gaps in the exposed landfill face. Prior to 2014, Yard Trimmings were included in the list of CalRecycle-approved ADC materials and use of Yard Trimmings as ADC still counted as diversion for purposes of the Act. AB 1594, passed and signed into law in 2014, phases out the use of Yard Trimmings as ADC effective January 1, 2020. As of that date no Yard Trimmings can be used as ADC and still count as diversion. As of January 1, 2020, any Yard Trimmings used as ADC are counted as Disposed tons for purposes of the Act. [See Section 6.10 for the prohibition on use of Yard Trimmings and wood collected in City as ADC as of January 1, 2019 and for the prohibition on use of Compost, Digstate, and other materials made from materials collected in City as ADC.]

**Alternative Fuel Vehicle:** "Alternative Fuel Vehicle" means a vehicle whose engine design uses a fuel that is in full compliance with all federal and state laws and regulations, including but not limited to, the South Coast Air Quality Management District's rules and regulations including Rule 1193.

**Anaerobic Digestion:** "Anaerobic Digestion" ("AD") means a biological process that decomposes organic matter in an environment with little or no oxygen resulting in a biogas and a liquid/solid stream called Anaerobic Digestate. The decomposition occurs in a four-step process: hydrolysis, acidogenesis, acetogenesis, and methanogenesis to break down organic matter into methane, carbon dioxide, water and Anaerobic Digestate/residuals.

**Anaerobic Digestion Facility:** "Anaerobic Digestion Facility" ("AD Facility") means a facility that uses a biological process that decomposes organic matter in an environment with little or no oxygen resulting in a biogas and a liquid/solid stream called Anaerobic Digestate. The decomposition occurs in a four-step process: hydrolysis, acidogenesis, acetogenesis, and methanogenesis to break down organic matter into methane, carbon dioxide, water and Anaerobic Digestate/residuals.

**Attachment D, Attachment D-1 and Attachment D-2:** "Attachment D", "Attachment D-1" and "Attachment D-2" means as follows. Attachment D-1 titled "Rates to Be Charged January 1, 2019 through June 30, 2019" provides the rates that Contractor is authorized to charge during the period January 1, 2019 through June 30, 2019. Attachment D-2 titled "Rates to Be Charged July 1, 2019 through June 30, 2020" provides the rates negotiated between the parties for Contractor to charge for the period July 1, 2019 through June 30, 2020. The rates in Attachment D-2 shall be adjusted as described in Section 12.03 of the Agreement and shall be subject to the approval process described therein. The rates in Attachment D-2 shall not become effective until all the procedures in Section 12.03 of the Agreement have been followed and all the required approvals have been obtained. When the Agreement refers to "the rates in Attachment D" the parties intend such reference to be to the part of Attachment D (either Attachment D-1 or D-2) that is applicable for the time period during which the rates will be charged.

**Authorized Customer Representative:** "Authorized Customer Representative" means the Person (including but not limited to, the owner or on-site manager) who has decision-making authority to approve a recycling plan, payment of the bills for MSW, Recyclable Materials, Yard Trimmings, Food Scrap and all other Collection services provided by Contractor. For a corporation with multiple locations and centralized decision-making, the Authorized Customer Representative is the management Person with decision-making authority for that Business or Commercial Premises located within City. In cases where a Customer has retained the services of a waste broker or waste arranger, the Authorized Customer Representative is the Person who has been given the decision-making authority by the Customer for the subject Premises within the City.

**Authorized Recycling Agent:** "Authorized Recycling Agent" has the meaning set forth in Public Resources Code Section 40105.

**Bin or Bins:** "Bin" or "Bins" means open top rectangular containers with wheels, with plastic or metal lids, used for storage of MSW, Recyclable Materials, Yard Trimmings, Food Scraps, Organics, Construction and Demolition Debris, or other materials to be Collected by Contractor. Typical sizes of Bins include 2 cubic yards, 3 cubic yards, 4 cubic yards and 6 cubic yards. See also "Split Bins."

**Bioengineered Feedstock:** "Bioengineered Feedstock" means a mixture of materials utilized in wastewater treatment plants (WWTP's) to produce biogas. (This process is also referred to as "wet anaerobic digestion".) Bioengineered Feedstock may include primary and/or secondary sludge, greases from the WWTP grease trap, and organic materials such as food scraps from households or other organic materials from industries that have been pre-treated and liquefied to the required consistency. Bioengineered Feedstock is processed at a Bioengineered Feedstock Processing Facility which may include a wastewater treatment plant, POTW, or similar facility.

**Biomass Conversion Facility:** "Biomass Conversion Facility" means a facility which uses the controlled combustion of the following materials (when separatead from MSW) to produce electricity or heat: (1) agricultural crop residues; (2) bark, lawn, yard and garden clippings; (3) leaves, silviculture residue, tree and brush prunings; (4) wood, wood chips and wood waste; or (5) nonrecyclable pulp or nonrecyclable paper. Such a facility must exclusively burn biomass materials listed herein (combustion of MSW, tires or hazardous waste is prohibited); comply with all applicable air quality laws, rules and regulations; and test its residue (ash) regularly as required by state law and regulations and if the ash is found to be hazardous, deliver that residue to a Class I hazardous waste facility. A Biomass Conversion Facility may burn petroleum coke or natural gas to maintain a particular temperature level. [Use of a Biomass Facility is prohibited in Section 6.06 of the Agreement.]

**Bulky Goods:** "Bulky Goods" means furniture, household or industrial appliances, mattresses, shipping crates and containers, oversized yard waste such as tree trunks and large branches if no larger than two feet (2') in diameter and four feet (4') in length, and other large, bulky or heavy objects not normally discarded on a regular basis at Residential, Commercial or Business Establishments. Bulky Goods includes but is not limited to furniture (such as a sofa, chair, desk, table, mattress, box springs, patio furniture); appliances (such as a stove, dishwasher, washer or dryer, water heater, microwave oven, air conditioner); toilets, sinks, other porcelain products; shipping crates, containers, bicycles, suitcases, barbeques, swing sets, tires, tools, toys; or other items the size or weight of which precludes Collection during regularly scheduled MSW Collection. Bulky Goods does not include automobile bodies or Construction and Demolition Debris.

**CalRecycle:** "Cal Recycle" means the California Department of Resources Recycling and Recovery, the successor agency to the former California Integrated Waste Management Board.

**Can:** "Can" means a receptacle for MSW or Recyclable Materials provided by the Customer and Collected using manual (instead of automated) collection.

**Cart:** "Cart" means a Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of 35 gallons, 65 gallons, and 95 gallons.

**Cathode Ray Tubes (CRTs):** "Cathode Ray Tubes" or "CRTs" means a computer or television monitor with the yoke still attached that has been separated from an electronic device.

**Centralized Collection Service:** "Centralized Collection Service means Collection of MSW, Recyclable Materials, Yard Trimmings/Wood and/or Food Scraps from Bins and/or Carts and/or small compactors located throughout a Multi-Family complex, a Gated Community, or another grouping of dwelling units. Complexes with Centralized Collection Service may or may not have Bins and/or Carts and/or compactors stored in enclosures. Centralized Collection Service does

not include any Residential Premises that is individually serviced, meaning the Residential Premises receives weekly collection service from its own set of Carts for MSW, Recyclable Materials, Yard Trimmings/Wood and/or Food Scraps.

**City:** "City" means the City of Laguna Niguel, a municipal corporation, and all of the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term.

**City-County Landfill Contract:** "City-County Landfill Contract" means the contract dated July 23, 2009 between the County of Orange and the City of Tustin as amended effective June 30, 2016, and as may be further amended in the future. The City-County Landfill Contract is in Attachment I.

**Clean Materials Recovery Facility (Clean MRF):** "Clean Materials Recovery Facility" or "Clean MRF" means a MRF, or that portion of a MRF that processes Recyclable Materials such as Single-Material Recyclables and Single Stream Recyclable Materials, containing no more than the maximum residue allowed by CalRecycle permit regulations (10% residue). (See also "MRF" and "Dirty MRF")

**Collection:** "Collection" means the taking of physical possession of MSW, Recyclable Materials, Yardwaste, Food Scraps, Organics, Construction and Demolition Debris or other materials from Customers, and their transport to a MRF, Compost Facility, Organics Processing Facility, Transformation Facility, Construction Demolition and Debris processing facility, transfer station or Landfill.

**Commercial and Business Establishments:** "Commercial and Business Establishments" or "Commercial Customer(s)" means any premises occupied by stores, offices, office buildings, federal, state and local government offices, private schools (excluding public schools and charter schools), warehouses, factories, hotels, motor courts, restaurants and other commercial facilities providing goods or services and all other premises used for purposes other than dwelling houses. For purposes of the implementation of programs described in Attachment B, reporting described in Article 9 of the Agreement, the requirements for the Annual Diversion Rate described in Section 6.07 of the Agreement and the Extension Opportunities described in Section 6.08 of the Agreement, "Commercial Tons" shall include only Tons Collected from Commercial and Business Establishments in Carts and in Bins and shall not include any Tons Collected from Multi-Family Carts or Bins. For purposes of reporting Tons, Multi-Family Tons shall be separately reported from Commercial Tons.

**Compactor:** "Compactor" means an enclosed rectangular or square metal container containing a ramrod to condense and compress the contents, and is typically used to store MSW, Yard Trimmings, Recyclable Materials, Food Scraps, Organics or other materials. Compactors may be small (3 cubic yards and 4 cubic yards) for use on Commercial Premises, or large (10 cubic yards, 20 cubic yards, 30 cubic yards and 40 cubic yards) for use at large Commercial businesses, construction sites, hotels, supermarkets and other large retail stores. A special vehicle equipped with hooks and a winch to pull the Compactor on to the railed bed of the vehicle transports compactors.

**Compost:** "Compost" means the product resulting from the controlled biological decomposition of organic wastes which are separated from the municipal solid waste stream at the point of generation and includes vegetable (e.g., Food Scraps), Yard Trimmings and Wood.

**Compost Appliance:** "Compost Appliance" means an enclosed on-site device that utilizes aerobic microbial digestion of Food Scraps. Compost Appliances may be utilized by restaurants, hospitals, cafeterias and any other generators of Food Scraps. [See Section 15.14 of the Agreement.]

**Compost Facility:** "Compost Facility" means a facility that processes one or more of the following: Food Scraps, Yard Trimmings, Wood, and food-soiled fiber such as paper napkins and paper towels by means of outdoor windrow composting, aerated static pile composting, covered composting, vermiculture, or other outdoor composting methods or covered composting with use of either finished compost or fabric, synthetic or other type(s) of cover(s) applied to the compost piles.

**Composting:** "Composting" means the controlled microbial degradation of organic materials yielding a safe and nuisance-free finished product called compost, a soil amendment suitable for incorporating into topsoil and for growing plants.

**Construction and Demolition (C&D) Debris:** "Construction and Demolition Debris" includes waste building materials, packaging and rubble resulting from construction, remodeling, repair or demolition operations on pavements, houses, commercial and industrial buildings, and other structures and improvements.

**Construction and Demolition (C&D) Debris Processing Facility:** "Construction and Demolition (C&D) Processing Facility" means a facility that accepts waste building materials, packaging, and rubble for separation. Materials separated may be further processed to prepare them for sale or re-use (e.g. removing nails from wood, grinding of concrete and asphalt). The facility then markets the materials for re-use.

**Containers:** "Containers" means any object designed and used to hold MSW, Recyclable Materials, Food Scraps, Organics, Yard Trimmings or Construction and Demolition Debris to be collected by the Contractor. Containers include Carts, Bins, open-top Roll Off Boxes, and Compactors.

**Contamination:** "Contamination" means materials which are not specified for Collection in particular containers or for processing at Processing Facilities which would either interfere with such processing or reduce the quality and value of the Recovered Materials. For example, for purposes of Collection (described in Attachment B), metals and plastics would constitute "contamination" if placed in a Yard Trimmings container and tree trimmings would constitute "contamination" if placed in a Recyclable Materials container. The specific materials specified for Collection in each type of Container are described in Attachment B, Section 5.09. The maximum acceptable levels of Contamination for each type of Container are listed in Attachment B, Section 3.3.6.

**Contractor:** "Contractor" means CR&R Incorporated. The Contractor is the City's authorized recycling agent unless this designation is revoked by City during the Term.

**County:** "County" means the County of Orange.

**Customer:** "Customer" means the owner, occupant or user of Premises at which MSW, Recyclable Materials, Yardwaste, Food Scraps, Organics, or Construction and Demolition Debris is generated and collected by Contractor.

**Diversion Programs:** "Diversion Programs" means Collection of Recyclable Materials, Yard Trimmings, Food Scraps, Wood, Construction and Demolition Debris, and processing of said materials at a Clean MRF, a Compost Facility, a Construction and Demolition Debris Processing Facility or other Processing Facility. Diversion Programs include all programs operated by the Contractor (that are described in the Agreement and Attachment B), the City, Residents, Businesses, Customers or other Persons that have the effect of diverting MSW from landfill. Diversion Programs includes all of the programs included in the City's Source Reduction and Recycling Element.

**Divertable or Divertable Materials:** "Divertable" or "Divertable Materials" means Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris, Food Soiled Paper (if directed by City), Electronic Waste, Universal Waste, and all other materials that can be diverted from Disposal. Divertable Materials includes, but is not limited to, all materials required to be Diverted from Disposal by City, CalRecycle or any state or federal agency.

**Digestate:** "Digestate" means the material left at the conclusion of a biological process that decomposes organic matter in an environment with little or no oxygen resulting in a biogas and a liquid/solid stream called Digestate (CCR Section 17896.2(a) 6). For purposes of this Agreement, "Digestate" shall be handled as described in Section 6.04 of the Agreement.

**Disposal:** "Disposal" or "Disposed" means the burying of MSW at a permitted Landfill or transformation at a permitted facility as transformation is defined by the Act.

**Disposal Charge:** "Disposal Charge" means the tipping fees charged by the owner or operator for Disposal of MSW at the City-designated Disposal Site, which may include state, federal and local taxes and fees.

**Disposal Site:** "Disposal Site" means the City-designated Landfill, transfer station or other facility used for the Disposal of MSW.

**Diversion:** "Diversion" or "to Divert" means any combination of Recycling, sorting, Composting, and other Processing activities conducted at a Clean MRF, a Compost Facility, an Anaerobic Digestion Facility, a Bioengineered Feedstock Facility, and a Construction and Demolition Debris Processing Facility in order to prepare, use and/or market the materials for reuse, remanufacture, reconstitution or otherwise return the materials to the economic marketplace and to prevent the materials from being Disposed in a landfill.

**Edible Food For Human Consumption:** "Edible Food For Human Consumption" or "Edible Food" means food that has been prepared but not served, and includes but is not limited to: appetizers, soups, salads, entrees, desserts, raw fruits and vegetables that may or may not have been sliced, grated, cooked, baked, or otherwise prepared for consumption but not served, packaged sandwiches, salads, fruits and fruit salad, and other non-served food that meets state and local requirements as being edible for human consumption. SB 1383 requires Diversion of seventy-five percent of all Food Scraps, Yard Trimmings, Wood and certain other materials from Disposal by 2025, of which a minimum of 20% must be Edible Food for Human Consumption.

**Effective Date:** "Effective Date" means the date identified in Section 3.01 of the Agreement.

**Electronic Waste (E-waste):** For purposes of this Agreement, "Electronic Waste" or "E-Waste" includes discarded video display devices such as a television screen, computer monitor, plasma television screen, computer CPU's, LED screens and monitors, computer keyboards, computer mouse, printers, desk copiers, multi-function desktop machines (such as a combination printer/fax/copier), LED bulbs, VCR's, DVD/CD/tape players, cellular telephones, microwave ovens, toasters, irons, stereos and speakers, cables, scanners and all other corded appliances and corded devices that are not defined in this Attachment A as "Universal Waste" and that are banned from Disposal in a landfill. (The parties acknowledge and agree that this definition may differ from that in current state law and regulations.)

**Environmental Laws:** "Environmental Laws" means all federal and state statutes, county and city ordinances concerning public health, safety and the environment including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; the Federal Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; the Federal Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; the Emergency Planning and Community Right to Know Act, 42 U.S.C. Section 11001 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. Section 651 *et seq.*; the California Integrated Waste Management Act, California Public Resources Code Section 40000 *et seq.*; the California Hazardous Waste Control Act, California Health and Safety Code Section 25100 *et seq.*; the California Toxic Substances Account Act, California Health and Safety Code Section 25300 *et seq.*; the Porter-Cologne Water Quality Control Act, California Water Code Section 13000 *et seq.*; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code Section 25249.5 *et seq.*; the California Clean Air Act, Health and Safety Code Sections 39000 *et seq.*; the California Hazardous Materials Response Plan and Inventory Act, Health and Safety Code Sections 25500 *et seq.*, as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

**Food Scraps:** "Food scraps" means material resulting from the production, processing, preparation or cooking of food for human consumption that is separated from MSW. Food Scraps include surplus or unsold edible food, raw food left over after food preparation, leftover cooked food, as well as spoiled food such as vegetables and culls, and plate scrapings. Food Scraps includes, without limitation, food scraps from food facilities as defined in California Health and Safety Code Section 113789, food processing establishments (as defined in California Health and Safety Code Section 111955), grocery stores, farmer's markets, institutional cafeterias (such as schools, hospitals and assisted living facilities), restaurants, and residential food scraps. Food Scraps does not include Food Soiled Paper.

**Food Scrap Processing Facility:** "Food Scrap Processing Facility" means the City-approved Compost Facility, Bioengineered Feedstock Facility, Wastewater Treatment Plant, Anaerobic Digestion Facility and/or other City-approved Processing Facility used to process Food Scraps Collected by Contractor in the City.

**Food Soiled Paper:** "Food Soiled Paper" means paper towels, tissue products, paper napkins, paper plates and cups, coffee filters, tea bags, waxed paper, butcher paper, paper take-out boxes and containers, greasy pizza boxes, paper bags, cardboard and wax-coated cardboard produce boxes. "Food Soiled Paper" does not include polystyrene, diapers, aluminum foil or foil-lined food wrap.

**Gated Development:** "Gated Development" means a gated community governed by a Homeowner's Association, Board of Directors, and/or Covenants, Conditions and Restrictions or

similar centralized governance wherein the dwellings are provided MSW, Recyclable Materials, Yard Trimmings and Food Scrap collection services, using either wheeled carts at individual residences, or carts, bins and/or compactors located in centralized enclosures throughout the community.

**Generate:** "Generate" means to bring into existence or create, or to use, maintain or possess an item, material or product, the result of which such creation, bringing into existence, use, maintenance or possession is that the item, material or product first becomes, or is converted, transformed, evolved to, or deemed as MSW, Recyclable Materials, Food Scraps, Organics, Yardwaste or Construction and Demolition Debris.

**Green Waste:** See "Yard Trimmings".

**Hazardous Waste:** "Hazardous Waste" means as defined in Section 11.05 of the Contract.

**Homeowners Association (HOA):** "Homeowners Association" or "HOA" means a mandatory membership organization comprised of two or more homeowners for the maintenance of commonly owned real estate and improvements associated with multi-family developments comprised of detached homes, condominiums or townhouses.

**Household Hazardous Waste (HHW):** "Household Hazardous Waste" or "HHW" means any Hazardous Waste generated incidental to owning or maintaining a place of residence. Household Hazardous Waste does not include any waste generated in the course of operating a business or commercial activity at a residence or at any Commercial Business Establishment. Typical Household Hazardous Wastes include used motor oil and oil filters, antifreeze and other vehicle fluids, paints and varnishes, pesticides, pool chemicals and cleaning supplies.

**Including:** "Including" means including but not limited to.

**Indemnitees:** "Indemnitees" means the City, members of the City Council and other officers, employees, and agents.

**Land Application:** "Land Application" means the final deposition of Compost and/or Anaerobic Digestate spread, sprayed, or fertigated on any land, crop, foliage or vegetation.

**Master Account.** "Master Account" means the account of a Customer that pays for Collection services for separate tenants within a Commercial Business Establishment, which may include a mixed use development (containing both residential and commercial tenants). For example, the owner or property manager for a strip mall is the Master Account holder if applicable Collection services (e.g. for MSW, Recyclable Materials, Yard Trimmings, Food Scraps) for all the tenants of the strip mall are paid for by the owner or property manager. The Customer who holds the Master Account subscribes to Collection services on behalf of all tenants/residents of the Commercial Business Establishment pays Contractor's bills for said services. Contractor shall maintain a separate entry and specific diversion program implementation tracking on the Red/Green Tracking Spreadsheet for each individual tenant of a Commercial Business Establishment. In the case of a mixed use property, Contractor shall maintain a separate entry and specific diversion program implementation for each individual Commercial tenant and for all residential tenants combined.

**Materials Recovery Facility (MRF):** See "Clean MRF"

**Multi-family:** "Multi-family" means a building, dwelling unit or complex containing multiple dwelling units that house more than four residences. Apartment complexes, condominiums, townhouses and similar configured housing complexes are included. Multi-family does not include single-family residences, duplexes, tri-plexes or four-plexes. For purposes of the implementation of programs described in Attachment B, reporting described in Article 9 of the Agreement, the requirements for the Annual Diversion Rate described in Section 6.07 of the Agreement and the Extension Opportunities described in Section 6.08 of the Agreement, "Multi-Family Tons" shall include only Tons Collected from Multi-Family complexes in Carts and in Bins and shall not include any Tons Collected from Commercial and Business Establishment Carts or Bins. For purposes of reporting Tons, Multi-Family Tons shall be separately reported from Commercial Tons as described in Article 9.

**Municipal Solid Waste (MSW):** "Municipal Solid Waste" or "MSW" is the variable portion of all non-hazardous discarded materials that is left over after all Diversion Programs are utilized by the owners and/or occupants of all Premises in the City. The owners and/or occupants of all Premises within the City are provided with separate, designated Containers for MSW, Recyclable Materials, Yard Trimmings/Wood and Food Scraps (with the exception of non-food generating Commercial and Business Establishments) and Construction and Demolition Debris (where applicable). The owners and occupants of all Premises separate and place discarded materials in the appropriate Container provided to their Premises. City and third parties provide other Diversion Programs for Collection and Diversion of household appliances, E-Waste, grease, fats, oils and other Divertable Materials. MSW is the material placed by owners and/or occupants in the MSW container(s) and does not include materials placed in the other Containers designated for Divertable Materials or Diverted via other Diversion Programs.

MSW does not include (1) Hazardous Waste, (2) low-level radioactive waste regulated under California Health and Safety Code Sections 25800, et seq., or (3) untreated medical waste which is regulated pursuant to the Medical Waste Management Act, California Health and Safety Code Sections 25015, et seq..

**Orange County Landfill System:** "Orange County Landfill System" means any landfill owned or operated by the County of Orange, currently including Brea Olinda, Frank R. Bowerman, and Prima Descheca.

**Person:** "Person" includes any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County, municipality or special purpose district or any other entity whatsoever.

**Plastic Containers:** "Plastic containers" means all plastics of resin numbers 1-7, specifically excluding Styrofoam.

**Premises:** "Premises" means any land or building in the City (including but not limited to Residential, MF, Commercial, Industrial, Institutional, Government and all other Premises) where MSW, Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris, discarded household appliances, E-Waste, cooking oil, grease, fats, and other materials are generated or accumulated.

**Processing Facilities:** "Processing Facilities" means facilities where the following activities are conducted: sorting, cleaning, treating, composting, and reconstituting collected materials and returning these materials to the economic mainstream in the form of raw materials for new,

reused or reconstituted products which meet the quality standards of the market place. Processing Facilities include the Clean Materials Recovery Facility (Clean MRF), Composting Facilities, Anaerobic Digestion Facilities, Wastewater Treatment Plants, Construction and Demolition Debris sorting facilities, and concrete and asphalt grinding facilities. Processing Facilities do not include waste-to-energy, biomass, thermal destruction, or any type of Transformation facilities.

**Processing Fee:** "Processing Fee" means the amount charged for delivery of materials to the City designated MRF, Compost Facility, AD Facility, Construction and Demolition Debris Processing Facility, Waste-to-Energy, and Transformation Facility.

**Producer's Price Index:** "Producer's Price Index" or "PPI" means as defined in Attachment J.

**Property Manager:** See "Authorized Customer Representative".

**Recovered Materials:** "Recovered Materials" means those materials that are processed at a MRF, Compost Facility, Anaerobic Digestion Facility, Bioengineered Feedstock Facility, or Construction and Demolition Debris Processing Facility and thus diverted from Disposal by Recycling, Composting, and/or sale for re-use.

**Recyclable Materials:** "Recyclable Materials" means material which otherwise would become, or be treated as, MSW but which, by means of a process of collecting, sorting, cleansing, treating and reconstructing, may be returned to the economic mainstream in the form of finished or source material for new, reused or reconstituted products, which may be used in the market place. "Recyclable Materials" includes Single-Stream Recyclable Materials and Single Material Recyclables. Recyclable Materials includes, but is not limited to, paper, books, magazines, cardboard, boxes, plastics, metals, glass, and other similar materials authorized by the City for Collection by the Contractor. Recyclable Materials does not include Food Scraps, Yard Trimmings or Construction and Demolition Debris.

**Recycle/Recycling:** "Recycle" and "Recycling" mean the process of collecting, sorting, cleaning, treating and reconstituting materials that would otherwise become MSW and returning these materials to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards to be used in the marketplace.

**Recycling Coordinators:** "Recycling Coordinator" and "Recycling Coordinators" means the employees of Contractor described in Section 7.05 G.

**Red/Green Tracking Spreadsheet:** "Red/Green Tracking Spreadsheet" or "Red/Green List" means the spreadsheet presented in hard copy in Attachment K that is used by the parties to track Diversion Program implementation throughout the Term of the Contract. The Red/Green Tracking Spreadsheet in electronic form is a living document that is updated at least monthly (and often more frequently) by Contractor and reviewed at monthly meetings of City and Contractor. Customer premises where Diversion Programs have been successfully implemented and such programs are operating well, are color-coded in green on the Tracking Spreadsheet. Customer premises where Diversion Programs have not been successfully implemented and/or where the program is not operating well, are color-coded in red.

**Residential Premises:** "Residential Premises" includes single-family dwellings, Multi-family dwellings (such as townhouses, apartments, and condominiums), gated developments and

mobile home parks that are provided individual Collection service at each dwelling unit, whether by means of walk-in or curbside Collection, and which may be individually billed by Contractor or billed, as part of a central billing process, by the HOA or Property Manager.

**Residue:** "Residue" means the MSW destined for Disposal which remains after processing at a MRF, Compost Facility, Anaerobic Digestion Facility, Bioengineered Feedstock Facility and/or Construction and Demolition Debris Processing Facility has taken place. The percent of Residue is calculated by dividing the weight of the residue by the weight of the total materials delivered for processing at the facility. State law and regulations govern the allowable amount of Residue that can be generated by each Processing Facility.

**Roll Off Boxes:** "Roll Off Boxes" means large open top rectangular metal Containers used to store and transport MSW, Recyclable Materials, Yard Trimmings, Construction and Demolition Debris, or other materials. Roll Off Boxes are collected using a special vehicle equipped with hooks and a winch to pull the box onto the flat bed of the truck for transport. Roll Off Boxes typically come in 10, 20, 30 and 40 cubic yard sizes.

**Scout Service:** "Scout Service" means moving individual Bins, Carts and/or other Containers containing MSW, Recyclable Materials, Yard Trimmings and/or Food Scraps to a centralized location on the property so the Containers can be emptied by a frontloader vehicle and then returned to their original locations. The Containers are moved by a pickup truck, motorized utility cart or other similar lightweight vehicle. Scout Service is used to Collect and consolidate MSW, Recyclable Materials, Yard Trimmings and/or Food Scraps that are placed in chutes in multi-story Multi-family dwellings. Scout Service is also used to save wear and tear on pavement in parking lots and driveways and to make Collection service more efficient. Instead of traveling to the location of each individual Bin, Cart or other Container to empty the Container, the frontloader vehicle only travels to one centralized location and empties all the Containers at that location.

**Self-Haul:** "Self-Haul" means the hauling of MSW and/or Divertable materials to a transfer, Processing, or Disposal Facility or other type of facility by a Generator, owner, or occupant of any Premises.

**Single-Material Recyclables:** "Single-Material Recyclables" means those Recyclable Materials which satisfy each of the following requirements: (1) have been segregated from MSW for handling different from that of MSW by or for the generator thereof; (2) have been further segregated so that various types of Recyclable Materials, such as glass, metals, paper, cardboard, etc., are not commingled.

**Single Stream Recyclable Materials:** "Single Stream Recyclable Materials" or "Single Stream Recyclables" means those Recyclable Materials collected as separated from MSW by the Customer and consisting of a mixture of metals, glass, plastics #1-7, and all paper grades from Residential Premises, Commercial and Business Establishments and Multi-Family Complexes. Single Stream Recyclable Materials are distinguished from Single-Material Recyclables, which consist of only a single type of material, such as glass, separated from other recyclables.

**Source Reduction:** "Source Reduction" means any action that causes a net reduction in the generation of MSW. Source reduction includes, but is not limited to, reducing the use of non-recyclable materials, replacing disposable or single-use materials and products with reusable

materials and durable products, reducing packaging, reducing the amount of Yard Trimmings, Food Scraps, and/or Construction and Demolition Debris generated.

**Source-Separated Construction and Demolition Debris:** "Source-Separated Construction and Demolition Debris" ("Source Separated C&D") means source separated streams of Construction and Demolition Debris, e.g. wood, concrete, asphalt, drywall.

**Source Separated Recyclable Materials:** "Source Separated Recyclable Materials" has the same meaning as defined by the Act.

**Split Bins** "Split Bins" means Bins that have a divider down the middle, dividing the Bin into two separate compartments. Such Bins have separate locking lids for each side of the Bin that allows the Bin to be emptied one side at a time. The lid on the side of the Bin that is for storage of Recyclable Materials is designed such that it allows for the placement of Recyclable Materials in the Bin without unlocking or opening the lid, and yet does not allow Recyclable Materials to spill out when the lid is closed and locked for the emptying of the opposite side of the Bin. Typical sizes of Split Bins include 2 cubic yards, 3 cubic yards and 4 cubic yards.

**Term:** "Term" means the term of this Contract as specified in Section 3.02, unless extended by City pursuant to Section 3.03.

**Ton:** "Ton" means a short ton of 2,000 pounds avoirdupois.

**Transformation:** "Transformation" means incineration, pyrolysis, distillation, or biological conversion other than composting and does not include Composting, gasification, or biomass conversion. For purposes of this Agreement Transformation does not include "wet" or "dry" Anaerobic Digestion. [See Section 6.06 of the Agreement regarding Transformation.]

**Transformation Facility:** "Transformation Facility" means a facility utilizing incineration, pyrolysis, distillation, or biological conversion other than composting and does not include Composting, gasification or biomass conversion. For purposes of this Agreement Transformation Facility does not include "wet" or "dry" Anaerobic Digestion.

**Universal Waste (U-Waste):** "Universal Waste" or "U-Waste" means electronic devices not included in the definition of "Electronic Waste" in this Attachment A, including but not limited to common AA, AAA, C Cell and D Cell batteries; fluorescent tubes and bulbs and other mercury containing lamps (including high intensity discharge [HID], metal halide, sodium and neon bulbs); mercury containing devices such as thermostats, switches, thermometers, and relays (including those found in pre-1972 washing machines, sump pumps, electric space heaters, clothing irons, and silent light switches); pilot light sensors from gas appliances; mercury gauges from barometers, manometers, blood pressure and vacuum gauges; mercury-added novelty items such as greeting cards that play music when opened, athletic shoes with flashing lights in the soles, and mercury maze games; emptied aerosol cans that contain hazardous materials; and other items as defined by California Code of Regulations, Title 2.2, Divisions 4.5, Chapter 23, et. seq. as currently in force or as thereafter amended, and all rules and regulations promulgated thereunder.

**Wastewater Treatment Plant:** "Wastewater Treatment Plant" means a municipal or privately owned wastewater treatment plant (also known as a POTW) at which Food Scraps that have been mixed with liquid to create a bioengineered feedstock, are added to a digester to enhance production of methane or other biogas to be used to create energy.

**Waste-To-Energy (WTE):** See "Transformation".

**Will:** "Will" means "shall" whenever the context requires.

**Wood:** "Wood" means all non-hazardous wood material that is not painted with lead-based or other paints containing materials identified as hazardous waste, or treated with creosote or other hazardous materials, including but not limited to tree branches and other wood trimmings, dimensional lumber and other pieces of wood generated during the manufacture or processing of wood products, wood generated as part of the harvesting or processing of raw woody crops, and the wood debris from construction and demolition activities.

**Yard Trimmings:** "Yard Trimmings" means tree and shrub trimmings, grass cuttings, leaves, branches, and similar organic materials

## **ATTACHMENT B SCOPE OF WORK**

### **Table of Contents**

<b>SECTION 1: GENERAL REQUIREMENTS .....</b>	<b>4</b>
<b>1.1 General Requirements for Collection and Billing.....</b>	<b>4</b>
1.1.1 Customer Billing.....	4
1.1.2 Commercial and Multi-Family Billing.....	5
1.1.3 Roll Off Box Customer Billing.....	5
1.1.4 Review of Billings.....	6
1.1.5 Billing Records and Access By City.....	6
<b>1.2 Changes in Collection Services.....</b>	<b>6</b>
<b>1.3 Changes in Scheduled Days of Collection.....</b>	<b>7</b>
<b>1.4 Containers for the Collection of MSW and Recyclable Materials.....</b>	<b>7</b>
1.4.1 Container Color Coding and Labeling .....	8
1.4.2 Containers for Residential Premises.....	9
1.4.3 Containers for Multi-family Complexes, Commercial and Business Establishments, and City Facilities.....	10
<b>1.5 Proposals for New Diversion Programs.....</b>	<b>10</b>
<b>1.6 State Law Requirements. ....</b>	<b>10</b>
<b>1.7 Diversion Program Implementation Tracking.....</b>	<b>16</b>
<b>SECTION 2 - RESIDENTIAL COLLECTION SERVICES.....</b>	<b>17</b>
<b>2.1 Basic Level of Service.....</b>	<b>17</b>
<b>2.2 MSW Collection.....</b>	<b>17</b>
<b>2.3 Recycling Services. ....</b>	<b>17</b>
2.3.1 Single Family Co-Collected Yard Trimmings/Food Scrap Collection Program. ....	17
2.3.2 Potential Program for Collection of Source Separated Food Scraps at Single Family Premises .....	19
2.3.3 Potential City-Directed Bi-Weekly Collection of Residential MSW.....	20
2.3.4 Monitoring of Single Family Programs.....	21
2.3.5 Multi-family Programs and Services .....	21
2.3.5.1 Single Stream and Single-Material Recyclable Materials Collection (AB 341 Program). ....	21
2.3.5.2 Yard Trimmings and Wood Collection Program (AB 1826 Program). ....	22
2.3.5.3 Source-Separated Multi-Family Food Scrap Collection Program (SB 1383 Program). ....	24
2.3.5.4 Alternate Program For Co-Collection of Yard Trimmings and Food Scraps at Multi-Family Complexes.....	25
2.3.5.5 Monitoring of Multi-Family Programs.....	25
2.3.6 Gated Developments/HOA's .....	25
2.3.6.1 Alternate Program For Co-Collection of Yard Trimmings and Food Scraps at Gated Developments/HOA's.....	28
2.3.6.2 Monitoring of Gated Development/HOA Programs.....	28
2.3.7 Residential Valet Service (Back Yard/Side Yard Wheel-Out Service). ....	29
<b>SECTION 3: COMMERCIAL AND BUSINESS ESTABLISHMENT SERVICES.....</b>	<b>29</b>
<b>3.1 Basic Level of Service. ....</b>	<b>29</b>
<b>3.2 MSW Collection.....</b>	<b>29</b>

## ATTACHMENT B SCOPE OF WORK

<b>3.3 Recycling Services .....</b>	<b>30</b>
3.3.1 Single Stream Recyclable Materials and Single-Material Recyclables Collection (AB 341 Program). .....	30
3.3.2 Monitoring of Commercial and Business Establishment Single Stream and Single-Material Recycling Programs .....	31
3.3.3 Source-Separated Commercial Food Scrap Collection (AB 1826 Program). .....	31
3.3.4 Monitoring of Business and Commercial Establishments Food Scrap Collection Programs.....	34
3.3.5 Commercial Yard Trimmings and Wood Collection Program (AB 1826 Program).....	35
3.3.6 Required Tasks For Implementation of Diversion Programs .....	36
<b>3.4 Other Services To Be Provided .....</b>	<b>41</b>
3.4.1 Manual Can Service.....	41
3.4.2 Scout Service at Commercial, Multi-family and/or HOA/Gated Development Premises.....	41
3.4.3 MSW Collection at Bus Stops and Benches.....	42
3.4.4 Changes in Collection Services.....	42
<b>3.5 Consultations and Technical Assistance.....</b>	<b>42</b>
3.5.1 Customer Consultations.....	42
3.5.2 City and Developer Consultations.....	42
<b>3.6 Notice to Commercial and Business Establishments.....</b>	<b>43</b>
<b>3.7 Elective and Required Waste, Composition and Diversion Studies.....</b>	<b>43</b>
<b>3.8 Compactor Service.....</b>	<b>44</b>
<b>3.9 Temporary Bin, Roll-Off and Compactor Collection Services.....</b>	<b>44</b>
<b>3.10 Construction and Demolition Debris Recycling.....</b>	<b>45</b>
<b>3.11 Other Services .....</b>	<b>49</b>
<b>3.12 Collection Services at City Facilities.....</b>	<b>49</b>
3.12.1 Collection Services For City Operations and at City Events .....	49
3.12.2 Additional Collection Services For City.....	50
3.12.3 Collection of MSW and Recyclable Materials in Specified City Parks.....	50
<b>SECTION 4. SPECIAL SERVICES.....</b>	<b>51</b>
<b>4.1 Bulky Goods Collection Services.....</b>	<b>51</b>
<b>4.2 Collection of Appliances Containing Freon .....</b>	<b>52</b>
<b>4.3 Holiday Greenery Collection and Recycling.....</b>	<b>52</b>
<b>4.4 Electronic Waste and Universal Waste Collection.....</b>	<b>53</b>
<b>4.5 Emergency Services .....</b>	<b>54</b>
<b>SECTION 5: PUBLIC INFORMATION AND CONSUMER EDUCATION .....</b>	<b>54</b>
<b>5.1 General .....</b>	<b>54</b>
<b>5.2 Notice to Residents.....</b>	<b>55</b>
<b>5.3 Notice to HOAs and Property Managers.....</b>	<b>55</b>
<b>5.4 Billing Inserts, Coupons, Website.....</b>	<b>56</b>
<b>5.5 Brochure for Commercial and Business Establishments.....</b>	<b>56</b>
<b>5.6 Non-Bill Mailing Lists .....</b>	<b>56</b>

**ATTACHMENT B  
SCOPE OF WORK**

<b>5.7 Procedure for Documentation and Notification of Contamination.....</b>	<b>56</b>
<b>5.8 Website.....</b>	<b>59</b>
<b>5.9 Seminars, Workshops, Presentations, Meetings.....</b>	<b>59</b>

## ATTACHMENT B SCOPE OF WORK

### SECTION 1: GENERAL REQUIREMENTS

#### ***1.1 General Requirements for Collection and Billing.***

The Contractor shall (1) collect and Recycle all Recyclable Materials which are placed for Collection at Residential, Commercial and Business Establishments and at City Facilities and events at which the MSW or Recyclable Materials are generated and (2) shall collect, transport and dispose of all Municipal Solid Waste (MSW). Contractor shall also be responsible for billing and collecting payment from customers for services rendered pursuant to this Agreement, as more fully described in this Section.

This Scope of Work has been framed with a cost sensitive phased approach to the 75% statewide diversion mandate of AB 341 (PRC Section 41730 *et seq.*) as well as compliance with other recent legislation as described in Section 1.06 of this Attachment B. Each of the recycling and Diversion services are described below and are also identified by the specific Diversion Programs System (DPS) code developed and used by CalRecycle.

#### 1.1.1 Customer Billing

Contractor shall prepare and mail bills to all customers and shall be solely responsible for following all prudent business practices for collection of payments from customers. Contractor shall never bill for services not verifiably rendered. If a billing error is made for a service that was not provided, Contractor shall provide a timely refund or credit to the Customer. Contractor shall prepare bills for all Customers that clearly and accurately list rates in effect at the time services were provided or for the time period in which services will be provided. Bills shall fully explain and display all calculations of each charge. Such charges shall be at the rates in Attachment D as adjusted for inflation per Contract Section 12.03. Contractor shall initially resolve any disputes related to charges to Customers. In the event Contractor cannot resolve a dispute, City may, at its option, review the matter and make a decision. In this event, the decision of the City shall be final. Contractor shall submit to City, sixty (60) days prior to its use, a draft of bill format(s) and a line item description for each charge, together with an example of a completed bill for an individually-serviced Residential Premises, a centrally-billed Multi-family Premises, a Commercial and Business Establishment with Recycling Collection services, and a temporary Roll Off Box service for review and approval. Contractor shall also, at the same time as submittal of the draft above, submit a draft of a conveniently-sized listing of services and maximum rates in effect that may be distributed to, and retained for reference by, all Customers. Once approved by City, the brochure on services and rates shall be mailed to all customers on or before October 1, 2019 for residential and October 1, 2019 for commercial.

In the event of Customer non-payment of bills, 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

## **ATTACHMENT B SCOPE OF WORK**

judgments in Small Claims Court and to enforce such judgments. Customers who have not remitted payments within thirty (30) days after the date of the billing shall be notified on forms approved by the City. A stop service notice will be sent at forty five (45) days of non-payment. The contractor may suspend or terminate MSW Collection services provided to any Premises if the Owner or occupant thereof (or other party responsible for payment) is delinquent in payment of such bills for sixty (60) days. Contractor shall notify City of its intent to issue such notice. If no payment is made, Contractor may remove Carts and/or other Containers that Contractor has provided to the Customer. If City has evidence or other information as to why service should not be stopped, City will confer with Contractor. The decision of City as to whether or not service may be terminated shall be final. Contractor may charge the Resumption of Service Charge in Attachment D once delinquent Customers with terminated service have paid their account in full.

Residential Customers that are individually billed (meaning they are not in centrally-billed HOA's or centrally-billed Gated Developments) may request a vacation stop to stop their Collection service one (1) time each calendar year. Such vacation stops must be for a minimum of thirty (30) days.

### **1.1.2 Commercial and Multi-Family Billing.**

Contractor shall invoice Commercial and Multi-Family customers on a monthly basis, in advance at the beginning of the month, based upon the size of their containers and the frequency of Collection, at the rates listed in Attachment D. Customers who have not remitted payments within thirty (30) days after the date of the billing shall be notified on forms approved by the City. A stop service notice will be sent at forty five (45) days of non-payment. The contractor may suspend or terminate MSW Collection services provided to any Premises if the owner or occupant thereof (or Authorized Customer Representative) is delinquent in payment of such bills for sixty (60) days. Contractor shall notify City of its intent to issue such notice. Upon customer payment of delinquent fees, the Contractor shall resume service on the next regularly scheduled collection day. Contractor may charge the Resumption of Service Charge in Attachment D, but may not charge for service during the period that service was suspended.

### **1.1.3 Roll Off Box Customer Billing.**

For Single Family Dwelling Unit Customers who request Roll Off Box service, the Contractor shall accept major credit cards for payment. Single Family Dwelling Unit Customers that do not use a credit card may be required by Contractor to post a security deposit or pay on a "Cash on Delivery" (COD) 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

## **ATTACHMENT B SCOPE OF WORK**

(i.e. the beginning of the month or the inception of service). Delinquent accounts shall be handled in the same manner as Commercial Customers as described in Section 1.1.2. Contractor may require a security deposit for temporary Roll Off Boxes with the unused portion refunded to the Customer within Five (5) business days of the termination of service.

### **1.1.4 Review of Billings.**

Contractor shall review and audit all amounts billed to each Customer to compare the amount being charged with the level of service, including the size(s) of Container(s) and the frequency of service, on an annual basis beginning in October 2019. Contractor shall submit a written report to City documenting the results of the audit and noting any discrepancies identified and the date upon which the discrepancies were corrected. The report shall be submitted by October 31 during each year of the Term beginning in 2019.

### **1.1.5 Billing Records and Access By City.**

Contractor shall maintain copies of all billing records and receipts, in chronological order, for a period of five (5) years after the date of service, for inspection by the City upon request. The Contractor may maintain these records in electronic form or hard copy, provided records can be preserved and retrieved for inspection and verification in a timely manner, are sufficient to verify accuracy of all billings, payments of the Franchise Fee, Public Education Fee and any City other fees, and may be produced in a form and manner sufficient to establish the existence of customer obligations in a court of law.

### ***1.2 Changes in Collection Services.***

Contractor shall be responsible for: (A) establishing services for new Customers; (B) stopping services and preparing a final billing on a pro rata basis for a Customer permanently discontinuing service; (C) suspending services at an individually-billed Residential Premises or Commercial and Business Establishments one time in a calendar year for a period of 30 to 60 calendar days for temporary vacation stops. During temporary vacation stops, the Customer shall incur no charges for Collection services not provided and, if Customer is due refund and/or credit, timely refunding/crediting of payment made in advance of temporary vacation stops. Temporary vacation stops must be for a minimum of thirty (30) days. If a temporary vacation stop request exceeds 60 calendar days, Contractor may arrange to pick-up the Containers from the Customer and require the Customer to restart service as the account will be considered discontinued; (D) accommodating modifications in the weekly frequency of Collection services for Commercial and Business Establishments on an as-needed basis and reducing MSW service as Recycling Collection is implemented.

## **ATTACHMENT B SCOPE OF WORK**

Contractor shall, for approval of City, develop a procedure and confirmation form to document requests for commencement and termination of, and changes in, service. Customers shall be provided a copy of the confirmation form noting effective date of start-up, change, suspension or termination in Collection services and other pertinent details, such as date of issuance of refund for services not provided but for which Customer has paid.

### ***1.3 Changes in Scheduled Days of Collection.***

Once a schedule of Collection days for MSW and/or Recyclable Materials has been established for Residential Premises, and Gated Developments, the schedule shall not be changed without the prior written approval of City. Contractor shall request approval from City ninety (90) days prior to planned change in a scheduled day of Collection for Residential Premises. As a condition of approval of such a change, City may require Contractor, at Contractor's sole expense, to notify residents of the change by first-class postage. All details and scheduling of such notice shall be subject to approval by the City.

Scheduled Collection days for MSW and/or Recyclable Materials may be changed at the request of the occupant or Authorized Customer Representative of any Commercial and Business Establishment, Gated Development, or Multi-Family Premises, without the approval of City. The City will determine the final schedule of Collection days, in the event a disagreement arises between Contractor and a Customer at Commercial and Business Establishments or Multi-family Premises.

### ***1.4 Containers for the Collection of MSW and Recyclable Materials.***

Contractor shall maintain in inventory and make available to Customers the following types of Containers throughout the Term. Specific Containers that are required to be provided to Customers for each service (including all Diversion programs and MSW Collection) are noted in the description of each service and/or program in this Attachment B. Contractor shall make available the following sizes of Carts: thirty-five (35) gallon, sixty-five (65) gallon, and ninety-five (95) gallon wheeled Carts with lids. The Carts shall meet the specifications listed in Attachment E and shall be color-coded as described in Section 1.4.1 of this Attachment B.

Contractor shall also provide two (2) cubic yard, three (3) cubic yard, four (4) cubic yard, six (6) cubic yard Bins; split three (3) yard Bins, split four (4) yard Bins; two (2) yard bin compactors, three (3) yard bin compactors, and four (4) yard bin compactors; ten (10) cubic yard, twenty (20) cubic yard and forty (40) cubic yard Roll Off Boxes.

During the Term of the Contract, Contractor shall maintain an adequate inventory of Containers to fulfill and meet all needs of its Customers. Meeting the needs of its Customers includes the repair and replacement of all Containers that are broken, damaged, tagged with graffiti, lost, or stolen. The repair, refurbishment and replacement

## **ATTACHMENT B SCOPE OF WORK**

of Containers shall be at the sole expense of the Contractor. The Contractor shall submit, on a monthly basis, a report showing the inventory of all Containers as well as a record of the replacement and repair schedule for the prior thirty (30) days.

### **1.4.1 Container Color Coding and Labeling.**

Contractor shall deploy replacement Carts and Bins in City (including those for Residential, Commercial, Multi-Family, HOA, Gated Developments and all other Customers for all types of materials and MSW) in future years as described herein and in Article 7 of the Agreement such that the average age of the deployed Carts and Bins is five (5) years. Contractor shall accomplish this on or before January 1, 2022 and shall maintain said average age of Containers throughout the remainder of the Term.

When this replacement of Containers occurs, all Containers will be consistently color-coded according to the CalRecycle regulations implementing SB 1383. The CalRecycle color-coding scheme for all Carts (Residential, Multi-family, Gated Development/HOA, and Business and Commercial) is: black for MSW Carts, green for Yard Trimmings Carts, and blue for Single Stream Recyclable Materials Carts. Concurrent with implementation of the Residential co-collected Yard Trimmings/Food Scraps program described in Section 2.3.1 of this Attachment B, Contractor shall deploy Residential Containers that are consistently color-coded according to the CalRecycle regulations. As part of the co-collection program, Residents will place all Food Scraps and Yard Trimmings into the green Yard Trimmings Cart. In the event City directs implementation of a Residential source-separated Food Scraps Collection program during the Term (as described in Section 2.3.2 of this Attachment B) a yellow Cart shall be provided for the Residential Food Scraps. All Cart bodies shall be uniform in color with lids of the same color as the Cart body.

With regard to Residential Carts, the parties acknowledge and agree that as of the Effective Date, the Carts currently deployed in City are of varying colors and do not follow the new CalRecycle color scheme. The parties also acknowledge and agree that approximately four-thousand five hundred (4,500) Residences in HOA's and Gated Developments have been historically exempted from the Yard Trimmings Collection program in City and have no Yard Trimmings Carts. The parties further acknowledge and agree that some Carts currently in use are nearing the end of their useful life. Contractor shall accomplish the replacement of Residential Carts as follows: As noted above, upon implementation of the Residential co-collected YardTrimmings/Food Scrap Collection program Contractor shall replace all Carts that do not follow the CalRecycle color scheme and shall simultaneously deploy all Carts required for the Residential co-collected Yard Trimmings/Food Scrap Collection program. This replacement of Carts and deployment of Carts shall include all Residences in HOA's and Gated Developments and all Multi-Family complexes where Carts are in use and/or required for MSW Collection and for any Diversion Program.

As noted above, the color-coding scheme for all Containers for Commercial and Business Establishments shall be the CalRecycle scheme: black for MSW, green for

## **ATTACHMENT B** **SCOPE OF WORK**

Yard Trimmings, blue for Single Stream Recyclable Materials and yellow for Food Scraps. As of the Effective Date, the parties acknowledge and agree that there may be Carts and Bins deployed at Commercial and Business Establishments that (a) are nearing the end of their useful life, and/or (b) do not match the new CalRecycle color scheme for Containers. As described herein and in Article 7 of the Agreement, Contractor shall replace Commercial Carts and Bins such that the average age of the deployed Commercial Carts and Bins is five (5) years. Contractor shall accomplish this on or before January 1, 2022. When this replacement of Containers occurs, all Containers will be consistently color-coded according to CalRecycle regulations implementing SB 1383.

All Containers provided by Contractor for Residential, Commercial, Multi-Family, HOA's and Gated Developments shall have messages/graphics on the exterior (or the underside of the lid on Carts and Bins) designed to remind Customers of what can and cannot be discarded into each type of Container by January 1, 2022. City shall have final approval of the text/graphics. Contractor shall submit the order(s) for new Containers to City for review and approval at least thirty (30) days prior to ordering the Containers required herein. All Carts provided by the Contractor pursuant to the Agreement shall meet the detailed specifications contained in Attachment E. All Carts will be identifiable with a unique serial number located on the Cart. Contractor shall continue to utilize the herein-described color-coding scheme for all Containers used in City through the remainder of the Term unless otherwise directed by City.

### **1.4.2 Containers for Residential Premises.**

Contractor will provide each Customer with three (3) Carts of sixty-five (65) gallon default size for Residential Premises basic level of service: one (1) black MSW Cart, one (1) blue Recycling Cart, and one (1) green Cart for Yard Trimmings for the rates set forth in Attachment D. Customers will be allowed to specify one of the following sizes of Carts for MSW service: thirty-five (35) gallon, sixty-five (65) gallon, or ninety-five (95) gallon. During the period January 1 through June 30, 2019, upon Customer request, Contractor shall provide Carts to Customers for Single Stream Recyclables and/or for Yard Trimmings in the same size as MSW. As of July 1, 2019, upon request by a Customer using a 35, 65, or 95 gallon MSW cart, Contractor shall provide a Recycling Cart or Yard Trimmings Cart that is a different size than the Customer's MSW Cart (i.e., either a 35, 65, or 95 gallon Recycling and/or Yard Trimmings cart). For example, a customer with a 35 gallon MSW cart may request a 95 gallon Recycle Cart and a 65 gallon Yard Trimmings Cart. Carts shall be of the specified sizes set forth in Attachment E and shall not deviate from these sizes. Customers shall be allowed to change the size(s) of any type(s) of Carts including MSW, Recycling and/or Yard Trimmings, one time per year.

Contractor shall provide up to one (1) additional blue Recycling Cart of any size at no additional charge over and above the basic level of service. Contractor shall charge Customers the rate in Attachment D, upon the Customer's request for the third (3rd)

## **ATTACHMENT B SCOPE OF WORK**

additional blue Recycling Cart of any size and upon the Customer's request for a second (2<sup>nd</sup>) additional green Cart of any size for Yard Trimmings.

If Customer requests an additional black MSW Cart of any size, Contractor shall provide such additional Carts at the rate set forth in Attachment D.

Contractor will provide a choice of a thirty-five (35) gallon, sixty-five (65) gallon, or ninety-five (95) gallon Recycling Cart sizes and Yard Trimmings Cart sizes to Customer upon any request for an additional Cart or a Cart replacement. At any time a Cart is distributed to a Residential Premises, Contractor shall also deliver to the Residential Premises an informational brochure (DPS code 5010-ED-PRN), describing the Single Stream curbside Recycling program (DPS code 2000-RC-CRB) and the Yard Trimmings Recycling program (DPS code 3000-CM-RCG). The brochure shall include a listing in detail of all types of Recyclable Materials and Yard Trimmings that will be collected and how they are to be prepared, items to include and exclude for each Recycling program, days of Collection and other pertinent information. An updated version of this brochure shall be submitted to City for approval within thirty (30) days after July 1, 2019. Contractor shall provide the City-approved updated brochure whenever new Residential Carts are distributed to customers. City may direct that the brochure be periodically updated as needed, but not more often than once annually. All costs associated with the preparation of a professional, well formatted and designed brochure, including photographic examples of Recyclable Materials and Containers, costs of printing, labeling and mailing shall be borne by Contractor.

### **1.4.3 Containers for Multi-family Complexes, Commercial and Business Establishments, and City Facilities.**

As noted above, Contractor shall provide specific Container sizes and types for each Multi-family complex, Commercial and Business Establishment and for each City Facility Diversion program, as well as for all Commercial and City Facility MSW Collection and for all other services as described throughout this Attachment B.

### ***1.5 Proposals for New Diversion Programs.***

Contractor shall, at no additional cost, within forty-five (45) days of each request by City, submit a written proposal for providing additional or expanded Diversion services. The proposal shall contain a complete description of the following: (A) Collection methodology to be employed; (B) equipment to be used and staffing requirements by number and classification; (C) type of Container(s) to be used; (D) informational/promotional campaign; (E) projection of annual operating costs and revenues (if applicable), including documentation of, and support for, key assumptions underlying projections.

### ***1.6 State Law Requirements.***

## **ATTACHMENT B** **SCOPE OF WORK**

The parties agree that as of the Effective Date, state law is evolving rapidly and the exact solid waste diversion level(s) that the City must achieve during the Term are not yet known. Examples of this situation include, but are not limited to the following: (a) final regulations for the implementation of SB 1383 (Sections 39730.5, 39730.6, 39730.7 and 39730.8 of the Health and Safety Code, and (b) commencing with Section 42652 of the Public Resources Code) to Divert fifty-percent (50%) of Food Scraps, Yard Trimmings/Wood from Disposal by 2020 and seventy-five (75%) by 2025, and (c) to Divert a minimum of twenty percent (20%) of edible food for human consumption by 2025 compared with 2014 baseline levels, are being developed by CalRecycle and will not be available until after the Effective Date of this Franchise Agreement; (2) CalRecycle is required to determine the statewide progress toward achievement of the overall seventy-five (75%) statewide diversion requirement contained in AB 341 (PRC Section 41730 *et seq.*) in 2019 so that information is not yet available. If the goal is not met, new regulations and/or new legislative requirements may be passed and/or promulgated; and (3) CalRecycle will determine in 2019 if additional diversion is required for small Food Scrap and Yard Trimmings/Wood generators pursuant to AB 1826 (PRC Section 42649.8 *et seq.*). It is also almost a certainty that additional legislation will be introduced that will impose new diversion program requirements and/or eliminate certain materials from being categorized as "diversion" under Public Resources Code Section 40000 *et seq.*

It is the goal of the City to comply with the requirements of Public Resources Code Section 40000 *et seq.* (as it may be amended) and all rules and regulations promulgated in furtherance thereof; and to comply with the requirements of Health and Safety Code Sections 39730.5 *et seq.* and all other state requirements whether or not specifically listed herein. Therefore, the scope of work for the Contractor with regard to diversion programs indicates that Contractor will implement some programs only upon written direction from the City to commence the program.

**Table 1 – Required Programs and Implementation Levels & Schedules**

DPS Code	Program Type	Start Date	Complete Implementation	Implementation Requirements	Monthly Target
<b>Recycling Programs</b>					
2000-RC-CRB	Residential Curbside Single-stream Recyclable Materials	1/1/2019	Immediate	All Residential Premises. No more than 20% by weight Divertable Materials in the curbside MSW stream by Dec 31, 2024 to earn Second Extension Opportunity	NA
2030-RC-OSP	Commercial Single-stream Recyclable	1/1/2019	100% Commercial AB 341 compliance levels by March 31, 2022 to	Approximately 21 new accounts	Approximately 1 new account implemented per

**ATTACHMENT B**  
**SCOPE OF WORK**

DPS Code	Program Type	Start Date	Complete Implementation	Implementation Requirements	Monthly Target
	Materials		achieve First Extension Opportunity		two month period
	Multi-family Single-stream Recyclable Materials	1/1/2019	100% Multi-family AB 341 compliance levels by March 31, 2022 to achieve First Extension Opportunity	Approximately 25 new accounts	Approximately 1 new account implemented per two month period
2070-RC-SNL	Special Collection Seasonal	1/1/2019	Immediate	NA	NA
2080-RC-SPE	Special Collection Events	1/1/2019	Immediate	NA	NA
2090-RC-OTH	Other recycling	TBD by City Direction	TBD by City Direction	TBD	TBD
<b>Food Scrap and Yard Trimmings Diversion Programs</b>					
3000-CM-RCG	Residential Curbside Source-separated Yard Trimmings	1/1/2019	Immediate	All Residential Premises	NA
3020-CM-COG	Commercial On-site Source-separated Yard Trimmings Collection	1/1/2019	Phased	Sufficient levels to provide AB 1826 customers without landscapers AB 1826 compliance (an estimated 20% of generators)	NA
	Multi-family Source-separated On-site Yard Trimmings Collection				
3040-CM-FWC	Single-family Residential Food Scraps - Source-Separated	As directed by the City. Estimated to begin July 1, 2019. Draft SB 1383 regulations require by January 1, 2022	December 31, 2024 (specific collection system is at the sole discretion of the City)	All Residential Premises. No more than 10% (by weight) yard trimmings/food scraps in the curbside MSW stream by Dec 31, 2024 to achieve the Second Extension Opportunity	N/A
	Single-family Residential Food Scraps – Co-collection				
3040-CM-FWC	Commercial Source-separated Food Scraps	1/1/2019	100% Tiers 1 through 4 reach AB 1826 compliance by March 31, 2022 to achieve the First Extension Opportunity	Approximately 85 new organics generators	Average of 2 organics generators added per month
	Commercial Co-collected Food Scraps and Yard Trimmings	Co-collection optional, as directed by the City			

**ATTACHMENT B**  
**SCOPE OF WORK**

DPS Code	Program Type	Start Date	Complete Implementation	Implementation Requirements	Monthly Target
	Multi-family Source-separated Food Scraps	Program type as directed by the City, before January 1, 2022, per SB 1383	100% SB 1383 compliance by December 31, 2024 in order to achieve the Second Extension Opportunity	Approximately 43 new multi-family organics generators	Average of 1 multi-family organics generators added per month
	Multi-family Co-collected Food Scraps and Yard Trimmings				
<b>Special Waste Diversion Programs</b>					
4030-SP-WHG	White Goods	1/1/2019	Immediate	NA	NA
4040-SP-SCM	Scrap Metal	1/1/2019	Immediate	NA	NA
4050-SP-WDW	Wood waste	1/1/2019	Immediate	NA	NA
4060-SP-CAR	Concrete, Asphalt, and Rubble	1/1/2019	Immediate	NA	NA
4070-SP-DSD	Disaster debris	As Needed	As Needed	NA	NA
4100-SP-OTH	Other special waste	TBD	TBD	TBD	TBD
<b>Education</b>					
5000-ED-ELC	Electronic outreach	1/1/2019	Immediate	Per the Agreement	NA
5010-ED-PRN	Print outreach	1/1/2019	Immediate	Per the Agreement	NA
5020-ED-OUT	Outreach	1/1/2019	Two (2) Full Time Recycling Coordinators	Per the Agreement	Per the Agreement
<b>MRFing Programs</b>					
7000-FR-MRF	Clean MRF	1/1/2019	Immediate Through end of Term	TBD	TBD
<b>Food Scrap and Yard Trimming Processing Facilities</b>					
7030-FR-CMF	Composting Facility – Residential Yard Trimmings	As directed by City	As directed by City	As needed to service Yard Trimming Diversion	NA
	Composting Facility – Residential Co-collected Yard Trimmings and Food Scrap	As directed by City	As directed by City	As needed to service Co-collected Yard Trimmings and Food Scrap	NA

**ATTACHMENT B**  
**SCOPE OF WORK**

DPS Code	Program Type	Start Date	Complete Implementation	Implementation Requirements	Monthly Target
7030-FR-CMF	Food Scraps			Diversion	
	Composting Facility – Residential Food Scraps	As directed by City	As directed by City	As needed to service Food Scrap Diversion	NA
	Composting Facility – Commercial/Multi-family Yard Trimmings	As directed by City	As directed by City	As needed to service Co-collected Yard Trimmings and Food Scrap Diversion	NA
	Composting Facility – Commercial/Multi-family Co-collected Yard Trimmings and Food Scraps	As directed by City	As directed by City	As needed to service Co-collected Yard Trimmings and Food Scrap Diversion	NA
	Composting Facility – Commercial/Multi-family Food Scraps	As directed by City	As directed by City	As needed to service Food Scrap Diversion	NA
	Anaerobic Digestion (AD) Facility – Residential Yard Trimmings	As directed by City	As directed by City	As needed to service Yard Trimming Diversion	NA
7030-FR-CMF	AD Facility – Residential Co-collected Yard Trimmings and Food Scraps	As directed by City	As directed by City	As needed to service Co-collected Yard Trimmings and Food Scrap Diversion	NA
	AD Facility – Residential Food Scraps	As directed by City	As directed by City	As needed to service Food Scrap Diversion	NA
	AD Facility – Commercial/Multi-family Yard Trimmings	As directed by City	As directed by City	As needed to service Yard Trimming Diversion	NA
	AD Facility – Commercial/Multi-family Co-collected Yard Trimmings and Food Scraps	As directed by City	As directed by City	As needed to service Co-collected Yard Trimmings and Food Scrap Diversion	NA
	AD Facility – Commercial/Multi-family Food Scraps	As directed by City	As directed by City	As needed to service Food Scrap Diversion	NA
	Bioengineered –	As directed	As directed by City	As needed to	NA

**ATTACHMENT B**  
**SCOPE OF WORK**

DPS Code	Program Type	Start Date	Complete Implementation	Implementation Requirements	Monthly Target
FR-CMF	Residential Food Scraps	by City		service Food Scrap Diversion	
	Bioengineered–Commercial/Multi-family Food Scraps	As directed by City	As directed by City	As needed to service Food Scrap Diversion	NA
<b>HHW</b>					
9045-HH-EWA	E-waste and U-waste	1/1/2019	Through end of Term	Curbside collection	NA

## **ATTACHMENT B** **SCOPE OF WORK**

### ***1.7 Diversion Program Implementation Tracking.***

Contractor shall create, maintain and update the Red/Green Tracking Spreadsheet in Attachment K at least monthly during the Term and more frequently as needed. The purpose of the Red/Green Tracking Spreadsheet is to document all contacts made with Customers concerning implementation of Diversion programs, and Contractor's completion of the program implementation tasks listed in Section 3.3.6 of this Attachment B. Each Diversion program that is fully implemented and operating at a Customer's premises shall be coded in green on the spreadsheet. Each Customer premises that does not have each specific required Diversion Program [Collection of Single Stream and/or Single Material Recyclables, Food Scraps (if applicable), Yard Trimmings/Wood and any other required program(s)] fully implemented and operating as required by this Contract, shall be color-coded in red. Contractor shall make detailed notes in the Red/Green Tracking Spreadsheet about all Customer contacts (telephone, mail, e-mail, on-site meetings, observations and inspections) and all pertinent information on issues, problems, troubleshooting and solutions concerning program implementation at each Customer's location(s).

The sample of the Red/Green Tracking Spreadsheet in Attachment K is the template and format that Contractor shall use to create the electronic version of the Red/Green Tracking Spreadsheet. On or before March 1, 2019 Contractor shall create a complete and up to date version of the electronic Red/Green Tracking Spreadsheet that lists all Commercial and Business Establishments and Multifamily complexes in the City. The status of each entry's program implementation in the spreadsheet shall be indicated and shall note actions taken and any next steps required for implementation and/or continuation of program operation. All tenants of Commercial and Business Establishments shall be identified and included in the listing as individual line items. For example, Ocean Ranch 1 Retail would be shown as the Master Account and individual tenants such as Board & Brew, Nektar, zPizza, etc. would be listed in separate rows. The program implementation status for each of the tenants shall be shown in the spreadsheet on its individual line. Over time, new businesses will open and existing businesses will close or may change locations. As this occurs, Contractor shall notify City of changes made to the Red/Green Tracking Spreadsheet by noting thereon the change in location, business, owner/manager, and new contact information. Contractor shall not delete any Customer or business from the Red/Green Tracking Spreadsheet without written approval by City. Contractor shall add new businesses that open within City and shall note such new additions to the spreadsheet to City in the monthly meetings and shall note the month and year the new business opened, on the spreadsheet.

**ATTACHMENT B**  
**SCOPE OF WORK**

**SECTION 2 - RESIDENTIAL COLLECTION SERVICES**

***2.1 Basic Level of Service.***

The basic level of service for a Residential Premises that is individually-serviced includes once weekly curbside Collection of: (A) MSW provided by automated Collection; (B) Single Stream Recyclable Materials provided by automated Collection (DPS code 2000-RC-CRB), (C) Yard Trimmings provided by automated Collection (DPS code 3000-CM-RCG), and other required programs identified in Table 1 Section 1.6 and in this Attachment B. City will allow exceptions to automated Collection upon receipt of a written request from Contractor if required due to space constraints, safety issues or other unusual circumstances. City's decision as to whether or not to allow manual Collection shall be final.

***2.2 MSW Collection.***

The basic level of service for a Residential Premises that is individually-serviced is once weekly curbside Collection of MSW provided by automated Collection. Contractor shall also provide MSW Collection services to all Multi-family complexes and gated communities.

***2.3 Recycling Services.***

Contractor shall provide the following Recycling services at Residential Premises. Contractor shall collect Single Stream Recyclable Materials in a vehicle collecting solely Single Stream Recyclable Materials to prevent Contamination of said materials. Contractor shall provide and use the Containers described in Section 1.4. Contractor shall process Single Stream Recyclable Materials (DPS code 7000-FR-MRF) at the City-approved Clean MRF described in Article 5 of the Agreement. Contractor shall collect Yard Trimmings and wood in a vehicle collecting solely Yard Trimmings and wood to prevent Contamination of said materials. Contractor shall process Yard trimmings and wood (DPS code 7030-FR-CMF) at the City-approved Processing Facility(ies) as described in Article 5 of the Agreement. Beginning January 1, 2019, Yard trimmings collected in the City of Laguna Niguel shall not be used as Alternative Daily Cover (ADC).

**2.3.1 Single Family Co-Collected Yard Trimmings/Food Scrap Collection Program.**

State law requires the City to provide a source separated Food Scrap program to all Single Family Premises on or before January 1, 2022. As of the Effective Date, it is the intent of the parties to implement the Single Family co-collected Yard Trimmings/Food Scrap Collection program on July 1, 2020. On or before March 1, 2020, City will notify Contractor to confirm City's intention to implement the co-collected Yard

## **ATTACHMENT B** **SCOPE OF WORK**

Trimmings/Food Scrap program. City staff will recommend City Council approval of the rates in Attachment D-2 for such program as part of the annual rate adjustment process described in Section 12.03 of the Agreement to set rates for the period July 1, 2020 through June 30, 2021. Once the rate-setting procedures described in Section 12.03 (and Section 12.04 if applicable) have been successfully completed, City shall notify Contractor to proceed with implementation of this program. Contractor shall implement the program within sixty (60) days of said notice from the City.

Contractor shall implement a program to co-collect Yard Trimmings and Food Scraps at all Single Family Premises within City. Food Scraps will be placed in the green Yard Trimmings Carts by Residents. Contractor shall collect all Yard Trimmings and Food Scraps from Single Family residences once per week on the same day as MSW. Contractor shall collect all Yard Trimmings/Food Scraps in a separate Collection vehicle that collects only Yard Trimmings/Food Scraps and Yard Trimming materials and shall process the collected material at the City-approved Processing Facility(ies) as described in Article 5 of the Agreement.

Contractor shall provide each residence with a "Sure Close" Food Scrap container (or equivalent) for storage of Food Scraps in the kitchen. City will work with Contractor to apply for grants and other funding sources for "Sure Close" containers when and if available. If grant efforts are unsuccessful, Contractor is still obligated to provide "Sure Close" containers to each Single Family Premises in City.

Contractor shall prepare and distribute public education materials, customized to Single-Family residents, simultaneously with the "Sure Close" containers. Said distribution shall be accomplished by going door-to-door to provide each residence with a "Sure Close" container and accompanying public education materials, and discussing the new Single Family co-collected Yard Trimmings/Food Scrap program with occupants of each residence. Public education materials shall include an explanation and/or diagram showing how residents will store Food Scraps in the "Sure Close" Containers and then empty the contents into the green Yard Trimmings wheeled cart. The materials will also clearly describe what Food Scrap materials are accepted in the program and what should be excluded. Public Education materials shall be submitted to City for approval a minimum of sixty (60) days prior to printing and distribution. Contractor shall also prepare and affix to each Single Family residential green Yard Trimmings Cart a decal (message and graphics to be approved by City prior to printing) showing the materials (Yard Trimmings and Food Scraps) to be placed in the Cart and indicating the Cart is for Yard Trimmings and Food Scraps. Contractor shall provide answers to residents' questions about the program and shall also provide a method for residents to ask and receive answers to follow-up questions about the program via telephone, e-mail or text, and Contractor's web site.

Contractor shall prepare and distribute a second set of public education materials (postcards, refrigerator magnets etc.) six (6) months after program startup to remind all Single Family residents of the list of materials that can and cannot be accepted and to repeat the basic concepts of storage of Food Scraps in the Sure Close container and

## **ATTACHMENT B** **SCOPE OF WORK**

then empty the container into the green Yard Trimmings wheeled cart. Such materials shall also include a list of Frequently Asked Questions and contact information for Contractor for residents to ask further questions. Contractor shall submit the second set of Public Education materials to City for approval a minimum of thirty (30) days prior to printing and distribution.

Contractor shall continue to prepare and distribute a set of public education materials as described herein, annually during the Term.

During the Term, additional Single Family homes will be constructed and occupied within City. Contractor shall fully implement the Single Stream Recycling program, the co-collected Yard Trimmings/Food Scrap collection program and MSW collection at each new residence within thirty days of issuance of the Certificate of Occupancy by the City.

### **2.3.2 Potential Program for Collection of Source Separated Food Scraps at Single Family Premises**

City will monitor development of the final SB 1383 regulations to determine if and when it would be in the best interest of City to have Contractor implement a program to Collect Source Separated Food Scraps at Single Family residences in lieu of the Yard Trimmings/Food Scrap co-collection program described in Section 2.3.1 above. Unless and until such time as City has made such determination, Contractor shall proceed with implementation of the Single Family residential co-collected Yard Trimmings/Food Scrap program described in Section 2.3.1 of this Attachment B.

In the event City determines that a Residential source separated Food Scrap Collection program is needed, City shall notify and meet with Contractor to coordinate implementation steps, a schedule for program initiation and to develop costs and a rate for the program as described in Section 4.13 ("City's Right to Change Scope of Work") and Section 12.07 ("Adjustments to Rates Based on City-Directed Change in Scope of Work") of the Agreement. City shall notify Contractor a minimum of twelve (12) months prior to City's desired date for implementation of the residential Single Family source separated Food Scrap Collection program.

Contractor shall charge the rates for the Single Family source-separated Food Scrap Collection program agreed upon with City staff, once such rates are approved by the City Council during a rate-setting process as described in Sections 12.03 and 12.07 of the Agreement. City and Contractor shall coordinate program start-up to occur twelve (12) months after approval of the rates for the Single Family source separated Food Scrap Collection program by the City Council. Contractor shall not charge Residents the new rates for the source separated Food Scrap Collection program until the program is implemented.

In the event a source-separated Food Scrap Collection program is implemented, Contractor shall complete all of the same implementation steps that are described in

## **ATTACHMENT B SCOPE OF WORK**

Section 2.3.1 for the Residential co-collected Yard Trimmings/Food Scrap collection program. Instead of providing a decal for the green Yard Trimmings Cart, Contractor shall provide to each residence one thirty-five (35) gallon wheeled Cart (yellow) in color and clearly labeled as "Food Scraps". Contractor shall also place signage/decal on the yellow Cart showing and describing the types of Food Scraps that may be placed therein. Residents will store Food Scraps in the Sure Close containers provided by Contractor and shall place the source separated Food Scraps in the yellow Food Scrap Container. Contractor shall collect all source separated Food Scraps from Single Family residences once per week on the same day as MSW. Contractor shall collect all source separated Food Scraps in a separate Collection vehicle that collects only source separated Food Scraps and shall process the collected material at the City-approved source separated Food Scrap Processing Facility(ies) as described in Article 5 of the Agreement.

During the Term, additional Single Family homes will be constructed and occupied within City. If City has directed implementation of the Single Family source separated Food Scrap Collection program and such program has been implemented, Contractor shall fully implement the Source Separated Food Scrap Collection Program at each new residence (along with all other required Collection programs for Single Family Premises) within thirty days of issuance of the Certificate of Occupancy by the City.

### **2.3.3 Potential City-Directed Bi-Weekly Collection of Residential MSW.**

It is anticipated that the implementation of Diversion programs will decrease the amount of MSW generated during the Term. The CalRecycle draft regulations for implementation of SB 1383 that are available as of the Effective Date, allow Residential MSW to be Collected on a bi-weekly basis once a Residential Food Scrap Collection program is fully implemented. (The City is required to apply for and receive permission from CalRecycle to make this change.) In the event City determines that bi-weekly Collection of Residential MSW is needed, City shall notify and meet with Contractor to coordinate implementation steps, a schedule for program initiation and to develop costs and a rate for the program as described in Section 4.13 ("City's Right to Change Scope of Work") and Section 12.07 ("Adjustments to Rates Based on City-Directed Change in Scope of Work") of the Agreement. City shall notify Contractor a minimum of twelve (12) months prior to City's desired date for implementation of bi-weekly Collection of Residential MSW.

Contractor shall charge the rates for bi-weekly Collection of Residential MSW agreed upon with City staff, once such rates are approved by the City Council during a rate-setting process as described in Sections 12.03 and 12.07 of the Agreement. City and Contractor shall coordinate program start-up to occur within twelve (12) months after approval of the rates for bi-weekly Collection of Residential MSW by the City Council. Contractor shall not charge Residents the new rates for the bi-weekly Collection of Residential MSW until the program is implemented.

In order to implement the program, Contractor shall prepare public outreach materials to

## **ATTACHMENT B SCOPE OF WORK**

inform Residents of the change and shall advertise the change on social media, Contractor's web site and by other appropriate means. Such materials shall include a calendar showing the Collection days and maps for each route for the coming (12) twelve month period. Contractor shall submit public education materials to City for approval a minimum of ninety (90) days prior to the change. Contractor shall mail City-approved public outreach materials to all residents affected by the change thirty (30) days prior to the first day of implementation of the new bi-weekly Collection system. Within the first six (6) months of the bi-weekly MSW Collection program, Residents shall be allowed to change the size of their MSW Cart one time (in addition to the once per year change described in Section 1.4 of this Attachment B). After the initial six (6) month period, the provisions of Section 1.4 of this Attachment B, allowing Residents to change any Cart size(s) one time per year, shall apply.

### **2.3.4 Monitoring of Single Family Programs**

Contractor shall monitor the Residential automated MSW Collection, Residential Single Stream Recycling program, Residential Yard Trimmings program and the Residential co-collected Yard Trimmings/Food Scraps program (or the Residential Source Separated Food Scrap program if directed by City) for both participation and contamination at the frequencies and using the procedures described in Attachment N. When Contractor finds a household that is not participating, Contractor shall leave or direct mail the household education materials describing the programs and how to participate.

When Contractor finds Contamination (as described in Section 5.7 of this Attachment B and in Attachment N) Contractor shall alert the Customer by leaving a hang- tag and by leaving public education materials concerning the acceptable materials for the program.

### **2.3.5 Multi-family Programs and Services**

#### **2.3.5.1 Single Stream and Single-Material Recyclable Materials Collection (AB 341 Program).**

State law requires all Multi-Family complexes to arrange for recycling services for Recyclable Materials by July 1, 2012. State law requires the City to provide a recycling program for collection of Recyclable Materials at all Multi-Family complexes on or before July 1, 2012. (AB 341, PRC Section 41730 *et seq.*) Contractor's Recycling Coordinators, in consultation with the City, will prepare a "Recycling Plan" for each Multi-Family complex (DPS 2030-RC-OSP) for both Single Stream/Single Material Recyclable Materials and for Yard Trimmings/Wood as described in Section 3.3.6 of this Attachment B. Contractor shall provide Recyclable Materials Collection at all Multi-family complexes (DPS code 2000-RC-CRB). As of the Effective Date there are 35 Multi-Family complexes within City that are currently participating in the Single Stream/Single-Material Recyclables Program, zero complexes that are not participating

## **ATTACHMENT B SCOPE OF WORK**

in any recycling program, and 9 complexes that are receiving "A" Route service. (See the copy of the Red/Green Tracking Spreadsheet in Attachment K that is updated and maintained electronically and reviewed at the monthly meetings between City and Contractor.) On or before January 1, 2019 Contractor shall implement the Single Stream/Single Material Recyclables Program at all complexes and at any new complexes constructed and occupied by said date. This shall include transitioning all Multi-Family complexes that are on "A" Route service to the Single Stream/Single-Material Recycling Program. Each complex shall be provided Collection of Single Stream Recyclable Materials and, if applicable, Single-Material Recyclables. Contractor shall provide separate Bin(s) or wheeled Carts (as identified in Attachment E) for Collection of Single Stream Recyclable Materials and, if applicable, Single-Material Recyclables. Contractor shall collect Single Stream Recyclable Materials and Single-Material Recyclables in a vehicle collecting solely Single Stream Recyclable Materials, and Single-Material Recyclables, to prevent Contamination of said materials. Collection shall be provided at least weekly, with more frequent Collection as required to prevent overflow of materials from Containers. Collected Recyclable Materials shall be processed at the City-approved Clean MRF described in Article 5 of the Agreement (DPS code 7000-FR-MRF). For Multi-family complexes that have begun Single Stream/Single-Material Recycling service, Contractor shall continue to provide MSW collection service as adjusted for reduced service levels to complement the introduction of the separate collection of Recyclable Materials. Contractor shall provide to Customers the appropriate sized Container, or combination of Containers as listed herein.

In implementing a Single Stream and/or Single-Material Recycling Program at a Multi-Family complex, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Single Stream and/or Single-Material Recycling Program at a Multi-Family complex will be considered "fully implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

During the Term additional Multi-Family complexes will be constructed and occupied within City. Contractor shall fully implement a Single Stream and/or Single-Material Recycling Program at each new complex within thirty days of issuance of the Certificate of Occupancy by the City.

### **2.3.5.2 Yard Trimmings and Wood Collection Program (AB 1826 Program).**

State law requires the City to provide a recycling program to collect Yard Trimmings and non-hazardous wood from all Multi-Family complexes on or before January 1, 2016. State law requires Multi-Family complexes of five (5) or more units to participate in a recycling program for Yard Trimmings and non-hazardous wood on or before April 1, 2016, January 1, 2017, or January 2019 depending upon the quantity of such materials generated by the complex. Participation at the smallest complexes generating two (2) cubic yards or less of these materials per week may be required as of January 1, 2020 if so directed by CalRecycle.

## **ATTACHMENT B** **SCOPE OF WORK**

As of the Effective Date there is 1 Multi-Family complex within City that is currently participating in the Yard Trimmings/Wood Collection Program, 26 complexes that reported they are using landscapers to haul Yard Trimmings/Wood to a diversion facility, and 17 complexes that did not respond to the City's request for the self-reporting form are not participating in Contractor's source-separated Yard Trimmings/Wood program. (See the copy of Red/Green Tracking Spreadsheet in Attachment K that is updated and maintained electronically and reviewed at the monthly meetings between City and Contractor.) On or before January 1, 2019 Contractor shall implement the Yard Trimmings/Wood Collection Program at the complexes that did not respond to the City's request for the self-reporting form, and that are not participating in Contractor's source-separated Yard Trimmings/Wood program. Contractor shall provide appropriately-sized Containers to each Multi-Family complex for storage of all Yard Trimmings and wood that do not have Yard Trimmings and wood waste hauled away by a landscape or gardening service that is also Diverting such materials from Disposal. If a Multi-Family complex has Yard Trimmings and wood waste hauled away by a landscape or gardening service, Contractor shall notify City so City may obtain a completed and signed Landscaper Self-Certification Diversion Form from the complex owner/manager. At the direction of City, Contractor shall also record the information in the Red/Green Tracking Spreadsheet.

Contractor shall collect all Yard Trimmings and non-hazardous wood from Multi-Family complexes at least once per week, and more frequently as required to Collect all Yard Trimmings and non-hazardous wood generated by each complex. Contractor shall Collect all Yard Trimmings and wood in a separate Collection vehicle that collects only Yard Trimmings and wood and shall process the collected material at the City-approved Yard Trimmings Processing Facility described in Article 5 of the Agreement.

Contractor shall make available the following sizes and types of Containers for MSW, Recyclable Materials and Yard Trimmings/wood storage at Multi-family complexes: 35, 65 and 95 gallon wheeled Carts; two (2), three (3), four (4) and six (6) cubic yard Bins (6 yds. where conditions are favorable to Customer); three (3), and four (4) cubic yard Split Bins; and compactors in the following sizes: three (3) cubic yard and four (4) cubic yard. If the use of a six-yard bin, or any of the split bin sizes, cannot be utilized for logistical reasons, the reasons for the nonuse will be presented at the monthly meeting and the reasonableness of the inability of utilization the bin will be reviewed and determined by City after discussion with Contractor.

In implementing a Yard Trimmings/Wood Collection Program at a Multi-Family complex, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Yard Trimmings/Wood Collection Program at a Multi-Family complex will be considered "fully implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

During the Term, additional Multi-Family complexes will be constructed and occupied within City. Contractor shall fully implement a Yard Trimmings/Wood Recycling Program at each new complex within thirty days of issuance of the Certificate of Occupancy by

## **ATTACHMENT B SCOPE OF WORK**

the City.

### **2.3.5.3 Source-Separated Multi-Family Food Scrap Collection Program (SB 1383 Program).**

State law requires the City to provide a source separated Food Scrap program to collect Food Scraps from all Multi-family complexes on or before January 1, 2022.

On or before July 1, 2020 Contractor shall implement the source separated Food Scrap collection program at all Multi-Family complexes in City. (See Section 2.3.5.4 below for alternate Multi-family Yard Trimmings/Food Scrap co-collection program that Contractor may implement in lieu of the source separated Food Scrap program.) As of the Effective Date there are 43 Multi-Family complexes within City. Contractor shall provide the appropriate number of appropriately-sized Containers to each Multi-Family complex for storage of all Food Scraps. Contractor shall provide each Multi-Family unit with a "Sure Close" food scrap container for storage of Food Scraps in the kitchen. City will work with Contractor to apply for grants and other funding sources for "Sure Close" containers when and if available. If grant efforts are unsuccessful, Contractor is still obligated to provide "Sure Close" containers to each Multi-Family unit in City.

Contractor shall prepare and distribute public education materials, customized to Multi-Family tenants and complexes, simultaneously with the "Sure Close" containers. Said distribution shall be accomplished by going door-to-door to provide each unit with a "Sure Close" container and accompanying public education materials, and discussing the new Food Scrap program with each tenant. Public education materials shall include a diagram showing the location(s) of Food Scrap Containers where tenants will deposit the contents of the "Sure Close" Containers. Public Education materials shall be submitted to City for approval a minimum of ninety (90) days prior to printing and distribution. Contractor shall provide answers to tenant questions and shall also provide a method for tenants and Multi-Family complex owners, managers and staff to ask and receive answers to follow-up questions about the program via telephone, e-mail or text, and Contractor's web site.

Contractor shall collect all Food Scraps from Multi-Family complexes at least once per week, and more frequently as required to prevent odor, overflow of Food Scraps from Containers, and lack of available space for Food Scraps in Containers at each complex. Contractor shall Collect all Food Scraps in a separate Collection vehicle that collects only source separated Food Scraps and shall process the collected material at the City-approved Food Scrap Processing Facility described in Article 5 of the Agreement.

Contractor shall make available the following sizes and types of Containers for Food Scrap storage in the solid waste and recycling enclosure or other area designated by the owner/manager of the Multi-Family complex: 35, 65 gallon carts; two (2) cubic yard Bins; and where appropriate, enclosed compactors in the following sizes: ten (10) cubic yard and twenty (20) cubic yard.

## **ATTACHMENT B SCOPE OF WORK**

In implementing a Food Scrap Collection Program at a Multi-Family complex, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Food Scrap Collection Program at a Multi-Family complex will be considered "fully implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

During the Term, additional Multi-Family complexes will be constructed and occupied within City. Contractor shall fully implement a Source Separated Food Scrap Collection Program at each new complex within thirty days of issuance of the Certificate of Occupancy by the City.

### **2.3.5.4 Alternate Program For Co-Collection of Yard Trimmings and Food Scraps at Multi-Family Complexes.**

The draft SB 1383 regulations available as of the Effective Date allow cities to provide co-collection of Yard Trimmings with Food Scraps at Multi-Family complexes to meet the SB 1383 requirements. If Contractor determines it would be more advantageous to provide co-collection of Food Scraps with Yard Trimmings at a Multi-Family complex (instead of a source separated Food Scrap Collection program) for reasons of space, or an abundance of Yard Trimmings generated and placed in Yard Trimmings Containers at the complex (or for other reasons), Contractor may provide such a program to the complex. All of the same implementation steps described in Section 2.3.5.3 for the source separated Food Scrap collection program shall be followed if a co-collection program is implemented. In such event, Contractor notify City in the monthly meeting and shall note the specific reasons for the decision on the Red/Green Tracking Spreadsheet. Contractor shall charge the rates for the Multi-family Yard Trimmings/Food Scrap co-collection program set forth in Attachment D.

### **2.3.5.5 Monitoring of Multi-Family Programs.**

Contractor shall monitor the Multi-family MSW Collection, the Multi-family Single Stream/Single Material Recycling programs, the Multi-family Yard Trimmings/wood Collection program, the Multi-family Source Separated Food Scrap program (or the co-collected Yard Trimmings/Food Scraps program if implemented) for both participation and contamination at the frequencies and using the procedures described in Attachment N. When Contractor finds Contamination (as described in Section 5.7 of this Attachment B and in Attachment N) Contractor shall follow the procedures described in Attachment N.

### **2.3.6 Gated Developments/HOA's**

The Contractor shall provide services to Gated Developments/HOA's as directed by the Homeowners Association (HOA), Property Manager or individual Customers, provided that MSW is collected at a minimum of once per week. Contractor shall perform all operations in conformance with the Covenants, Conditions and Restrictions as well as all other rules and regulations of the Gated Development. Contractor shall charge the

## **ATTACHMENT B** **SCOPE OF WORK**

rates in Attachment D for providing all services. If the HOA or Property Manager selects wheeled cart service to individual homes, Contractor shall provide weekly Single Stream and Yard Trimmings/Wood collection services as described in Section 2.3.1. If central Bin service is selected, Contractor shall provide the appropriate sizes(s) and number(s) of Containers for Single Stream Recyclables, Single-Material Recyclables (as applicable) and Yard Trimmings/Wood (if applicable) and the appropriate collection frequencies that shall be, at a minimum, once per week. If the Gated Development/HOA has Yard Trimmings and wood waste hauled away by a landscape or gardening service, and such materials are being Diverted from Disposal, Contractor shall notify City so City may obtain a completed and signed Landscaper Diversion Self-Certification Form from the HOA or owner/manager. At the direction of City, Contractor shall record the information in the Red/Green Tracking Spreadsheet. The HOA or Property owner/manager may change, twice in a twelve-month period, the location of Collection of MSW, the frequency of MSW Collection, and once in a twelve-month period the method of billing. If at any time a reduction of MSW service levels is possible due to the implementation of Recycling services (including Single Stream Recyclable Materials, Single-Material Recyclables, Food Scraps, Yard Trimmings/Wood and/or other Recycling or source reduction measures) the HOA may request changes in levels of, and location of, MSW services, in addition to the twice per year MSW change request.

Residential Customers that are included in a central or master-billing arrangement by a HOA or Property Manager may not suspend service for any period of time.

Contractor shall provide the following required services to Gated Developments/HOA's with centralized Carts, Bins, Compactors and/or Roll-Off Box service by the dates shown below:

Single-Stream and/or Single Materials Recyclables Collection Service by July 1, 2019.

Yard Trimmings/Wood Collection service by July 1, 2019.

Source separated Food Scrap Collection Program by July 1, 2020. [NOTE: if the HOA/Gated Development consists of homes with individual Cart service, Contractor shall provide the same Food Scrap Collection Program that is provided to all Single Family homes, as described in this Attachment B. If the HOA/Gated Development has centralized Cart, Bin, Roll Off and/or Compactor service, Contractor shall provide a source separated Food Scrap Collection program as described below in this Section 2.3.6.]

In implementing the Single-Stream and/or Single Materials Recyclables Collection Program and the Yard Trimmings/Wood Collection Program at Gated Developments/HOA's, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Single-Stream and/or Single Materials Recyclables Collection Program and A Yard Trimmings/Wood Collection Program at Gated Developments/HOA's, will be considered "fully implemented" if Contractor has

## **ATTACHMENT B** **SCOPE OF WORK**

completed all the tasks described in Section 3.3.6 of this Attachment B.

During the Term additional Gated Developments/HOA's will be constructed and occupied within City. Contractor shall fully implement the tasks described in Section 3.03.4 of this Attachment B to implement a Single Stream and/or Single-Material Recycling Program and a Yard Trimmings/Wood Collection Program at each new Gated Development within thirty days of issuance of the Certificate of Occupancy by the City.

State law (SB 1383) requires the City to provide a source separated Food Scrap program to collect Food Scraps from all Gated Developments/HOA's on or before January 1, 2022.

On or before July 1, 2020 Contractor shall implement the source separated Food Scrap collection program at all Gated Developments/HOA's in City that have centralized Cart, Bin, Roll Off and/or Compactor service. (See Section 2.3.6.1 below for alternate Yard Trimmings/Food Scrap co-collection program that Contractor may implement in lieu of the source separated Food Scrap program.) Contractor shall provide the appropriate number of appropriately-sized Containers to each Gated Development/HOA for storage of all Food Scraps. Contractor shall provide each Residential Premises within the Gated Development/HOA with a "Sure Close" food scrap container for storage of Food Scraps in the kitchen. City will work with Contractor to apply for grants and other funding sources for "Sure Close" containers when and if available. If grant efforts are unsuccessful, Contractor is still obligated to provide "Sure Close" containers to each Residential Premises within each Gated Development/HOA in City.

Contractor shall prepare and distribute public education materials, customized to Gated Developments/HOA's simultaneously with the "Sure Close" containers. Said distribution shall be accomplished by going door-to-door to provide each residence with a "Sure Close" container and accompanying public education materials, and discussing the new Food Scrap program with each resident. Public education materials shall include a diagram showing the location(s) of Food Scrap Containers where tenants will deposit the contents of their "Sure Close" kitchen Food Scrap Containers. Public Education materials shall be submitted to City for approval a minimum of ninety (90) days prior to printing and distribution. Contractor shall provide answers to residents' questions and shall also provide a method for residents and Gated Development/HOA owners, managers and staff to ask and receive answers to follow-up questions about the program via telephone, e-mail or text, and Contractor's web site.

Contractor shall collect all Food Scraps from Gated Developments/HOA's at least once per week, and more frequently as required to prevent odor, overflow of Food Scraps from Containers, and lack of available space for Food Scraps in Containers at each Gated Development/HOA. Contractor shall Collect all Food Scraps in a separate Collection vehicle that collects only source separated Food Scraps and shall process the collected material at the City-approved Food Scrap Processing Facility described in Article 5 of the Agreement.

## **ATTACHMENT B SCOPE OF WORK**

Contractor shall make available the following sizes and types of Containers for Food Scrap storage in the solid waste and recycling enclosure or other area designated by the owner/manager of the Gated Development/HOA: 35, 65 gallon carts; two (2) cubic yard Bins; and where appropriate, enclosed compactors in the following sizes: ten (10) cubic yard and twenty (20) cubic yard.

In implementing a Food Scrap Collection Program at a Gated Development/HOA, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Food Scrap Collection Program at a Gated Development/HOA will be considered "fully implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

During the Term, additional Gated Developments/HOA's will be constructed and occupied within City. Contractor shall fully implement a Source Separated Food Scrap Collection Program at each new Gated Development/HOA within thirty days of issuance of the Certificate of Occupancy by the City.

### **2.3.6.1 Alternate Program For Co-Collection of Yard Trimmings and Food Scraps at Gated Developments/HOA's.**

The draft SB 1383 regulations available as of the Effective Date allow cities to provide co-collection of Yard Trimmings with Food Scraps at Gated Developments/HOA's to meet the SB 1383 requirements. If Contractor determines it would be more advantageous to provide co-collection of Food Scraps with Yard Trimmings at a Gated Development/HOA (instead of a source separated Food Scrap Collection program,) for reasons of space, or an abundance of Yard Trimmings generated and placed in Yard Trimmings Containers (or for other reasons) Contractor may provide such a program to the Gated Development/HOA. All of the same implementation steps described in this Section 2.3.6 for the source separated Food Scrap collection program shall be followed if a co-collection program is implemented. In such event, Contractor notify City in the monthly meeting and shall note the specific reasons for the decision on the Red/Green Tracking Spreadsheet. Contractor shall charge the rates for the Gated Development/HOA co-collection program set forth in Attachment D.

### **2.3.6.2 Monitoring of Gated Development/HOA Programs.**

Contractor shall monitor the MSW Collection, the Single Stream/Single Material Recycling programs, the Yard Trimmings/wood Collection program, the Source Separated Food Scrap program (or the co-collected Yard Trimmings/Food Scraps program if implemented) for both participation and contamination at the frequencies and using the procedures described in Attachment N. When Contractor finds Contamination (as described in Section 5.7 of this Attachment B and in Attachment N) Contractor shall follow the procedures described in Attachment N.

## **ATTACHMENT B SCOPE OF WORK**

### **2.3.7 Residential Valet Service (Back Yard/Side Yard Wheel-Out Service).**

All basic Residential Premises services identified in Section 2 of this Attachment B, shall be offered with valet back yard/side yard wheel-out service at Customer request, at the rates in Attachment D.

## **SECTION 3: COMMERCIAL AND BUSINESS ESTABLISHMENT SERVICES**

### ***3.1 Basic Level of Service.***

The basic level of service for Commercial and Business Premises that shall be provided by Contractor includes once weekly Collection of: (A) MSW provided by a vehicle designed for commercial Collection; (B) Collection of Single Stream Recyclable Materials and Single-Material Recyclables (DPS code 2030-RC-OSP); (C) Collection of Food Scraps (DPS Code 3040-CM-FWC); Collection of Yard Trimmings and Wood (DPS Code 3020-CM-COG) and other required programs identified in Table 1 Section 1.6.

Collection shall be accomplished in a manner such that the flow of traffic shall not be impeded nor a threat to the public health or safety created. Contractor shall provide each of the service options for Collection of MSW, Recyclable Materials, Yard Trimmings, Wood and Food Scraps as described in Sections 3.1 through 3.3.6 of this Attachment B.

Contractor shall provide the following Collection services for Commercial and Business Establishments:

### ***3.2 MSW Collection.***

Contractor shall provide MSW Collection services as follows: (i) regularly scheduled weekly MSW Collection service; (ii) as-needed on-call Collection for Roll Off Boxes and Compactors and (iii) additional pick-ups. On-call and additional pick-up requests may be made by Customer, authorized agent or representative of Customer, or, in the case of Compactors so equipped, by automatic dial-up, other automated methods or electronic device that signals Contractor. Contractor shall provide service within 24 hours of receiving a request, (provided that the request is made prior to 12 Noon of the collection day) and shall charge the rates as established in Attachment D for on-call pickups and additional pickups.

Contractor's staff, including Contractor's two Recycling Coordinators, shall determine which MSW service is best suited to each Commercial and Business Establishment in order to maximize Recycling and Diversion. In the event of a disagreement between the parties as to the type of service to be provided to a Commercial or Business Establishment, the decision of the City shall be final.

## **ATTACHMENT B** **SCOPE OF WORK**

Contractor shall provide Containers as described in Section 1.4.3 to Commercial and Business Establishments for storage and Collection MSW at the rates in Attachment D.

Customers may, at any time, adjust the frequency of Collections, the size(s) of Containers, the type(s) of Containers and/or the number of Containers for the storage and Collection of MSW.

### ***3.3 Recycling Services***

Contractor shall provide Recyclable Materials Collection at Commercial and Business Establishments, including private schools (DPS code 2030-RC-OSP). Each commercial Customer shall be offered Collection of Single Stream Recyclable Materials and Single-Material Recyclables. Contractor shall provide separate Bin(s) or wheeled Carts (as identified in Attachment E) for Collection of Single Stream Recyclable Materials and, if applicable, Single-Material Recyclables.

#### **3.3.1 Single Stream Recyclable Materials and Single-Material Recyclables Collection (AB 341 Program).**

State law requires all Commercial and Business Establishments (including private schools) to arrange for recycling services for Recyclable Materials by July 1, 2012. State law requires the City to provide a recycling program for collection of Recyclable Materials at all Commercial and Business Establishments on or before July 1, 2012. (AB 341, PRC Section 41730 *et seq.*)

As of the Effective Date there are 163 Commercial and Business Establishments within City that are currently participating in the Commercial and Business Establishments Program, 2 businesses that are not participating in any recycling program, and 19 businesses that are receiving "A" Route service. (See the copy of Red/Green Tracking Spreadsheet in Attachment K that is updated and maintained electronically and reviewed at the monthly meetings between City and Contractor.)

On or before January 1, 2019 Contractor shall implement the Single Stream/Single Material Recyclables Program at all businesses. This shall include transitioning all Commercial and Business Establishments that are on "A" Route service to the Single Stream/Single-Material Recycling Program. Each business shall be offered Collection of Single Stream Recyclable Materials and, if applicable, Single-Material Recyclables. Contractor shall provide separate Bin(s) or wheeled Carts (as identified in Attachment E) for Collection of Single Stream Recyclable Materials and, if applicable, Single-Material Recyclables. Contractor shall collect Single Stream Recyclable Materials and Single-Material Recyclables in a vehicle collecting solely Single Stream Recyclable Materials, and Single-Material Recyclables, to prevent Contamination of said materials. Collection shall be provided at least weekly, with more frequent Collection as required to prevent overflow of materials from Containers. Collected Recyclable Materials shall be processed at the City-approved Clean MRF described in Article 5 of the Agreement.

## **ATTACHMENT B SCOPE OF WORK**

For Commercial and Business Establishments that have begun a Single Stream Recycling service and/or Single-Material Recycling service, Contractor shall continue to provide MSW collection service as set forth in this Attachment B. Contractor shall provide to Customers the appropriate sized Container, or combination of containers. Contractor shall make available the following sizes and types of Containers for Recyclables and MSW storage: 35, 65 gallon carts and 95 gallon carts two (2), three (3), four (4) and six (6) cubic yard Bins; and three (3), and four (4) cubic yard Split Bins; and compactors in the following sizes: three (3) cubic yard and four (4) cubic yard.

In implementing a Single Stream and/or Single-Material Recycling Program at a Commercial and Business Establishment, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. Customers shall be charged the rates set forth in Attachment D for this service. A Single Stream and/or Single-Material Recycling Program at a Businesses and Commercial Establishments is considered "implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

As new Commercial and Business Establishment buildings are constructed during the Term, and as Commercial and Business Establishments open, close, expand, move, and change managers and/or employees, Contractor shall implement a Single Stream and/or Single-Material Recycling Program at all new, expanded, relocated, and otherwise changed Commercial and Business Establishments as described herein. Contractor shall implement said program at any new or expanded Commercial and Business Establishment within thirty (30) days of issuance of a Certificate of Occupancy by the City; and if no Certificate of Occupancy is required, then within thirty (30) days of final City inspection and approval of improvements. Contractor shall also re-implement a Single Stream and/or Single-Material Recycling Program when there is a change in key personnel (e.g. a change in management, ownership, on-site manager and/or other key personnel) at any Commercial and Business Establishment within City and shall do so within thirty (30) days of either (a) becoming aware of the change in management or (b) notice from the City of the change in management, whichever comes first.

### **3.3.2 Monitoring of Commercial and Business Establishment Single Stream and Single-Material Recycling Programs.**

Contractor shall monitor the Commercial Single Stream and Single-Material Recycling Programs and the Commercial Yard Trimmings/Wood Program for both participation and contamination and shall follow all procedures to measure, document and report on the results as described in Attachment N, Section 2.

### **3.3.3 Source-Separated Commercial Food Scrap Collection (AB 1826 Program).**

State law (AB 1826, PRC Section 42649.8) requires all Commercial and Business Establishments (including private schools but excluding Multi-Family complexes)

## **ATTACHMENT B** **SCOPE OF WORK**

generating eight (8) cubic yards or more of Food Scraps, Yard Trimmings and non-hazardous wood per week (total cubic yards of all three materials combined), to arrange for recycling services for these materials on or before April 1, 2016. These are referred to as Tier 1 businesses. State law requires all Commercial and Business Establishments (excluding Multi-Family complexes) generating four (4) cubic yards or more of Food Scraps, Yard Trimmings and non-hazardous wood per week (total cubic yards of all three materials combined), to arrange for recycling services for these materials on or before January 1, 2017. These are referred to as Tier 2 businesses. Commercial and Business Establishments generating four (4) or more cubic yards per week of MSW must arrange for recycling services for Food Scraps, Yard Trimmings and wood on or before January 1, 2019. These are referred to as Tier 3 businesses. CalRecycle may require Commercial and Business Establishments generating two (2) or more cubic yards per week of MSW to arrange for recycling services for Food Scraps, Yard Trimmings and wood on or before January 1, 2020. These are referred to as Tier 4 businesses. State law (AB 1826) requires the City to provide a recycling program to collect Food Scraps, Yard Trimmings and non-hazardous wood from Commercial and Business Establishments on or before January 1, 2016.

Contractor shall provide the collection of source-separated Food Scraps from restaurants, cafeterias, assisted living facilities, hospitals, supermarkets and all other commercial premises where food is prepared, sold and/or consumed. At the direction of the City, Contractor shall include Food-Soiled Paper in the Food Scrap program. If the City-approved Food Scrap Processing Facility does not allow Food-Soiled Paper, Contractor shall work with City to determine a method and/or a facility capable of handling Food-Soiled Paper.

In the collection of Food Scraps, Contractor shall provide participating Customers with "slim jim" type containers for inside areas of kitchen, preparatory and bussing that are directly involved with Food Scrap diversion. For inside areas, City will work with Contractor to apply for grants and other funding sources for "slim jim" when and if available. If grant efforts are unsuccessful, Contractor is still obligated to provide all containers necessary to implement Food Scrap programs. For transit to enclosure and for collection, Contractor will provide wheeled Carts or other containers and /or Bins, roll-offs or compactors as necessary for the segregation and storage of Food Scraps to be recycled. Contractor shall prepare a Food Scrap recycling plan in consultation with each business to determine the appropriate number and sizes of Containers, collection frequency and provide and distribute appropriate containers, Bins, roll-offs or compactors to Customers. Contractor shall provide Customers with information and contact person(s) who are approved by City to establish, coordinate and provide edible food donation and collection services. Contractor shall fully cooperate with all Persons working with Customers to establish, coordinate and provide edible food donation services, including Customer's employees and agents and the City. Contractor shall factor any successful edible food donation program projections and/or actual results into the Food Scrap recycling plan including the estimated requirements for Container sizes and frequencies of Collection, training, interior container locations and sizes. Contractor

## ATTACHMENT B SCOPE OF WORK

shall provide training and public education materials on the new Food Scrap Collection program.

Of the Tier 1 and 2 businesses, as of the Effective Date there are 47 Commercial and Business Establishments within City that are currently participating in the Food Scrap Program, and 1 business that is not participating in the program or in another program. Of the Tier 3 businesses, 15 are currently participating in the Food Scrap Program and 24 are not participating in the program or in another program. Of the 91 Tier 4 businesses, 30 are participating and 61 are not participating. (See the electronic copy of the Red/Green Tracking Spreadsheet in Attachment K. On or before January 1, 2019 Contractor shall implement the Commercial Food Scrap Program at the remaining 1 Tier 1 and Tier 2 Commercial and Business Establishment. Contractor shall implement the Commercial Food Scrap Program at the remaining 24 Tier 3 businesses by July 1, 2019. Contractor shall implement the Commercial Food Scrap Collection Program at the remaining 61 Tier 4 businesses by January 1, 2020. Each food-generating business shall be offered Collection of source-separated food scraps. Contractor shall provide separate Bin(s) or wheeled Carts (as identified in Attachment E) for Collection of source-separated Food Scraps. Contractor shall collect source-separated Food Scraps in a vehicle collecting solely source-separated food scraps, to prevent Contamination of said materials. Collection shall be provided at least weekly, with more frequent Collection as required to prevent overflow of materials from Containers, odors and vectors. Collected Food Scraps shall be processed at the City-approved Food Scrap Processing Facility described in Article 5 of the Agreement. Customers shall be charged the rates set forth in Attachment D for the Food Scrap Collection and Processing service.

For Commercial and Business Establishments that have begun a Food Scrap collection program, Contractor shall continue to provide MSW collection service as set forth in this Attachment B. Contractor shall provide to Customers the appropriate sized Container, or combination of containers. Contractor shall make available the following sizes and types of Containers for storage of Food Scraps: 35 and 65 gallon wheeled carts; two (2) cubic yard Bins; and self-contained roll-off/compactors in the following size: 10 cubic yard.

In implementing a source-separated Food Scrap program at a Commercial and Business Establishment, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A source separated Food Scrap program at a Commercial and Business Establishment will be considered "fully implemented" if Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

In the event a Customer is Diverting their Food Scraps using one or more on-site programs such as use of an onsite Compost Appliance, backhauling, participating in food donation and/or other programs that Customer is providing internally or has made arrangements for, Contractor shall notify City and City may, in City's sole discretion, request that an Authorized Representative of the Customer complete and sign a Self-Certification form. If directed by City, Contractor shall note the on-site, edible food

## **ATTACHMENT B** **SCOPE OF WORK**

donation and/or other program(s) being used on the Red/Green Tracking Spreadsheet. Contractor shall determine whether or not the implemented program(s) are diverting one-hundred percent (100%) of the Food Scraps generated at the Customer's premises. If that is not the case, Contractor shall note the quantity and estimated percentage of Food Scraps that are still being Disposed and shall discuss the situation with City at the next monthly meeting. If directed by City, Contractor shall re-contact the Customer to offer supplemental Food Scrap Collection service to Divert the remaining Food Scraps being placed in the MSW Container(s).

As of the Effective Date, SB 1383 (PRC Section 42652 and Health and Safety Code Sections 39730.5 *et seq.*) requires that twenty percent (20%) of the required Diversion of seventy-five percent (75%) of Food Scraps and Yard Trimmings/Wood from landfill by 2025, must be Diverted as Edible Food for Human Consumption. City plans to retain the services of one or more third parties and/or to collaborate with regional agencies to arrange for, and implement, Edible Food donation program(s) within City. Contractor shall cooperate with City's efforts, including but not limited to: disseminating public education and outreach materials in hard copy, online, and via Contractor's social media outlets; alerting Customers with Food Scraps of the availability of the Edible Food donation services; and providing data on potential participants for the Edible Food donation program to City and its service providers and/or collaborators. Contractor shall fully support City's efforts and shall take no action to undermine, delay, or impede such programs.

As new Commercial and Business Establishment buildings are constructed during the Term, and as Commercial and Business Establishments open, close, expand, move, and change managers and/or employees, Contractor shall implement a Food Scrap Collection program at all new, expanded, relocated, and otherwise changed Commercial and Business Establishments where food is prepared, sold and/or consumed as described herein. Contractor shall fully implement said program at any new or expanded Commercial and Business Establishment within thirty (30) days of issuance of a Certificate of Occupancy by the City; and if no Certificate of Occupancy is required, then within thirty (30) days of final City inspection and approval of improvements. Contractor shall also re-implement a Food Scrap Collection program when there is a change in key personnel (e.g. a change in management, ownership, on-site manager and/or other key personnel) at any Commercial and Business Establishment within City where food is prepared, sold and/or consumed and shall do so within thirty (30) days of either (a) becoming aware of the change in management or (b) notice from the City of the change in management, whichever comes first.

### **3.3.4 Monitoring of Business and Commercial Establishments Food Scrap Collection Programs.**

Contractor shall monitor the Commercial Food Scrap Collection Programs and the Commercial Yard Trimmings/Wood Program for both participation and contamination and shall follow all procedures to measure, document and report on the results as

## **ATTACHMENT B SCOPE OF WORK**

described in Attachment N, Section 2.

For Commercial and Business Establishments that have begun a Food Scrap Recycling program, Contractor shall continue to provide MSW collection service as set forth in this Attachment B.

### **3.3.5 Commercial Yard Trimmings and Wood Collection Program (AB 1826 Program)**

State law requires the City to provide a recycling program to collect Yard Trimmings and non-hazardous wood from all Commercial and Business Establishments (including private schools) on or before January 1, 2016. State law requires Commercial and Business Establishments to participate in a recycling program for Yard Trimmings and non-hazardous wood on or before April 1, 2016, January 1, 2017, or January 2019 depending upon the quantity of such materials generated by the business. Participation at the smallest businesses generating two (2) cubic yards or less of these materials per week may be required as of January 1, 2020 if so directed by CalRecycle.

As of the Effective Date there are 5 Commercial and Business Establishments within City that are currently participating in the Yard Trimmings/Wood Collection Program, 149 businesses that are not participating in the program, and 84 businesses that are receiving "A" Route service. (See the copy of Red/Green Tracking Spreadsheet in Attachment K). On or before January 1, 2019 Contractor shall implement the Yard Trimmings/Wood Collection Program at all businesses. This shall include transitioning all Commercial and Business Establishments that are on "A" Route service to the Yard Trimmings/Wood Collection Program. Contractor shall provide appropriately-sized Containers to each business for storage of all Yard Trimmings and wood that do not have Yard Trimmings and wood waste hauled away by a landscape or gardening service that is also Diverting such materials from Disposal. If a business has Yard Trimmings and wood waste hauled away by a landscape or gardening service, Contractor shall notify City and City, in its sole discretion, may obtain the completed and signed Landscaper Certification Form from the complex owner/manager. If directed by City, Contractor shall record such updated information in the Red/Green Tracking Spreadsheet.

Contractor shall collect all Yard Trimmings and non-hazardous wood from Multi-Family complexes at least once per week, and more frequently as required to Collect all Yard Trimmings and non-hazardous wood generated by each complex. Contractor shall Collect all Yard Trimmings and wood in a separate Collection vehicle that collects only Yard Trimmings and wood and shall process the collected material at the City-approved Yard Trimmings/wood Processing Facility described in Article 5 of the Agreement. Yard Trimmings or wood collected in City shall not be used for Alternative Daily Cover.

Contractor shall make available the following sizes and types of Containers for MSW, Recyclable Materials and Yard Trimmings/wood storage: 35, 65 and 95 gallon wheeled carts; two (2), three (3), four (4) cubic yard Bins; and roll off boxes 10 (ten), 20 twenty, and 40 cubic yard sizes.

## **ATTACHMENT B** **SCOPE OF WORK**

Within ninety (90) days after implementation of the Yard Trimmings/Wood Recycling Program at each Commercial and Business Establishment, Contractor shall ensure that the program is operating effectively such that the MSW Container(s) at the Business Premises contain no more than fifteen percent (15%) Recyclable Materials, Yard Trimmings/Wood and Food Scraps (combined), the Yard Trimmings/Wood Container(s) contain no more than fifteen percent (15%) MSW and Recyclable Materials (combined) and the Recyclable Materials Container(s) contain no more than fifteen percent (15%) MSW (which includes Food Scraps if the Business generates Food Scraps). If the Business is participating in the Source-Separated Commercial Food Scrap Collection Program, the Food Scrap Container(s) shall contain no more than five percent (5%) of any non-food item(s). In the event the percentage of non-food item contamination allowed at the City-approved Food Scrap processing facility is greater than five percent (5%), the percentage of non-food item(s) in the Food Scrap Container(s) shall not exceed that percent. If these performance standards are not being achieved, Contractor shall work with the Business owner(s), manager(s) and employees as needed to re-train, troubleshoot and otherwise provide technical assistance to ensure the standards are being met.

In implementing a Yard Trimmings/wood program at a Commercial and Business Establishment, Contractor shall complete all the tasks listed in Section 3.3.6 of this Attachment B. A Yard Trimmings/wood program at a Commercial and Business Establishment will be considered "fully implemented" of Contractor has completed all the tasks described in Section 3.3.6 of this Attachment B.

As new Commercial and Business Establishment buildings are constructed during the Term, and as Commercial and Business Establishments open, close, expand, move, and change managers and/or employees, Contractor shall implement a Commercial Yard Trimmings/Wood Collection program at all new, expanded, relocated, and otherwise changed Commercial and Business Establishments as described herein. Contractor shall fully implement said program at any new or expanded Commercial and Business Establishment within thirty (30) days of issuance of a Certificate of Occupancy by the City; and if no Certificate of Occupancy is required, then within thirty (30) days of final City inspection and approval of improvements. Contractor shall also re-implement a Commercial Yard Trimmings/Wood Collection program when there is a change in key personnel (e.g. a change in management, ownership, on-site manager and/or other key personnel) at any Commercial and Business Establishment within City and shall do so within thirty (30) days of either (a) becoming aware of the change in management or (b) notice from the City of the change in management, whichever comes first.

### **3.3.6 Required Tasks For Implementation of Diversion Programs**

For purposes of this Contract, Contractor shall be found to have "implemented Diversion Programs", including but not limited to Recyclable Materials Collection, Food Scraps Collection and Yard Trimmings/Wood Collection at the Premises of a Customer only if all of the following have been completed by Contractor:

## ATTACHMENT B SCOPE OF WORK

- (i) Contractor has contacted the Authorized Customer Representative (for purposes of this section the “Authorized Customer Representative” is the owner or on-site manager if that Person has decision-making authority; or if Customer is a corporation with multiple locations and centralized decision-making, the management Person with decision-making authority. In the case of a broker or waste arranger, the Authorized Customer Representative is the Person who has the decision-making authority) and explained the requirements in the Act for the Customer to have in place specified Recycling and Diversion program(s) as of the date(s) applicable to that Customer. Contractor has also explained the requirements of City’s Mandatory Recycling Ordinance and CalGreen (if applicable).
- (ii) Contractor has estimated the quantities of MSW, Recyclable Materials, Food Scraps, Yard Trimmings/Wood and any other Divertable materials generated by the Customer; has calculated the appropriate size of Containers required for storage; has calculated the recommended frequency of service to optimize cost for the Customer; has prepared a written plan containing estimated costs and recommended levels of service; and has submitted the plan to the Customer. Contractor has discussed the plan with the Customer and obtained the Customer’s approval to implement a finalized Diversion Plan.
- (iii) If the Customer is generating Food Scraps, Contractor has provided the Customer with information on the City’s edible food donation program coordinators/vendors/non-profit agencies as directed by City, and has factored any applicable edible food donation opportunities into the calculations for sizing of Food Scrap Containers and frequency of Food Scrap Collection service. Contractor is also cooperating fully and in good faith with all edible food donation efforts of City, all third parties and Customer at Customer’s premises.
- (iv) If the Customer is already Diverting materials using an in-house program, backhauling, on site processing or use of another vendor, Contractor has notified City so City can obtain a completed and signed “Self-Certification Form” for that program. At the direction of City, Contractor has recorded the information on the Red/Green Tracking Spreadsheet. If the Customer is using a landscaping company to haul away Yard Trimmings/Wood, Contractor

## **ATTACHMENT B**

### **SCOPE OF WORK**

has notified City so City can obtain a completed and signed Yard Trimmings/Wood Certification Form For Landscaper Diversion for that program. At the direction of City, Contractor has recorded the information on the Red/Green Tracking Spreadsheet. If such program(s) only Divert(s) some materials and other Divertable materials are not covered by the Customer's own program(s) or third party program(s), Contractor has developed a plan for Diversion of the remaining materials in accordance with the requirements of this Attachment B.

- (v) Contractor has delivered the appropriate type(s) and size(s) of Containers to the Customer's Premises for storage of Single Material Recyclables and Single Stream Recyclable Materials. In the case of a Food Scrap Generator, Contractor has also provided the appropriate type(s) and size(s) of Containers for storage and collection of Food Scraps. If the Customer is generating Yard Trimmings/Wood Contractor has provided the appropriate type(s) and size(s) of Containers for storage and collection of Yard Trimmings/Wood.
- (vi) Contractor is Collecting the Recyclable Materials, Food Scraps, Yard Trimmings/Wood (as applicable) from the Customer's Containers at the frequency of collection needed to adequately service the Customer and, at a minimum, is performing Collection of Recyclable Materials and Yard Trimmings/Wood at least once each week. In the case of a Food Scrap Generator, Contractor is Collecting the Food Scraps one (1) to three (3) times each week as needed to adequately provide service to the Customer.
- (vii) Contractor has evaluated and reduced the level of the Customer's MSW Collection service to complement the separate Collection of Recyclable Materials, Yard Trimmings/Wood and Food Scraps. Contractor has checked back with the Customer and made at least two (2) on-site visits to determine if the initial sizing of the Containers and frequency of service is optimal for the Customer. Contractor has recommended appropriate adjustments as needed to the Customer and has implemented all adjustments agreed to by the Customer.
- (viii) Contractor has provided employee education and training materials to the Customer (and in the case of Multi-Family complexes and Gated Communities, to all management and

## ATTACHMENT B SCOPE OF WORK

residents) explaining (a) the requirements of the Act, (b) the operation of each Diversion program and (c) specifically what materials may be placed in the Recycling Container(s), Yard Trimmings/Wood Containers and in the Food Scrap Containers and what materials are to be placed in the MSW Container(s). Employee/resident training shall include at least one on-site training for all employees/tenants/residents of Customer. (In the case of the Food Scrap program at Multi-Family complexes, Contractor shall provide at least one on-site training for residents for complexes of over fifteen (15) units and for smaller complexes if requested by the owner/manager. Such training shall be in addition to the door-to-door distribution of education materials and the "Sure Close" kitchen containers described in Section 2.3.5.3 of this Attachment B.) If there are multiple shifts, or employees/tenants/residents work or are present on different days, Contractor shall conduct multiple trainings until employees/residents have been trained. Contractor shall provide training posters and stickers for the Containers (both inside and outside containers) showing what materials are allowed in each. Contractor shall provide training and training materials in both English and Spanish. Where a Customer has employees involved in tasks that are handling food and Food Scraps, that speak a language other than English, Contractor shall obtain a translator and conduct a training for those employees in the language they speak and provide program signage and training handouts in that language. In the case of Multi-Family complexes where more than twenty percent (20%) of the residents speak a language other than English, Contractor shall obtain a translator and conduct a training for those residents in the language they speak, and provide program signage and brochures/handouts in that language.

- (ix) Contractor has made at least two (2) follow-up site visits to confirm the program is operating optimally within the first two weeks after program initiation. (These site visits are in addition to the site checks to confirm MSW quantities and optimization of MSW service described in item vii above) Contractor has responded to the Customer's questions and to any complaints and has successfully resolved all questions and complaints.

## **ATTACHMENT B**

### **SCOPE OF WORK**

- (x) The Diversion program(s) at the Premises of the Customer has been in place and operating continuously for a minimum of three (3) months.
- (xi) Within ninety (90) days after implementation of each Diversion program at the Premises of the Customer, Contractor shall ensure that the program is operating effectively such that the MSW Container(s) at the Premises contain no more than fifteen percent (15%) Recyclable Materials and Food Scraps (combined), and the Recyclable Materials Container(s) contain no more than fifteen percent (15%) MSW, which includes Food Scraps if the Customer generates Food Scraps. If the Premises is participating in the Source-Separated Commercial Food Scrap Collection Program, the Food Scrap Container(s) shall contain no more than five percent (5%) of any non-food item(s). In the event the percentage of non-food item contamination allowed at the City-approved Food Scrap processing facility is greater than five percent (5%), the percentage of non-food item(s) in the Food Scrap Container(s) shall not exceed that percent. If these performance standards are not being achieved, Contractor shall work with the Business owner(s), manager(s) and employees as needed to re-train, troubleshoot and otherwise provide technical assistance to ensure the standards are being met. City shall conduct rotating quarterly audits throughout the Term to confirm that these performance standards are achieved and maintained. *(Note: Contamination percentages to be achieved in order for Contractor to earn the Extension Opportunities are as listed in Section 6.08 of the Franchise Agreement.)*
- (xii) The Diversion programs at the Premises of the Customer meet all the contamination standards described in subsection (xi) above and all the diversion program requirements in Article 4 and in this Attachment B.
- (xiii) Contractor has conducted a minimum of one (1) annual on-site review of the recycling plan and of each diversion program at each Customer, and has conducted a re-training for all employees, residents and tenants (that meets all of the requirements lists for the initial training required under item viii above). Contractor has conducted troubleshooting for each diversion program and each diversion program is robust and successfully diverting the targeted materials within the contamination limits identified in item (xi) above.

## **ATTACHMENT B SCOPE OF WORK**

(xiv) In the event Contractor has taken all required actions and completed all required tasks in subparts (i) through (xii) above and the program(s) is still not meeting the performance standards, the non-compliant Customer shall be reported to City on the Red/Green Tracking Spreadsheet (Attachment K, Monthly Report Item #11 and on the list described in Attachment K, Monthly Reports Item #8). City will work with the Customer to the full extent of state and local law. In the event City has enacted a mandatory Diversion ordinance, City will enforce its ordinance, which may include warnings to the Customer and ultimately imposition of fine(s). If the Customer agrees to implement the required program(s) as required by the City's ordinance, City will refer the Customer back to Contractor for implementation of the program(s) and Customer shall be removed from the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" in Attachment K, Monthly Reports Item #8. If the Customer continues to refuse to implement one or more of the required programs after City action, the Customer remains on the list and Contractor is relieved of the responsibility to implement program(s) at that Customer. (See Article 6 of the Agreement for how Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" are handled for purposes of Contractor's achievement of the performance metrics required for an extension of the Agreement described therein.)

### **3.4 Other Services To Be Provided**

#### **3.4.1 Manual Can Service**

Contractor shall only provide manual Can service to Single-Family, Multi-Family and Commercial Customers, using Customer's own containers, where neither Cart nor Bin service is feasible due to the low volume of MSW generated, or the inability to operate automated collection vehicles, or the inability to store or use reasonably at the service location. City must approve all exceptions to automated collection service. For Commercial Customers, such service is limited to Customers generating a maximum of one hundred pounds (100 lbs.) of MSW per week.

#### **3.4.2 Scout Service at Commercial, Multi-family and/or HOA/Gated Development Premises**

## **ATTACHMENT B SCOPE OF WORK**

Contractor shall provide Scout Service at the request of the Authorized Customer Representative at Commercial, Multi-family and/or HOA/Gated Development Premises in City at the rates in Attachment D.

### **3.4.3 MSW Collection at Bus Stops and Benches.**

Contractor shall collect MSW from all existing MSW receptacles at bus stops shown on Attachment T at least two (2) times per week and more frequently as needed. City is responsible for providing MSW receptacles at all bus stops.

In Collecting MSW from bus stops Contractor shall comply with all requirements of this Contract, including but not limited to, the requirements of Article 7 that requires all Collection vehicles provided pursuant to this Agreement to be used 100% within the City of Laguna Niguel and not for Collection in other jurisdictions.

At City's request, Contractor shall increase the frequency of Collection of MSW at bus shelters and bus stops shown in Attachment T to up to three (3) times per week for each bus stop. If the City so requests, Contractor shall increase the frequency of collection within fifteen (15) calendar days of the notification from City. City may add new bus stops to the list in Attachment T at any time and Contractor shall collect MSW as described herein from said new bus stops at no additional cost to City or ratepayers.

### **3.4.4 Changes in Collection Services.**

Customers may, at any time, decrease the frequency of Collections and/or the number of Containers or Compactors for MSW commensurate with the amount of Recyclable Materials, Yard Trimmings, Wood and Food Scraps diverted by any Recycling programs, projects or activities undertaken by Customer (DPS code 6010-PI-EIN).

Customers may, at any time, adjust the frequency of Collections and/or the number of Containers for all types of Containers for the storage and Collection of Recyclable Materials, Food Scraps and Yard Trimmings/Wood.

## **3.5 Consultations and Technical Assistance.**

### **3.5.1 Customer Consultations.**

Upon Customer request, Contractor shall consult with Customers on establishing Recycling and Diversion programs and on other MSW and Recycling related activities (DPS code 2030-RC-OSP). Customers may also consult with City, City's agents or representatives, and/or with any other Recycling company or expert to plan and implement the most beneficial Recycling program(s) for that Customer.

### **3.5.2 City and Developer Consultations.**

## **ATTACHMENT B SCOPE OF WORK**

Contractor shall, in a timely manner, review all proposed development plans for new construction, remodels, additions and all other plans at City's request. Contractor shall provide information and feedback to City and the developer on the optimal space, configuration and location(s) for storage and Collection of MSW, Recyclable Materials, and if applicable, Yard Trimmings/Wood and Food Scraps, cooking oil and grease. Contractor shall utilize data supplied by the developer, as well as Contractor's own knowledge and expertise, to estimate quantities of each material that will be generated on a weekly and monthly basis by the proposed development and shall include in the information provided to City and developer, the number, size, type and frequency of Collection required for all Containers to store the materials that will be generated. Contractor shall provide basic sketches of optimal storage configurations and Container location(s) to City and the developer and shall respond to any questions from City and developer. Contractor shall attend on-site meetings with City staff and developer, and developer's representatives (architects, designers, permit specialists, etc.) as requested and in a timely manner.

### ***3.6 Notice to Commercial and Business Establishments.***

Contractor's two Recycling Coordinators shall, at least twice during each twelve (12) month period, make contact in person at the site of all Commercial and Business Establishments with the business owner and/or property manager (DPS code 2030-RC-OSP). Additionally, the Contractor shall make annual site visits to each Commercial and Business Customer that ranks in the largest 25 waste Customers in the City. The site visits are to notify the Customers of additional methods of Source Reduction and Recycling and other supportive services available. Such contact shall include a brochure as described in Section 5.5. Contractor shall perform waste stream audits (DPS code 5010-ED-PRN), as requested, and prepare a Business Recycling Plan and report to Customer on opportunities available to start-up or increase Diversion and reduce cost of MSW Collection including all steps described in Section 3.3.6 of this Attachment B. The Contractor's two Recycling Coordinators shall additionally make phone contact with each Commercial and Business Establishment annually to ensure that solid waste service is adequate and provide brochures, web site references, lists of acceptable materials and items that are considered contamination, for each Diversion program, as well as any other information that is provided in on-site visits.

### ***3.7 Elective and Required Waste, Composition and Diversion Studies.***

Sections 9.07 and 9.08 of the Agreement provide for Processing Facility Characterizations and On-Site Field Container Contamination Audits. Contractor shall undertake and complete all tasks as described in Attachment N. In the event City decides to perform additional waste, composition and/or diversion studies, Contractor shall cooperate fully with City and its agents while all such studies are being conducted, including, but not limited to, allowing site visits and detailed observations of all Processing Facility operations, providing route, account, tonnage, characterization details as to sampling methods and categories samples, and other data for all Collection and Processing operations; allowing site visits during regular hours of operation, access

## **ATTACHMENT B** **SCOPE OF WORK**

to all Collection, transport, and materials processing operations, responding in a timely manner to questions and requests for data and information; and making Contractor's personnel available to respond to questions from City.

### ***3.8 Compactor Service***

Contractor shall provide Compactor pull service for Multi-family, Commercial and Business Establishments and City Facilities. Multi-family, Commercial and Business Establishments and City Facilities may, in their sole discretion, lease and/or purchase Compactors from any Person, company, manufacturer, or distributor, including, but not limited to, Contractor for use at their Premises. Gross revenues derived from rental or leasing of compacter units shall not be included in calculating franchise fee payments to the City. Contractor shall provide repair and maintenance services at rates in Attachment D, to any Customer requesting such services for a Compactor, whether or not said Compactor is owned by Contractor. In the alternative Customers may choose to use a third party for this service.

### ***3.9 Temporary Bin, Roll-Off and Compactor Collection Services.***

Contractor shall provide on a temporary basis three (3) cubic yard bins and ten (10), twenty (20) and forty (40) cubic yard Roll- Off Boxes for the purposes of Collection of MSW, Single Stream Recyclable Materials, and Construction and Demolition Debris (DPS code 4060-SP-CAR) at the request of Customers. Service shall be provided at the rates set forth in Attachment D. Such temporary service shall be provided, by way of example but not limitation, to sites where construction and /or demolition activity, replacement of roofs or paved areas, or replacement or maintenance of landscape materials is occurring. Collection shall occur on an as-needed, on-call basis, within twenty-four (24) hours of a request for any request received before 12 Noon, or may be regularly scheduled, as determined by Customer.

Contractor shall provide Compactor pull service for Commercial and Business Establishments and City Facilities, except that Commercial and Business Establishments and City Facilities may, in their sole discretion, lease and/or purchase Compactors from any Person, company, manufacturer, or distributor, including, but not limited to, Contractor for use at their Premises. Gross revenues derived from rental or leasing of compacter units shall not be included in calculating franchise fee payments to the City. Contractor shall provide repair and maintenance services at rates in Attachment D, to any Customer requesting such services for a Compactor, whether or not said Compactor is owned by Contractor. In the alternative Customers may choose to use a third party for this service.

All such temporary Bins and Roll-Off Containers containing Yard Trimmings, Food Scraps or Construction and Demolition Debris shall be collected, transported, and processed (DPS codes 7000-FR-MRF and 7030-FR-CMF) at the appropriate City-approved Processing Facility for Yard Trimmings, Food Scraps or Construction and

## ATTACHMENT B SCOPE OF WORK

Demolition Debris described in Article 5 of the Agreement.

All temporary Bins and Roll-Off Containers containing Single-Material Recyclables and Single Stream Recyclable Materials shall be collected and the materials transported to the City-designated Clean MRF described in Article 5 of the Agreement. (DPS code 7000-FR-MRF)

### ***3.10 Construction and Demolition Debris Recycling***

State law requires that City enforce mandatory Construction and Demolition Debris Recycling. As of the Effective Date City has adopted Construction and Demolition Debris Recycling Program requirements (Section 6-3-600 *et seq.* of the City of Laguna Niguel Municipal Code) and has also adopted the California Green Building Standards Code ("CalGreen") for use in City. Contractor shall comply with all requirements of the City's codes and CalGreen, as they may be changed and amended during the Term. Further, City reserves the right to amend and/or expand its own Construction and Demolition Debris Recycling ordinance at any time during the Term. Contractor shall provide all services necessary to (a) inform Customers of, (b) support Customer compliance with, and (c) support City's enforcement of, the Construction and Demolition Debris recycling requirements in both the City codes and the CalGreen requirements (DPS code 6020-PI-ORD)..

The services provided by Contractor (DPS codes 4060-SP-CAR and 4050-SP-WDW) shall include but not be limited to: (A) informing all Customers requesting Containers and/or Bins, Roll Off Boxes and Compactor services of the recycling requirements, (B) providing Containers and/or Bins, Roll Off Boxes, and Compactors as needed for storage and transport of Single-Material Construction and Demolition Debris, and commingled Construction and Demolition Debris, as well as appropriate size Containers for MSW, (C) providing Collection service of all Containers on a timely basis and (D) working and coordinating with Customer's job site Superintendent to ensure a smooth and effective Recycling program and the Diversion of the percentage of C&D debris that is the greater of that required by the City's Construction and Demolition Debris Ordinance or CalGreen. As of the Effective Date, the City's ordinance requires diversion of fifty percent (50%) and the CalGreen requirement is diversion of a minimum of sixty-five percent (65%) of all Construction and Demolition Debris generated at each of Customer's job sites for which Contractor is providing Construction and Demolition Debris Collection service. Therefore Contractor shall divert a minimum of sixty-five percent (65%) of the C&D Debris as of the Effective Date. [Note: As described in Section 15.14 of the Agreement, the parties acknowledge that City is in the process of revising the Laguna Niguel Municipal Code sections on solid waste and recycling, which may include changing the code to conform to the CalGreen minimum diversion standards for Construction and Demolition Debris.] Contractor shall inform Customers utilizing Containers and/or Bins and Roll Off Boxes on a temporary basis, that materials being Generated must be Recycled pursuant to the requirements of CalGreen and City's Municipal Code. At such time as there is an increase in the required Diversion

## **ATTACHMENT B**

### **SCOPE OF WORK**

percentage in either the City's ordinance or CalGreen, Contractor shall Divert the highest Diversion percentage required, as of the effective date of the new requirement(s).

Once a Customer has requested Construction and Demolition Debris Collection service, Contractor shall complete the following tasks to establish the Construction and Demolition Debris Diversion Program:

- (i) Contractor has contacted the Authorized Customer Representative (for purposes of this section the "Authorized Customer Representative" is the Construction Superintendent/Manager, owner, or on-site manager if that Person has decision-making authority; or if Customer is a corporation with multiple locations and centralized decision-making, the management Person with decision-making authority. In the case of a broker or waste arranger, the Authorized Customer Representative is the Person who has the decision-making authority for the construction and/or demolition project) and explained the requirements in the Act and in the City's Municipal Code for the Customer to Divert at least the minimum required percentage of Construction and Demolition Debris generated by the project as required by this Section 3.10 (sixty-five percent (65%) as of the Effective Date). Contractor has also explained all other specific requirements of City's Municipal Code and CalGreen and has supplied copies of each to the Customer.
- (ii) Contractor has estimated the quantities of MSW, Recyclable Materials, Source-Separated wood, metal, sheetrock, Yard Trimmings, mixed C&D and any other Divertable materials generated by the C&D project; has calculated the appropriate number and size of Containers required for storage; has calculated the recommended frequency of service to optimize cost for the Customer; has prepared a written plan containing estimated costs and recommended levels of service to achieve the required minimum Diversion percentage of the Construction and Demolition Debris estimated to be generated by the project; and has submitted the plan to the Customer. Contractor has discussed the plan with the Customer and obtained the Customer's approval to implement a finalized Construction and Demolition Debris Diversion Plan that will achieve at least the required minimum Diversion percentage.
- (iii) If the Customer is planning to self-haul C&D materials, and if Contractor is processing the materials, then Contractor shall

## **ATTACHMENT B** **SCOPE OF WORK**

notify City so City may obtain a completed and signed "Self-Certification Form" for that program. If directed by City, Contractor has recorded the information from the completed form on the Red/Green Tracking Spreadsheet. If such program only Diverts some materials and other Divertable materials are not covered by the Customer's program; and/or in the event the Customer's self-haul program does not achieve the required Diversion percentage, which is the higher or the Diversion percentage in the City Municipal Code or CalGreen, Contractor shall develop a plan for Diversion of the remaining C&D materials in accordance with the requirements of this Attachment B and notify City.

- (iv) Contractor has delivered the appropriate type(s) and size(s) of Containers to the Customer's C&D job site(s) for storage of Single Material Recyclables and Single Stream Recyclable Materials, metal, wood, sheetrock, mixed C&D and any other materials. If the job will generate Yard Trimmings from grubbing or other trimming or clearing of Yard Trimmings, Contractor has provided the appropriate type(s) and size(s) of Containers for storage and collection of Yard Trimmings.
- (v) Contractor is Collecting the Recyclable Materials, Source-Separated metal, wood, sheetrock, mixed C&D, Yard Trimmings and all other materials from the Customer's Containers at the frequency of collection needed to adequately service the Customer.
- (vi) Contractor has evaluated and provided the level of MSW Collection service (if applicable) to the job site to complement the separate Collection of Recyclable Materials, Yard Trimmings, Source-Separated wood, metal, sheetrock and other materials. Contractor has checked back with the Customer and made at least two (2) on-site visits to determine if the initial sizing of the Containers and frequency of service is optimal for the Customer and for the size, pace and scope of the job. Contractor has recommended appropriate adjustments as needed to the Customer and has implemented all adjustments agreed to by the Customer.
- (vii) Contractor has provided education and training materials to the Customer explaining (a) the requirements of the Act, (b) the operation of the C&D Diversion Plan and (c) specifically what materials may be placed in each of the Recycling Container(s), Yard Trimmings Containers, Source-Separated

## **ATTACHMENT B** **SCOPE OF WORK**

wood, metal, sheetrock and other material Containers, mixed Construction and Demolition Debris Containers and what materials are to be placed in the MSW Container(s) (if applicable). Training of job site personnel shall include at least one on-site training for all construction employees working at the job site. If there are multiple shifts, or employees work or are present on different days, Contractor shall conduct multiple trainings until all employees have been trained. Contractor shall provide training posters and placards for the Containers showing what materials are allowed in each. Contractor shall provide training and training materials in both English and Spanish. Where a Customer has non-English-speaking employees that will be a part of the recycling operations on the job site, Contractor shall ensure that the job site supervisor and Contractor's personnel conduct a training for those employees in the language they speak, and that Contractor has provided program signage and brochures/handouts in that language.

- (viii) Contractor has made at least two (2) follow-up site visits to confirm the program is operating optimally within 2 weeks after program initiation. Contractor has responded to the Customer's questions and to any complaints and has successfully resolved all questions and complaints.
- (ix) The Diversion program(s) at the Premises of the Customer was put in place and operated continuously throughout the entire construction/demolition job.
- (x) Contractor has provided the Authorized Customer Representative and the City with copies of weight tickets from all Processing Facilities used to process all Construction and Demolition Debris Collected from the site by Contractor and has completed all additional documentation, forms and paperwork required or requested by City and/or the Authorized Customer Representative in a timely manner.
- (xi) The documentation submitted to City at the conclusion of the job (or if the job is being conducted in phases, at the end of each phase) verifies that the minimum Diversion of Construction and Demolition Debris required by this Section 3.10 was achieved.
- (xii) Contractor has completed the Processing Facility Characterizations for Construction and Demolition Debris Processing Facility(ies) used by Contractor to process Construction

## **ATTACHMENT B SCOPE OF WORK**

and Demolition Debris Collected in City as described in Attachment N.

### **3.11 Other Services**

Contractor shall provide the following additional services at the rates set forth in Attachment D: (i) Bin wheel out service, (ii) additional Container pick-up, (iii) locking lids for Bins, (iv) use of a key to open a locked gate or enclosure to access Containers.

### **3.12 Collection Services at City Facilities.**

Contractor shall provide Collection, at no cost to City, of all on-site generated MSW, Recyclable Materials, Yard Trimming/Wood, Food Scraps, E-Waste, tires, Bulky Goods and metals generated at Premises owned and/or operated by the City, at the locations specified on Attachment C, and at the frequencies required by City, but in no event less than once per week. Collection shall be at a time convenient for the City. The City may direct Contractor to change frequency of collection, number and/or type of container(s) provided, or method of collection. In the event of a natural disaster, Contractor may charge the City the rates in Attachment D for collection of disaster debris.

No infrastructure under ownership of the City (i.e., roads, bridges) will be considered as materials to be collected or recycled under this program. All inerts generated by city from roadways such as tree trimmings, and non-park yard waste from common areas, shall be considered as material outside this section and Contractor may charge the City the rates in Attachment D.

#### **3.12.1 Collection Services For City Operations and at City Events**

Each year the City may conduct litter cleanups at any location in City, cleanups in parks and open space areas and other special cleanup events. In addition, each year the City may sponsor or co-sponsor, host or otherwise organize or designate special events, such as parades, public building dedications, conferences of public officials, art shows, music festivals, awards ceremonies, cultural events or organized recreational activities at any of the City's facilities, parks or other venues (whether or not owned by City). Contractor shall provide, at no additional cost, the necessary Containers and Collection service (for Collection of both MSW and Single Stream Recyclable Materials) for up to and including thirty (30) special events per calendar year (DPS code 2080-RC-SPE). Events to be served by Contractor at no additional cost shall be designated by City in its sole discretion. Examples of the thirty (30) special events include Farmer's Markets, Fourth of July Fireworks, December Parade, Tree Lighting Ceremony, Festival of Lights Celebration and Concerts in the Park. The specific events may be changed and/or increased up to 30 per year at no charge. Contractor shall provide MSW and Recyclable Materials Collection services for such events, including Containers for the general public to dispose of MSW and Recyclable Materials. Upon request of City Contractor shall also provide Food Scrap collection at the event, including providing specially labeled Food

## **ATTACHMENT B** **SCOPE OF WORK**

Scrap containers for use by the public attending the event. Contractor shall also provide larger Bins and Roll Off Containers as needed for MSW and/or for the Recycling of cardboard and large quantities of Recyclable Materials and Food Scraps.

Within thirty (30) days of the end of each special event Contractor shall submit a report to City describing in detail the types and numbers of containers provided for MSW, Recyclable Materials, Food Scraps and any other materials, the number of Tons or pounds of each material collected, processed, diverted or disposed, and copies of weight tickets showing the processing or end use facility where the Recyclable Materials, Food Scraps and other diverted materials were delivered. Said report shall also include the total tons of MSW disposed from the event and the percentage of MSW that was diverted by Contractor from the event.

If requested by a special event operator, sponsor, the City or the owner or operator of a "large venue" or "large event" (as defined in Public Resources Code Section 42648) Contractor shall attend annual or biennial meetings to discuss the types of MSW reduction, reuse and recycling programs to be implemented at "large events" and "large venues". Upon the request of a large event or large venue owner or operator, or at the request of the City, Contractor shall prepare diversion plans for large events and diversion plans for large venues within the City. Said plans shall be prepared within sixty (60) days after each plan is requested and shall contain all the elements required to implement Public Resources Code Section 42648 *et seq.*

### **3.12.2 Additional Collection Services For City**

Contractor shall provide Bulky Item Collection on a monthly basis to City for Bulky Items accumulated by City. City will contact Contractor to arrange for Collection of Bulky Items from the location designated by City. Contractor shall, provide roll off boxes and roll off box Collection services to City at rates provided in Attachment D less a 10% discount for City jobs including but not limited to "low boy" roll off boxes used for storage, Collection and Disposal of soil and mud from City projects, street and water system maintenance and the like. Contractor shall provide up to 1 such roll off box per month and shall Collect and transport the boxes to the location(s) directed by City. City shall be responsible for payment of Disposal costs and any other tipping fees or costs for the contents of said roll off boxes once delivered to the City-directed location(s).

### **3.12.3 Collection of MSW and Recyclable Materials in Specified City Parks**

Contractor shall provide Collection service for MSW and Recyclable Materials at the City parks listed in Attachments C and U. (Note: Attachment C contains a list of City Facilities that may have parks associated with them. Attachment U contains a list of City parks.) Contractor shall Collect at each park on weekdays, a minimum of three (3) times per week and more frequently as required in order to ensure space is available in MSW and Recyclable Materials Containers at all times for park visitors. When performing Collection operations at City parks Contractor shall pick up loose MSW and

## **ATTACHMENT B SCOPE OF WORK**

Recyclable Materials inside each enclosure, return Containers to the enclosure, close enclosure doors or gates and leave the enclosure in a neat and clean condition.

City reserves the right to add new parks to the lists in Attachments C and U during the Term. Contractor agrees to Collect MSW and Recyclable Materials at the new parks within ten (10) business days of notification from the City, at no additional cost to City or ratepayers.

## **SECTION 4. SPECIAL SERVICES**

### ***4.1 Bulky Goods Collection Services.***

Contractor shall provide Collection services for Bulky Goods at Residential Premises and Commercial and Business Establishments in City. Customer or City may request Collection of Bulky Goods forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Bulky Goods at Residential Premises shall be collected at, or reasonably near curbside, giving due consideration to circumstances of access points, vehicular and pedestrian safety and the like, in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. Bulky Goods at Commercial and Business Establishments shall be collected from the MSW enclosure area no earlier than 7:00 a.m. local time.

Contractor shall provide three residential curbside Bulky Goods Collections per year of up to four (4) Bulky Goods per Collection or up to ten (10) bundles or bags of Yard Trimmings, at no charge to the resident (DPS code 2070-RC-SNL). Contractor shall also provide Bulky Goods Collections at all Multi-Family premises within City. Such Multi-Family Collections may be accomplished by (a) supplying each Multi-Family complex with a roll off container for a maximum of five (5) days (which shall include two weekend days) one occasion per year; or (b) Contractor may provide a number of on-call Bulky Goods Collection equal to the number of dwelling units in the Customer's building or complex. The property owner, manager or individual dwelling units may call in the pickup requests. In either event, Contractor shall advertise the availability of the Multi-Family Bulky Goods Collection service at least twenty (20) days in advance in at least three (3) of the following ways: bill insert, newspaper ad, City web site, special postcard mailing, telephone calls to customers or other City-approved means.

For additional Collections of Bulky Goods from Residential Premises and for all Collections of Bulky Goods from Commercial and Business Establishments (excluding Multi-Family Premises), Contractor shall charge the fees set forth in Attachment D. Appliances containing Freon shall not be eligible for the complementary Bulky Goods Collection service but shall be collected by Contractor as provided in Section 4.2 of this Attachment B. Contractor shall maintain records of the Customers requesting Bulky Goods Collections, the number of Collections requested by each Customer, and the number provided by Contractor. Contractor shall submit such records to the City upon

## **ATTACHMENT B** **SCOPE OF WORK**

request.

As part of a Bulky Goods Collection, Contractor shall collect unusually large amounts of cardboard, such as moving boxes, and any other Single Stream Recyclables at no additional charge.

### ***4.2 Collection of Appliances Containing Freon***

Contractor shall provide Collection services for appliances (DPS code 4030-SP-WHG) containing Freon (such as refrigerators) at Residential Premises and Commercial and Business Establishments in City. Customer or City may request Collection of said appliances forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Appliances containing Freon shall be collected at, or reasonably near curbside, giving due consideration to circumstances of access points, vehicular and pedestrian safety and the like, and in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. Appliances containing Freon shall be collected from the MSW enclosure areas at Commercial and Business Establishments no earlier than 7:00 a.m. local time. Contractor shall be responsible for the proper removal of the Freon from said appliances in a manner consistent with federal, state and local laws and regulations, and for Recycling the metal from said appliances. Contractor may perform this service itself, or deliver the collected appliances to a fully permitted third party for removal of the Freon and Recycling of the metal. Contractor shall charge the fees in Attachment D for this service.

### ***4.3 Holiday Greenery Collection and Recycling.***

Contractor shall collect at curbside Christmas trees and other holiday greenery on regular days of service for Residential Premises for two full weeks after the date of Christmas following the Christmas Holiday (DPS code 2070-RC-SNL). Contractor shall prepare a billing message and brochure informing residents of such Collection service (DPS code 5010-ED-PRN). Contractor shall submit a draft of the brochure for City approval by November 1 of each year of the term. The brochure shall be received by the residents no later than December 10<sup>th</sup>. Residents shall be instructed on how to prepare Holiday Greenery for Recycling. Holiday Greenery which complies with these instructions shall be delivered by Contractor to the City designated Compost Facility. Trees and greenery that have been flocked or contaminated by tinsel shall be delivered to the City designated Disposal Facility.

Contractor shall contact all Multi-Family complexes in City and offer special Christmas Tree and holiday greenery Diversion services at all Multi-Family complexes in City. Contractor will record any complexes refusing service and provide a list of complexes refusing service to City at the monthly meeting in February throughout the term of the Contract. Contractor will provide on one weekend day at each participating Multi-Family complex between December 26 and January 10, a roll off box for a minimum of six (6)

## **ATTACHMENT B SCOPE OF WORK**

hours for drop off of Christmas Trees and holiday greenery. Contractor shall coordinate with the property manager of each complex to advertise this service through newsletters and on-site signage at the complex. Christmas Trees and holiday greenery shall be delivered to the City designated Compost Facility. Trees that have been flocked or contaminated by tinsel shall be delivered to the City designated Disposal Facility.

Contractor shall provide City a written report by February 1 showing tons of Christmas Trees and holiday greenery collected at curbside, collected at drop off and Multi-Family locations and the tons delivered to the Compost Facility and the Disposal Facility. Contractor shall provide City with copies of weight tickets from the Compost Facility and the Disposal Facility as documentation of the tons Diverted.

### ***4.4 Electronic Waste and Universal Waste Collection.***

Contractor shall Collect Electronic Waste that cannot legally be disposed of in a landfill from Single Family Residential Premises receiving curbside collection services in City (DPS code 9045-HH-EWA). Customer or City may request Collection of Electronic Waste forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Electronic Waste from Residential Premises shall be collected at curbside, in accordance with the scheduled appointment time established by Contractor, which shall in no case be earlier than 7:00 a.m. local time. Contractor shall charge the fee set forth in Attachment D for this service. All Electronic Waste that is collected by Contractor shall be delivered to a fully permitted processing facility for Recycling and reuse.

For purposes of the rates in Attachment D each one of the following constitutes a single item of Electronic Waste: television, computer monitor, computer CPU, computer keyboard, computer mouse, printer, desk copier, multi-function machine (combination copier/fax/printer), VCR, DVD/CD/tape player, cellular telephone, microwave oven, iron, stereo, two (2) stereo speakers, cables, scanner, and all other corded appliances and corded devices that are not defined herein as Universal Waste.

Contractor shall collect Universal Waste that cannot legally be disposed of in a landfill at Residential Premises in City. Customer or City may request Collection of the Universal Waste forty-eight (48) hours in advance and Collection shall occur on or before the Customer's next regularly scheduled MSW Collection day. Contractor shall charge the fee set forth in Attachment D for this service. All Universal Waste that is collected by Contractor shall be delivered to a fully permitted processing facility for Recycling and reuse.

For purposes of the rates in Attachment D each of the following constitutes a single item of Universal Waste:

- Up to sixty (60) common batteries (AA, AAA, C cells, D cells and button batteries)

## **ATTACHMENT B SCOPE OF WORK**

- Up to twelve (12) fluorescent tubes, bulbs and other mercury-containing lamps (including high intensity discharge [HID], metal halide, sodium and neon bulbs)
- Up to sixty (60) thermostats containing mercury
- Up to sixty (60) electrical switches and relays containing mercury (including those from pre-1972 washing machines, sump pumps, electric space heaters, clothing irons and silent light switches)
- Up to sixty (60) pilot light sensors from gas appliances
- Up to sixty (60) mercury gauges from barometers, manometers, blood pressure and vacuum gauges
- Up to sixty (60) mercury-added novelty items such as greeting cards that play music when opened, athletic shoes with flashing lights in the soles, mercury maze games and similar items
- Up to sixty (60) mercury thermometers
- Up to sixty (60) aerosol cans that contain hazardous materials

Upon approval by the City, the collection and handling of Electronic Waste and/or Universal Waste may be subcontracted out by the Contractor. If a subcontractor is used, the charge for such service shall be clearly identified as the fee set forth in Attachment D for this service. The subcontractor shall comply with City insurance requirements as described in Section 11.02.

### ***4.5 Emergency Services.***

In the event of a natural disaster or other unforeseen emergency situation (e.g. earthquake, riot, or flood) Contractor shall, to the best of Contractor's ability, provide emergency services to City within four (4) hours of notification by the City. Emergency services may include, but are not limited to, loading, collecting and hauling MSW, Construction and Demolition Debris, and large items to processing facilities, landfills or stockpiles as directed by City. Contractor shall provide Collection vehicles, drivers and other personnel to City and shall be compensated directly by City for these services at the rates set forth in Attachment D.

In the event that Contractor is unable to provide emergency services or is unable to provide sufficient or timely emergency services to City, City reserves the right to contract with another solid waste enterprise or any other Person on a temporary basis to collect and transport MSW, Construction and Demolition Debris and all other materials as needed for City to protect the public health, safety and welfare.

## **SECTION 5: PUBLIC INFORMATION AND CONSUMER EDUCATION.**

### ***5.1 General.***

Contractor acknowledges that comprehensive, accurate information and consumer education are essential elements of the City's efforts to comply with the requirements of the Act. Contractor shall implement a public information and consumer education

## **ATTACHMENT B SCOPE OF WORK**

program that is consistent with City's goals. Contractor shall, at every reasonable opportunity, work to: familiarize residents, businesses, Property Managers, institutional representatives and other Persons with essential Source Reduction and Recycling concepts and activities; explain benefits of Recycling, Source Reduction, Food Scrap Collection and Diversion, Composting and other forms of diverting MSW; provide data on Diversion activities in City which are coordinated or provided by Contractor; fully and clearly explain services and programs available to residents, businesses and institutions; publicize materials to be collected for Recycling; diligently pursue expanding markets such that new items, formerly disposed at landfills, become Recyclable Materials and respond to questions or requests for information from residents, businesses, Property Manager, institutional representatives and other Persons. The content of all written materials to be distributed shall be subject to review and approval of City in advance of dissemination.

### ***5.2 Notice to Residents.***

Contractor shall, during the month of July of each year, notify each Residential Premises Customer of the opportunity to participate, at no additional charge, in the curbside Recycling program, how to obtain a Container or additional Containers if already participating, how to replace a lost, stolen or damaged Container, the benefits of Recycling to the community, and other information as may be appropriate. Contractor shall submit to City by May 1 of each year a notice to City for review and approval. All costs associated with the preparation of a professional, well formatted and designed notice, as a pamphlet or brochure, costs of printing, labeling and mailing (first class postage) shall be borne by Contractor.

### ***5.3 Notice to HOAs and Property Managers.***

Contractor shall, during the month of October of each year, notify each HOA and Property Manager of any Multi-family Residential Premises and Gated Development of each method of Recycling available to its residents. This notice shall include the following: (A) provision of a Bin or Bins in a central location, such as a work yard, for drop-off of Recyclable Materials; (B) community drop-offs available for use by residents; and (C) other available methods.

Contractor shall submit by August 1 of each year a draft notice to City for review and approval. All costs associated with the preparation of a professional, well formatted and designed notice, as a pamphlet or brochure, costs of printing, labeling and mailing shall be borne by the Contractor.

One of the Contractor's two Recycling Coordinators will meet with every Property Manager of Multi-family Premises at least twice per year and attend Multi-family related community meetings as requested by Property Managers. The Contractor shall develop and provide the City with the Collection plan for all new Multi-family complexes prior to commencement of service. Contractor shall provide literature and educational materials, and communicate directly and in-person with participating complexes, and alert property or on-site managers where Contamination issues arise.

## **ATTACHMENT B SCOPE OF WORK**

### ***5.4 Billing Inserts, Coupons, Website.***

Contractor shall use bill inserts to advertise Recycling and Diversion programs, special services, and special Recycling-related events. Contractor shall make public education materials available to City for placement on the City website, and for distribution at City designated special events, such as the July Fourth booth. Contractor shall pay for advertising, development and printing of education materials for the programs as defined by City (all 5000 series of DPS codes).

### ***5.5 Brochure for Commercial and Business Establishments.***

Annually, at Contractor's sole expense, the Contractor shall prepare a professional, well-formatted and designed brochure for Commercial and Business Establishments that describes, at a minimum, the services available, benefits and cost savings that may result from participation in Recycling programs, availability of technical assistance from Contractor or other Recycling companies and Persons (DPS code 5020-ED-PRN). Contractor shall submit to City for review and approval the brochure not later than July 1, 2019) and on or before July 1 of each year of the Term. Contractor shall distribute the brochure by mailing or in-person. The Contractor is responsible for reporting to City the results of phone and in-person contacts on an annual basis.

### ***5.6 Non-Bill Mailing Lists.***

The Contractor shall create and maintain a mailing list of all accounts that are not directly billed, so called "non-bill" Customers. The Contractor may elect to utilize the services of a direct mailing service for these "non-bill" Customers. Examples of non-bill Customers are apartments, mobile homes, condominiums, assisted living facilities, and other lease term/tenant situations such as a business park or strip mall. The mailing list shall be updated on an annual basis at a minimum and shall identify the number of non-bill Customers who are "on service" through a central billing or property owner/Property Manager. Residential non-bill lists can be created once with Resident as the addressee and physical mailing address for each unit. The programs requiring an annual mailing to non-bill Customers will include all Diversion programs.

### ***5.7 Procedure for Documentation and Notification of Contamination.***

Contractor shall follow all the procedures in Attachment N to perform Contamination audits and other characterizations and audits. In addition, if Contamination exceeds twenty (20) percent in Recyclable Materials Containers for Commercial and Business Establishments, Gated Developments or Multi-family complexes, the Contractor shall work with the City, the Recycling Coordinators and the on-site Property Manager to reduce Contamination. Drivers of Collection trucks shall have cameras and shall take pictures of loads exceeding the twenty (20) percent Contamination limit. Contractor shall record Contamination incidents on Customer accounts to include date of incident, record of picture taken, and type of Contamination. Contractor shall send the Customer

## ATTACHMENT B SCOPE OF WORK

a letter stating the date and nature of the Contamination and shall include a copy of the picture(s). Contractor shall send a copy of said letter and picture(s) to the City at the same time the letter is sent or delivered to the Customer. The City and the Recycling Coordinators will work with the Contractor to educate the Customer regarding the Contamination issue. This requirement shall only apply to Diversion programs that have been in place for a period of ninety days or more.

Unless and until the City, working with Contractor and the Customer, has resolved the Contamination issue, Contractor shall continue to collect the Cummiled Recyclable Materials, Food Scraps and Yard Trimmings/Wood Containers containing any Contamination noted in the letter and photographs, and Contractor shall continue to process said materials at the Clean MRF or Composting Facility designated by the City.

The following table lists various Recycling streams to be collected. This list includes items to be accepted in the Recycling stream and items that are considered Contamination in the Recycling stream. The City may modify this list at any time during the Term of the Contract.

### Recycling Streams and Contaminants

Recycling Material Stream	Acceptable Materials	Unacceptable Materials (Contamination)
<b>Single Stream Recyclable Materials</b>	newspaper, phone books, catalogs, magazines, brown paper bags, packaging, egg cartons, white paper, colored paper, envelopes (windows are not Contamination), junk mail, glossy paper, shredded paper, carbonless paper, chipboard/boxboard, cardboard, wrapping paper, empty aluminum cans, empty tin cans, juice containers, beer containers, sauce containers, soda cans, tuna cans, soup cans, loose jar lids, empty aerosol, empty glass beverage containers, empty glass food containers, all glass colors, empty CRV Plastic Containers and bottles #1 through #7, soft cover	paper tissues, paper towels, paper with plastic coating (i.e. Photographs, label paper, paper with food, wax paper, foil lined paper, Tyvex (non-tearing) envelopes, non-paper bags, plastic liners (i.e. cereal bags), windows, mirrors, dishware, ceramics, light bulbs, fluorescent tubes, toys, irrigation pipe, furniture, Styrofoam, MSW, Hazardous Waste, hard cover books/manuals, pyrex materials, fiberglass materials

**ATTACHMENT B**  
**SCOPE OF WORK**

	books/manuals, milk/juice cartons	
<b>Yard Trimmings</b>	Loose green material from the yard, grass clippings, leaves, weeds, tree prunings, bush pruning's, plant material, vineyard clippings, tree trunks/stumps/branches 6" or less in diameter	Rocks, dirt, plastic bags, MSW, Single-Stream Recyclables, pet waste, Hazardous Waste, tree trunks/stumps/branches greater than 6" in diameter
<b>Wood</b>	Non-treated wood, stained wood, wood with nails, wood with small metal items, tree trunks/stumps/branches (free from leaf and brush material)	Painted wood, lacquered wood, creosote treated wood, railroad ties, telephone poles, excessive nails, large metal items, Hazardous Waste
<b>Food Scraps</b>	Fruit, vegetables, meat and bones, seafood, dairy products eggs and eggshells, rice, beans, bread, pasta, coffee grounds, and plate scrapings of these materials. In the event City directs that food-soiled paper products be included, add: food soiled paper towels, tissue products, paper napkins, paper plates and cups, coffee filters, tea bags, waxed paper, butcher paper, paper take-out boxes and containers, greasy pizza boxes, paper bags and cardboard and wax-coated cardboard produce boxes.	Glass, plastics, metal, plastic wrap, silverware, plates, cups, glasses. Food soiled paper does not include polystyrene, plastic-backed paper, blue-line paper or blueprints, diapers, kitty litter, any paper containing plastics aluminum foil or foil-lined food wrap.
<b>Concrete</b>	Clean concrete, concrete with rebar, asphalt not exceeding 5% of incoming load by weight	All MSW, all other non-concrete materials, Hazardous Waste, asphalt exceeding 5% of incoming load by weight
<b>Metal</b>	Ferrous metal, non-ferrous	Items less than 90% metal, fluids, Hazardous Waste, all

**ATTACHMENT B**  
**SCOPE OF WORK**

	metal	MSW
<b>Cardboard</b>	Clean cardboard, chipboard	Waxed cardboard, all MSW, all non-cardboard items, Hazardous Waste
<b>Commingled Construction and Demolition Debris</b>	All concrete materials, all metal materials, all wood materials, all cardboard materials, all Yard Trimmings materials, drywall, dirt, soil, asphalt	MSW, all Food Scraps, Hazardous Waste

**5.8 Website.**

Contractor shall create and maintain a website with information on all of the City's solid waste and Recycling programs (DPS code 5000-ED-ELC). The Website shall clearly identify the representative of Contractor (e.g. the two Recycling Coordinators or other Person(s)) that Customers can call for additional information or to subscribe to any of the Recycling services. The telephone numbers and e-mail addresses for said Persons shall be clearly displayed on the Website. Contractor shall permit the City to establish a link from the City's website to the Contractor's website for the above-listed information.

**5.9 Seminars, Workshops, Presentations, Meetings.**

Contractor shall ensure the attendance of qualified and knowledgeable employees of Contractor, on an as-requested basis, at local seminars, workshops, presentations, meetings and the like, to provide information or discuss matters related to solid waste management and Recycling (DPS Code 5020-ED-OUT).

ATTACHMENT C

---

List of City Facilities

Contractor shall provide Collection services at the following City facilities as described in Section 3.12 of Attachment B.

1. City Hall: 30111 Crown Valley Parkway
2. Sea Country Center (Senior Center): 24602 Aliso Creek Road
3. Community Center: Will be located at 29751 Crown Valley Parkway
4. Laguna Niguel/Mission Viejo Metrolink Station: 28200 Forbes Road

Additional City-Owned Location:

South Peak Trail: South of Golden Lantern before Fire Station (no address). [Collection only needed if City is holding a special cleanup or other event at the trail. Contractor shall provide Collection for the event upon receipt of advance notice from the City. These services shall include providing the appropriate number and type of Container(s), e.g. Bins and/or Roll Off Boxes/Lowboys]

In addition to the above-listed facilities, the City has Joint Use Agreements with the following school properties for holding events that generate MSW, Recyclable Materials and/or Food Scraps. The parties acknowledge that Contractor may have separate agreements with these schools for regular collection of MSW, Recyclable Material and/or Food Scraps. Contractor shall provide Collection for City's events held periodically at the following school locations upon receipt of advance notice from the City. These services shall include providing the appropriate number and type(s) of Containers, e.g. Bins and/or Roll Off Boxes/Lowboys:

1. Niguel Hills Middle School: 29070 Paseo Escuela
2. Moulton Elementary School: 29851 Highland Avenue
3. Marian Bergeson Elementary School: 28333 Crown Valley Parkway

The City reserves the right to add to or change the above lists at any time, as described in Section 3.12 of Attachment B. Collection provided by Contractor for special events held at the South Peak Trail and any schools, including those listed above, shall be counted as part of the thirty (30) special events for which

## ATTACHMENT C

---

### List of City Facilities

Contractor is required to provide Collection services as described in Section 3.12.1 of Attachment B.

## EXHIBIT D-1

### RATES EFFECTIVE JANUARY 1, 2019 THROUGH JUNE 30, 2019

#### **SECTION 1. RESIDENTIAL RATES**

The following rates are for automated residential curbside collection of MSW, Recyclable Materials and Yard Trimmings to compost in Carts to Residential Subscribers, where service is provided to the individual single-family home, duplex, triplex, 4-plex, residence in a mobile home community, attached single-family home, condominium or townhome. Rates in this Section 1 include the costs for composting Yard Trimming that are Collected.

Residents may choose any 3-Cart bundle for the rates listed below. The "bundle" consists of one MSW Cart, one Recyclables Cart and one Yard Trimmings Cart all of the same size. Residents may select a "bundle" of Carts that are 35 gallons, 65 gallons or 95 gallons in size. Residents may request one additional Recyclables Cart of the same size as the other Carts in their "bundle", at no additional charge. There is a charge for a third Recyclables Cart as shown below. Residents may request additional Yard Trimmings Carts that are the same size as the other Carts in their "bundle", for the rates shown below.

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
(3) 35 Gallon Carts	\$ 13.76	\$ 2.36	\$ 1.28	\$ 17.40
(3) 65 Gallon Carts	\$ 13.76	\$ 2.65	\$ 2.23	\$ 18.64
(3) 95 Gallon Carts	\$ 13.76	\$ 3.60	\$ 3.17	\$ 20.53

Monthly rates for Extra Residential Services

#### **Additional MSW Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon MSW Cart	\$ 3.50	\$ -	\$ -	\$ 3.50
Additional 65 Gallon MSW Cart	\$ 4.50	\$ -	\$ -	\$ 4.50
Additional 95 Gallon MSW Cart	\$ 5.50	\$ -	\$ -	\$ 5.50

#### **Additional Recyclable Materials Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon Recyclable Materials Cart (Second Cart)	\$ -	\$ -	\$ -	\$ -
Additional 35 Gallon Recyclable Materials Cart – (Third Cart)	\$ 2.87	\$ -	\$ -	\$ 2.87
Additional 65 Gallon Recyclable Materials Cart (Second Cart)	\$ -	\$ -	\$ -	\$ -
Additional 65 Gallon Recyclable Materials Cart (Third Cart)	\$ 3.91	\$ -	\$ -	\$ 3.91
Additional 95 Gallon Recyclable Materials Cart (Second Cart)	\$ -	\$ -	\$ -	\$ -
Additional 95 Gallon Recyclable Materials Cart (Third Cart)	\$ 4.93	\$ -	\$ -	\$ 4.93

#### **Additional Yard Trimmings to Compost Materials Cart**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 3.90	\$ -	\$ -	\$ 3.90
Additional 65 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 4.90	\$ -	\$ -	\$ 4.90
Additional 95 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 5.90	\$ -	\$ -	\$ 5.90

## SECTION 2. MSW RATES FOR COMMERCIAL AND MULTI-FAMILY SUBSCRIBERS

In a Split Bin, one side of the Bin must contain MSW. The other side of the Split Bin may contain any one of the Divertable Materials listed in Section 3 below.

MSW Cart Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
35 Gallon Cart - 1x/week	\$ 20.09	\$ -	\$ 1.44	\$ 21.53
35 Gallon Cart - 2x/week	\$ 40.18	\$ -	\$ 2.88	\$ 43.06
35 Gallon Cart - 3x/week	\$ 60.27	\$ -	\$ 4.32	\$ 64.59
35 Gallon Cart - 4x/week	\$ 80.36	\$ -	\$ 5.76	\$ 86.12
35 Gallon Cart - 5x/week	\$ 100.45	\$ -	\$ 7.20	\$ 107.65
35 Gallon Cart - 6x/week	\$ 120.54	\$ -	\$ 8.64	\$ 129.18
65 Gallon Cart - 1x/week	\$ 22.01	\$ -	\$ 2.52	\$ 24.53
65 Gallon Cart - 2x/week	\$ 44.02	\$ -	\$ 5.04	\$ 49.06
65 Gallon Cart - 3x/week	\$ 66.03	\$ -	\$ 7.56	\$ 73.59
65 Gallon Cart - 4x/week	\$ 88.04	\$ -	\$ 10.08	\$ 98.12
65 Gallon Cart - 5x/week	\$ 110.05	\$ -	\$ 12.60	\$ 122.65
65 Gallon Cart - 6x/week	\$ 132.06	\$ -	\$ 15.12	\$ 147.18
95 Gallon Cart - 1x/week	\$ 23.95	\$ -	\$ 3.60	\$ 27.55
95 Gallon Cart - 2x/week	\$ 47.90	\$ -	\$ 7.20	\$ 55.10
95 Gallon Cart - 3x/week	\$ 71.85	\$ -	\$ 10.80	\$ 82.65
95 Gallon Cart - 4x/week	\$ 95.80	\$ -	\$ 14.40	\$ 110.20
95 Gallon Cart - 5x/week	\$ 119.75	\$ -	\$ 18.00	\$ 137.75
95 Gallon Cart - 6x/week	\$ 143.70	\$ -	\$ 21.60	\$ 165.30
MSW Bin Service and Split Bin Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Split Bin (1.5 yards of MSW) - 1x/week	\$ 59.49	\$ -	\$ 11.88	\$ 71.37
3 Cubic Yard Split Bin (1.5 yards of MSW) - 2x/week	\$ 86.11	\$ -	\$ 23.76	\$ 109.87
3 Cubic Yard Split Bin (1.5 yards of MSW) - 3x/week	\$ 112.73	\$ -	\$ 35.64	\$ 148.37
3 Cubic Yard Split Bin (1.5 yards of MSW) - 4x/week	\$ 139.33	\$ -	\$ 47.52	\$ 186.85
3 Cubic Yard Split Bin (1.5 yards of MSW) - 5x/week	\$ 165.97	\$ -	\$ 59.40	\$ 225.37
3 Cubic Yard Split Bin (1.5 yards of MSW) - 6x/week	\$ 192.60	\$ -	\$ 71.28	\$ 263.88
4 Cubic Yard Split Bin (2 yards of MSW) - 1x/week	\$ 66.19	\$ -	\$ 15.84	\$ 82.03
4 Cubic Yard Split Bin (2 yards of MSW) - 2x/week	\$ 99.57	\$ -	\$ 31.68	\$ 131.25
4 Cubic Yard Split Bin (2 yards of MSW) - 3x/week	\$ 129.64	\$ -	\$ 47.52	\$ 177.16
4 Cubic Yard Split Bin (2 yards of MSW) - 4x/week	\$ 167.05	\$ -	\$ 63.36	\$ 230.41
4 Cubic Yard Split Bin (2 yards of MSW) - 5x/week	\$ 200.68	\$ -	\$ 79.20	\$ 279.88
4 Cubic Yard Split Bin (2 yards of MSW) - 6x/week	\$ 234.94	\$ -	\$ 95.04	\$ 329.98
2 Cubic Yard Bin - 1x/week	\$ 66.19	\$ -	\$ 15.84	\$ 82.03
2 Cubic Yard Bin - 2x/week	\$ 99.57	\$ -	\$ 31.68	\$ 131.25
2 Cubic Yard Bin - 3x/week	\$ 129.64	\$ -	\$ 47.52	\$ 177.16
2 Cubic Yard Bin - 4x/week	\$ 167.05	\$ -	\$ 63.36	\$ 230.41
2 Cubic Yard Bin - 5x/week	\$ 200.68	\$ -	\$ 79.20	\$ 279.88
2 Cubic Yard Bin - 6x/week	\$ 234.94	\$ -	\$ 95.04	\$ 329.98
3 Cubic Yard Bin - 1x/week	\$ 118.98	\$ -	\$ 23.76	\$ 142.74
3 Cubic Yard Bin - 2x/week	\$ 172.22	\$ -	\$ 47.52	\$ 219.74

Bin Service (Continued)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Bin - 3x/week	\$ 225.46	\$ -	\$ 71.28	\$ 296.74
3 Cubic Yard Bin - 4x/week	\$ 278.66	\$ -	\$ 95.04	\$ 373.70
3 Cubic Yard Bin - 5x/week	\$ 331.94	\$ -	\$ 118.80	\$ 450.74
3 Cubic Yard Bin - 6x/week	\$ 385.19	\$ -	\$ 142.56	\$ 527.75
4 Cubic Yard Bin - 1x/week	\$ 132.37	\$ -	\$ 31.68	\$ 164.05
4 Cubic Yard Bin - 2x/week	\$ 199.13	\$ -	\$ 63.36	\$ 262.49
4 Cubic Yard Bin - 3x/week	\$ 259.28	\$ -	\$ 95.04	\$ 354.32
4 Cubic Yard Bin - 4x/week	\$ 334.10	\$ -	\$ 126.72	\$ 460.82
4 Cubic Yard Bin - 5x/week	\$ 401.35	\$ -	\$ 158.40	\$ 559.75
4 Cubic Yard Bin - 6x/week	\$ 469.87	\$ -	\$ 190.08	\$ 659.95
MSW Compactor Bins – Flat Rate (Compactors containing MSW)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
2 Cubic Yard compactor - per pull	\$ 72.40	\$ -	\$ 12.60	\$ 85.00
3 Cubic Yard compactor - per pull	\$ 82.00	\$ -	\$ 18.00	\$ 100.00
4 Cubic Yard compactor - per pull	\$ 93.40	\$ -	\$ 21.60	\$ 115.00

The rate below for MSW Compactor Roll-off Boxes is the Collection cost per pickup plus the Disposal Cost per ton multiplied by the actual number of Tons Collected.

MSW Compactor Roll-Offs – Collection plus Per Ton Processing Rate	Collection Cost per Pick-up	Processing Cost per Ton	Disposal Cost per Ton	Total Rate
Compactor Haul-Only Rate	\$ 240.00	\$ -	\$ -	\$ 240.00
Landfill Rate per Ton	\$ -	\$ -	\$ 36.00	As Calculated

**SECTION 3. COMMERCIAL AND MULTI-FAMILY MONTHLY RATES FOR COLLECTION OF DIVERTABLE MATERIALS INCLUDING SINGLE STREAM RECYCLABLE MATERIALS, SINGLE MATERIAL RECYCLABLES, YARD TRIMMINGS/WOOD, SOURCE SEPARATED FOOD SCRAPS, AND CO-COLLECTED YARD TRIMMINGS/FOOD SCRAPS.**

The rates below are for a Container (Cart, Split Bin, Bin or Compactor) containing any one of the above-listed Divertable Materials. For example, the total rate shown below of \$10.77 per month for a 35 gallon Cart emptied one time per week applies whether the Cart is for Single Stream Recyclable Materials, Food Scraps or any of the other Divertable Materials listed above.

The above-listed Divertable Materials may NOT be combined in a single Container. For example, Single Stream Recyclable Materials may not be combined with Yard Trimmings/Wood or Food Scraps in a single Container.

In a Split Bin, one side of the Bin must contain MSW. The other side of the Split Bin may contain any one of the above-listed Divertable Materials.

Divertable Materials Cart Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
35 Gallon Cart - 1x/week	\$ 9.27	\$ 1.36	\$ 0.14	\$ 10.77
35 Gallon Cart - 2x/week	\$ 18.53	\$ 2.72	\$ 0.28	\$ 21.53
35 Gallon Cart - 3x/week	\$ 27.80	\$ 4.08	\$ 0.42	\$ 32.30
35 Gallon Cart - 4x/week	\$ 37.06	\$ 5.44	\$ 0.56	\$ 43.06
35 Gallon Cart - 5x/week	\$ 46.33	\$ 6.80	\$ 0.70	\$ 53.83
35 Gallon Cart - 6x/week	\$ 55.59	\$ 8.16	\$ 0.84	\$ 64.59
65 Gallon Cart - 1x/week	\$ 9.98	\$ 2.04	\$ 0.25	\$ 12.27
65 Gallon Cart - 2x/week	\$ 19.95	\$ 4.08	\$ 0.50	\$ 24.53
65 Gallon Cart - 3x/week	\$ 29.93	\$ 6.12	\$ 0.75	\$ 36.80
65 Gallon Cart - 4x/week	\$ 39.90	\$ 8.16	\$ 1.00	\$ 49.06
65 Gallon Cart - 5x/week	\$ 49.88	\$ 10.20	\$ 1.25	\$ 61.33
65 Gallon Cart - 6x/week	\$ 59.85	\$ 12.24	\$ 1.50	\$ 73.59
95 Gallon Cart - 1x/week	\$ 10.70	\$ 2.72	\$ 0.36	\$ 13.78
95 Gallon Cart - 2x/week	\$ 21.39	\$ 5.44	\$ 0.72	\$ 27.55
95 Gallon Cart - 3x/week	\$ 32.09	\$ 8.16	\$ 1.08	\$ 41.33
95 Gallon Cart - 4x/week	\$ 42.78	\$ 10.88	\$ 1.44	\$ 55.10
95 Gallon Cart - 5x/week	\$ 53.48	\$ 13.60	\$ 1.80	\$ 68.88
95 Gallon Cart - 6x/week	\$ 64.17	\$ 16.32	\$ 2.16	\$ 82.65
Divertable Materials Bin and Split Bin Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Split Bin (1.5 yards of MSW) - 1x/week	\$ 24.98	\$ 9.52	\$ 1.19	\$ 35.69
3 Cubic Yard Split Bin (1.5 yards of MSW) - 2x/week	\$ 33.52	\$ 19.04	\$ 2.38	\$ 54.94
3 Cubic Yard Split Bin (1.5 yards of MSW) - 3x/week	\$ 42.06	\$ 28.56	\$ 3.57	\$ 74.19
3 Cubic Yard Split Bin (1.5 yards of MSW) - 4x/week	\$ 50.59	\$ 38.08	\$ 4.76	\$ 93.43
3 Cubic Yard Split Bin (1.5 yards of MSW) - 5x/week	\$ 59.14	\$ 47.60	\$ 5.95	\$ 112.69
3 Cubic Yard Split Bin (1.5 yards of MSW) - 6x/week	\$ 67.68	\$ 57.12	\$ 7.14	\$ 131.94
4 Cubic Yard Split Bin (2 yards of MSW) - 1x/week	\$ 27.19	\$ 12.25	\$ 1.58	\$ 41.02
4 Cubic Yard Split Bin (2 yards of MSW) - 2x/week	\$ 37.98	\$ 24.49	\$ 3.16	\$ 65.63
4 Cubic Yard Split Bin (2 yards of MSW) - 3x/week	\$ 47.12	\$ 36.72	\$ 4.74	\$ 88.58
4 Cubic Yard Split Bin (2 yards of MSW) - 4x/week	\$ 59.93	\$ 48.96	\$ 6.32	\$ 115.21
4 Cubic Yard Split Bin (2 yards of MSW) - 5x/week	\$ 70.84	\$ 61.20	\$ 7.90	\$ 139.94
4 Cubic Yard Split Bin (2 yards of MSW) - 6x/week	\$ 82.07	\$ 73.44	\$ 9.48	\$ 164.99
2 Cubic Yard Bin - 1x/week	\$ 27.20	\$ 12.24	\$ 1.58	\$ 41.02
2 Cubic Yard Bin - 2x/week	\$ 37.99	\$ 24.48	\$ 3.16	\$ 65.63
2 Cubic Yard Bin - 3x/week	\$ 47.12	\$ 36.72	\$ 4.74	\$ 88.58
2 Cubic Yard Bin - 4x/week	\$ 59.93	\$ 48.96	\$ 6.32	\$ 115.21
2 Cubic Yard Bin - 5x/week	\$ 70.84	\$ 61.20	\$ 7.90	\$ 139.94
2 Cubic Yard Bin - 6x/week	\$ 82.07	\$ 73.44	\$ 9.48	\$ 164.99
3 Cubic Yard Bin - 1x/week	\$ 50.63	\$ 18.36	\$ 2.38	\$ 71.37
3 Cubic Yard Bin - 2x/week	\$ 68.39	\$ 36.72	\$ 4.76	\$ 109.87
3 Cubic Yard Bin - 3x/week	\$ 86.15	\$ 55.08	\$ 7.14	\$ 148.37
3 Cubic Yard Bin - 4x/week	\$ 103.89	\$ 73.44	\$ 9.52	\$ 186.85
3 Cubic Yard Bin - 5x/week	\$ 121.67	\$ 91.80	\$ 11.90	\$ 225.37

(Continued from Above)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Bin - 6x/week	\$ 139.44	\$ 110.16	\$ 14.28	\$ 263.88
4 Cubic Yard Bin - 1x/week	\$ 54.38	\$ 24.48	\$ 3.17	\$ 82.03
4 Cubic Yard Bin - 2x/week	\$ 75.95	\$ 48.96	\$ 6.34	\$ 131.25
4 Cubic Yard Bin - 3x/week	\$ 94.21	\$ 73.44	\$ 9.51	\$ 177.16
4 Cubic Yard Bin - 4x/week	\$ 119.81	\$ 97.92	\$ 12.68	\$ 230.41
4 Cubic Yard Bin - 5x/week	\$ 141.63	\$ 122.40	\$ 15.85	\$ 279.88
4 Cubic Yard Bin - 6x/week	\$ 164.08	\$ 146.88	\$ 19.02	\$ 329.98
Divertable Materials Compactor Bins – Flat Rate (Compactors containing Single Stream/Single Material Recyclables)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
2 Cubic Yard compactor - per lift	\$ 17.44	\$ 23.80	\$ 1.26	\$ 42.50
3 Cubic Yard compactor – per lift	\$ 14.20	\$ 34.00	\$ 1.80	\$ 50.00
4 Cubic Yard compactor – per lift	\$ 77.04	\$ 40.80	\$ 2.16	\$ 120.00

The rate below for Single Stream/Single Material Recyclables Compactor Roll-off Boxes is the Collection cost per pickup plus the Processing Cost per ton multiplied by the actual number of Tons Collected.

Single Stream/Single Material Recyclables Compactor Roll-Offs – Collection plus Per Ton Processing Rate	Collection Cost per Pick-up	Processing Cost per Ton	Disposal Cost	Total Rate
Compactor Haul-Only Rate	\$ 240.00	\$ -	\$ -	\$ 240.00
Source-separated Rate per Ton	\$ -	\$ 34.00	\$ -	As Calculated

#### SECTION 4. TEMPORARY BIN AND ROLL-OFF BOX SERVICE

Rates for temporary Construction and Demolition Debris ("C&D") Roll-off Box service consist of the Collection Cost plus the Processing Cost.

The Collection cost shown below as the 'Haul Only Rate' will be charged to the Customer each time the Roll-off Box is serviced by the hauler. The Processing Cost is calculated by multiplying the actual number of Tons Collected by the Per Ton Processing Rate for each Roll-off Box serviced depending on the materials being processed (i.e. Single-Material Recyclables, mixed C&D Debris). For boxes being hauled direct to landfill as MSW, Customer is charged the Haul Only Rate plus the Landfill Tip Fee times the actual tons in the Roll-off Box.

	Collection Cost per Pick-up	Processing Cost per Ton	Disposal Cost per Ton	Total Rate
C&D Temporary Roll-off Box – Haul Only Rate	\$ 220.00	\$ -	\$ -	\$ 220.00
C&D Temporary Roll-off Box – Per Ton Rate for C&D Debris Processing	\$ -	\$ 68.00	\$ -	As Calculated
C&D Temporary Roll-off Box - Per Ton Rate for Direct to Landfill Service	\$ -	\$ -	\$ 36.00	As Calculated
C&D Temporary Roll-off Box – Haul Only Rate (Single-Material Recycling)	\$110.00	\$ -	\$ -	\$ 110.00
C&D Temporary Roll-off Box – Per Ton Processing Rate (Single-Material Recycling)	\$ -	\$ 34.00	\$ -	As Calculated

The rates for Clean-up Bins below include the cost of collection plus processing or disposal based upon an average assumed tonnage in the Bin (not the actual Bin weight).

Clean-up Bin Rates	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Clean-up Bin (CUB) - C&D Debris Processing	\$ 97.80	\$ 27.20	\$ -	\$ 125.00
3 Cubic Yard Clean-up Bin (CUB) - Direct to Landfill	\$ 100.60	\$ -	\$ 14.40	\$ 115.00
3 Cubic Yard Clean-up Bin (CUB) - Single-Material Recycling	\$ 48.90	\$ 13.60	\$ -	\$ 62.50

#### SECTION 5. MISCELLANEOUS RATES

	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Residential Valet Service	39.77	-	-	39.77
Residential Start Service	15.00	-	-	15.00
Vacation Hold (longer than 2 weeks, less than 4 weeks)	-	-	-	-
Additional Residential Service - per service	22.16	-	-	22.16
Start Service for New Customer - residential	15.00	-	-	15.00
Start Service for New Customer - commercial	25.00	-	-	25.00
Pull-out Service 0-25'	-	-	-	-
Pull-out Service 25-50', per month, per bin, per frequency	29.63	-	-	29.63
Pull-out Service 50-75' per month, per bin, per frequency	59.26	-	-	59.26
Pull-out Service 75-100' per month, per bin, per frequency	81.19	-	-	81.19
Scout Service - per lift	16.00	-	-	16.00
Residential Bulky Goods Collection Service (For additional Collections of Bulky Goods from Residential Premises in Excess of Four (4) per year)	30.00	-	-	30.00
Residential Bulky Goods Collection, in excess of four items, price per additional item	16.00			
Multi-family Bulky Goods Collection Service (For additional Collections of Bulky Goods from Multi-family Premises in Excess of One (1) Per Unit per year)	30.00	-	-	30.00
Multi-family Bulky Goods Collection, Additional Bulky Item Service on same visit (per item after initial visit)	16.00	-	-	16.00
Commercial Bulky Goods Collection Service	55.00	-	-	55.00
Residential Bulky Good Collection for items containing Freon	-	-	-	-
Multi-family Bulky Good Collection for items containing Freon	55.00	-	-	55.00
Commercial Bulky Good Collection for items containing Freon	55.00	-	-	55.00
Residential E-Waste Collection (For additional Collections of E-waste from Residential Premises in Excess of One (1) per year)	-	-	-	-
Multi-family E-Waste Collection (For additional Collections of E-waste from Multi-family Premises in Excess of One (1) per year)	30.00	-	-	30.00
Residential U-Waste Collection (For additional Collections of U-waste from Residential Premises in Excess of One (1) per year)	85.00	-	-	85.00
Clean-up of Illegal Dumping (up to six items per incident - See Footnote 1 below)	125.00	-	-	125.00
Repair and Maintenance of Compactor	87.63	-	-	87.63
Bin Cleaning Service	85.60	-	-	85.60
Cart Replacement/Exchange	55.00	-	-	55.00
Damaged Bin Replacement/Exchange (in addition to 1 free annual exchange)	75.00	-	-	75.00
Extra Pick-up - Commercial/Multi-family Cart	25.00	-	-	25.00
Extra Pick-up - Commercial/Multi-family Bin	75.00	-	-	75.00

Misc. Rates, Continued	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Roll-off or Compactor Service - False or Dry Run	75.00	-	-	75.00
Power wash/steam cleaning of enclosure	94.33	-	-	94.33
Dump and clean up enclosure	94.33	-	-	94.33
Sunday Service Premium (added to existing rate regardless of service line - charged on a monthly basis)	285.00	-	-	285.00
Roll-off/compactor bin overage charges (if max weight is included in rate and load exceeds max weight, include the per ton cost for processing the overage)	-	68.00	-	68.00
Roll-off/compactor MSW bin overage charges (if max weight is included in rate and load exceeds max weight, include the listed per ton landfill cost for the overage)	-	-	36.00	36.00
Daily Rental Over 7 Days for Temporary 3-yard bins	5.04	-	-	5.04
Clean-up Bin Trip Charge	50.00	-	-	50.00
Clean-up Bin Overweight	60.43	-	-	60.43
Daily Rental Over 7 Days for Temporary 10,20,30 and 40-yard Roll Off Boxes	10.07	-	-	10.07
Roll-off Relocation Charge	75.00	-	-	75.00
Roll-off Overweight Special Vehicle and Handling Charge (in addition to roll-off costs)	450.00	-	-	450.00
Compactor steam cleaning charge	150.00	-	-	150.00
Replacement Residential Counter-top food scraps kitchen pail (includes delivery)	10.00	-	-	10.00
Resumption of Service Charge (only after discontinuation for non-payment)	20.00	-	-	20.00
Locking Bin Installation	25.00	-	-	25.00
Bin Locking Lids or Gated Enclosures - per month, per bin, per frequency	15.00	-	-	15.00
Emergency Collection, hourly rate for (1) crew and (1) vehicle (See Footnote 2 below)	100.00	-	-	100.00
Late fees (1.5% of balance, minimum balance \$15, 90 days overdue for residential, commercial, and temp)	-	-	-	-

**Footnotes to Miscellaneous Rates:**

1. Charges for 'Cleanup of Illegal Dumping' do not apply to services performed in accordance with Section 4.11.A.2 of the Agreement ("Cleanup of Illegal Dumping").
2. Charges for 'Emergency Collection' do not apply to services performed in accordance with Section 4.11A.2 of the Agreement ("Cleanup of Illegal Dumping").

## EXHIBIT D-2

### RATES REFLECTING 3% INCREASE TO BECOME EFFECTIVE JULY 1, 2019\*\*\*

\*\*\* THE RATES LISTED HEREIN INCLUDE A 3% INCREASE OVER THE RATES IN ATTACHMENT D-1. THE PARTIES AGREE THE RATES IN THIS ATTACHMENT D-2 WILL BE ADJUSTED FOR INFLATION AND FOR ANY DISPOSAL CHARGE INCREASE ENACTED BY THE COUNTY OF ORANGE AS OF JULY 1, 2019 (AS DESCRIBED IN SECTION 12.03 OF THE AGREEMENT AND IN ATTACHMENT J). THE ADJUSTED RATES ARE SUBJECT TO APPROVAL BY THE CITY COUNCIL, INCLUDING SUCCESSFUL COMPLETION OF THE PROPOSITION 218 NOTICE AND PUBLIC HEARING REQUIREMENTS DESCRIBED IN SECTION 12.03 OF THE AGREEMENT.

#### SECTION 1.1 RESIDENTIAL RATES

The following rates are for automated residential curbside collection of MSW, Recyclable Materials and Yard Trimmings to compost in Carts to Residential Subscribers, where service is provided to the individual single-family home, duplex, triplex, 4-plex, residence in a mobile home community, attached single-family home, condominium or townhome. Rates in this Section 1.1 include the costs for composting the Yard Trimmings that are Collected.

Residents may select a Cart bundle of any size. The "bundle" consists of the following 3 Carts: MSW Cart, Recyclables Cart and Yard Trimmings Cart. The Cart sizes available are: 35-gallon bundle, 65-gallon bundle and 95-gallon bundle. Residents may customize their "bundle" by substituting one or two Carts of different sizes than their MSW Cart. Example: a resident with a 35-gallon MSW Cart (35-gallon bundle) might select a 65-gallon Recyclables Cart and a 95-gallon Yard Trimmings Cart. In that case the resident pays the rate for the 35-gallon bundle because rates are based on the size of the resident's MSW Cart. In this example, the customer would be charged \$17.92 per month.

Residents may add a second Recyclables Cart of any size at no extra charge. The rate for a third Recyclables Cart is shown below. Residents may add additional Yard Trimmings Carts of any size at the rates shown below. The rates for additional MSW Carts also appear below.

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
(3) 35 Gallon Carts	\$ 14.17	\$ 2.43	\$ 1.32	\$ 17.92
(3) 65 Gallon Carts	\$ 14.17	\$ 2.73	\$ 2.30	\$ 19.20
(3) 95 Gallon Carts	\$ 14.17	\$ 3.71	\$ 3.27	\$ 21.15

#### **Monthly rates for Extra Residential Services**

##### **Additional MSW Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon MSW Cart	\$ 3.61	\$ -	\$ -	\$ 3.61
Additional 65 Gallon MSW Cart	\$ 4.64	\$ -	\$ -	\$ 4.64
Additional 95 Gallon MSW Cart	\$ 5.67	\$ -	\$ -	\$ 5.67

**Additional Recyclable Materials Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon Recyclable Materials Cart – First Added Cart	\$ -	\$ -	\$ -	\$ -
Additional 35 Gallon Recyclable Materials Cart – Second Additional Cart	\$ 2.96	\$ -	\$ -	\$ 2.96
Additional 65 Gallon Recyclable Materials Cart – First Added Cart	\$ -	\$ -	\$ -	\$ -
Additional 65 Gallon Recyclable Materials Cart – Second Additional Cart	\$ 4.03	\$ -	\$ -	\$ 4.03
Additional 95 Gallon Recyclable Materials Cart – First Added Cart	\$ -	\$ -	\$ -	\$ -
Additional 95 Gallon Recyclable Materials Cart – Second Additional Cart	\$ 5.08	\$ -	\$ -	\$ 5.08

**Additional Yard Trimmings to Compost Materials Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional 35 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 4.02	\$ -	\$ -	\$ 4.02
Additional 65 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 5.05	\$ -	\$ -	\$ 5.05
Additional 95 Gallon Yard Trimmings to Compost Materials Cart – Each Added Cart	\$ 6.08	\$ -	\$ -	\$ 6.08

**SECTION 1.2. RESIDENTIAL RATES INCLUDING COSTS FOR NEW PROGRAM TO CO-COLLECT FOOD SCRAPS AND YARD TRIMMINGS AND TO PROCESS COLLECTED MATERIALS USING ANAEROBIC DIGESTION/COMPOST.**

The rates in Section 1.1 include the costs for residential Yard Trimmings to be composted. When the program for co-collection of residential Yard Trimmings and Food Scraps begins, the co-collected materials will be processed at either an Anaerobic Digestion Facility or a compost facility. At that point, the rates in this Section 1.2 will apply for residential “bundles” and for additional Yard Trimmings Carts requested by Residents. All other rates (for additional MSW and Recyclables Carts) will remain the same as those listed in Section 1.1.

The rates in this Section 1.2 shall be adjusted annually as described in Section 12.03 of the Agreement and in Attachment J, commencing with an adjustment as of July 1, 2019. Contractor is not authorized to charge the rates in this Section 1.2 (as adjusted) until (a) such rates are approved by the City Council, including successful completion of the Proposition 218 notice and public hearing requirements described in Section 12.03 of the Agreement; (b) Contractor is directed to commence implementation of the Residential program for co-collection of Yard Trimmings with Food Scraps; and (c) City authorizes Contractor to charge the rates in this Section 1.2. It is the expectation of the parties that City Council consideration of these rates will be timed such that, if approved, the rates would become effective concurrent with the City directing the Contractor to commence implementation of the Residential co-collected Yard Trimmings/Food Scrap program and that the City would authorize Contractor to charge the rates in this Section 1.2 at that time.

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
(3) 35 Gallon Carts - co-collected yard trimmings/food scraps to compost or AD	\$ 14.17	\$ 4.88	\$ 1.32	\$ 20.37
(3) 65 Gallon Carts - co-collected yard trimmings/food scraps to compost or AD	\$ 14.17	\$ 5.18	\$ 2.30	\$ 21.65
(3) 35 Gallon Carts - co-collected yard trimmings/food scraps to compost or AD	\$ 14.17	\$ 6.16	\$ 3.27	\$ 23.60

**Additional Co-collected Yard Trimmings and Food Scraps to Compost/AD Cart:**

Cart Size	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Additional Co-collected 35 Gallon Yard Trimmings and Food Scraps to Compost/AD Cart – Each Added Cart	\$ 4.02	\$ 2.45	\$ -	\$ 6.47
Additional Co-collected 65 Gallon Yard Trimmings and Food Scraps to Compost/AD Cart – Each Added Cart	\$ 5.05	\$ 2.45	\$ -	\$ 7.50
Additional Co-collected 95 Gallon Yard Trimmings and Food Scraps to Compost/AD Cart – Each Added Cart	\$ 6.08	\$ 2.45	\$ -	\$ 8.53

## SECTION 2. MSW RATES FOR COMMERCIAL AND MULTI-FAMILY SUBSCRIBERS

In a Split Bin, one side of the Bin must contain MSW. The other side of the Split Bin may contain any one of the Divertable Materials listed in Section 3 below.

MSW Cart Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
35 Gallon Cart - 1x/week	\$ 20.69	\$ -	\$ 1.48	\$ 22.18
35 Gallon Cart - 2x/week	\$ 41.39	\$ -	\$ 2.97	\$ 44.35
35 Gallon Cart - 3x/week	\$ 62.08	\$ -	\$ 4.45	\$ 66.53
35 Gallon Cart - 4x/week	\$ 82.77	\$ -	\$ 5.93	\$ 88.70
35 Gallon Cart - 5x/week	\$ 103.46	\$ -	\$ 7.42	\$ 110.88
35 Gallon Cart - 6x/week	\$ 124.16	\$ -	\$ 8.90	\$ 133.06
65 Gallon Cart - 1x/week	\$ 22.67	\$ -	\$ 2.60	\$ 25.27
65 Gallon Cart - 2x/week	\$ 45.34	\$ -	\$ 5.19	\$ 50.53
65 Gallon Cart - 3x/week	\$ 68.01	\$ -	\$ 7.79	\$ 75.80
65 Gallon Cart - 4x/week	\$ 90.68	\$ -	\$ 10.38	\$ 101.06
65 Gallon Cart - 5x/week	\$ 113.35	\$ -	\$ 12.98	\$ 126.33
65 Gallon Cart - 6x/week	\$ 136.02	\$ -	\$ 15.57	\$ 151.60
95 Gallon Cart - 1x/week	\$ 24.67	\$ -	\$ 3.71	\$ 28.38
95 Gallon Cart - 2x/week	\$ 49.34	\$ -	\$ 7.42	\$ 56.75
95 Gallon Cart - 3x/week	\$ 74.01	\$ -	\$ 11.12	\$ 85.13
95 Gallon Cart - 4x/week	\$ 98.67	\$ -	\$ 14.83	\$ 113.51
95 Gallon Cart - 5x/week	\$ 123.34	\$ -	\$ 18.54	\$ 141.88
95 Gallon Cart - 6x/week	\$ 148.01	\$ -	\$ 22.25	\$ 170.26
MSW Bin Service and Split Bin Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Split Bin (1.5 yards of MSW) - 1x/week	\$ 61.27	\$ -	\$ 12.24	\$ 73.51
3 Cubic Yard Split Bin (1.5 yards of MSW) - 2x/week	\$ 88.69	\$ -	\$ 24.47	\$ 113.17
3 Cubic Yard Split Bin (1.5 yards of MSW) - 3x/week	\$ 116.11	\$ -	\$ 36.71	\$ 152.82
3 Cubic Yard Split Bin (1.5 yards of MSW) - 4x/week	\$ 143.51	\$ -	\$ 48.95	\$ 192.46
3 Cubic Yard Split Bin (1.5 yards of MSW) - 5x/week	\$ 170.95	\$ -	\$ 61.18	\$ 232.13
3 Cubic Yard Split Bin (1.5 yards of MSW) - 6x/week	\$ 198.38	\$ -	\$ 73.42	\$ 271.80
4 Cubic Yard Split Bin (2 yards of MSW) - 1x/week	\$ 68.18	\$ -	\$ 16.32	\$ 84.49
4 Cubic Yard Split Bin (2 yards of MSW) - 2x/week	\$ 102.56	\$ -	\$ 32.63	\$ 135.19
4 Cubic Yard Split Bin (2 yards of MSW) - 3x/week	\$ 133.53	\$ -	\$ 48.95	\$ 182.47
4 Cubic Yard Split Bin (2 yards of MSW) - 4x/week	\$ 172.06	\$ -	\$ 65.26	\$ 237.32
4 Cubic Yard Split Bin (2 yards of MSW) - 5x/week	\$ 206.70	\$ -	\$ 81.58	\$ 288.28
4 Cubic Yard Split Bin (2 yards of MSW) - 6x/week	\$ 241.99	\$ -	\$ 97.89	\$ 339.88
2 Cubic Yard Bin - 1x/week	\$ 68.18	\$ -	\$ 16.32	\$ 84.49
2 Cubic Yard Bin - 2x/week	\$ 102.56	\$ -	\$ 32.63	\$ 135.19
2 Cubic Yard Bin - 3x/week	\$ 133.53	\$ -	\$ 48.95	\$ 182.47
2 Cubic Yard Bin - 4x/week	\$ 172.06	\$ -	\$ 65.26	\$ 237.32
2 Cubic Yard Bin - 5x/week	\$ 206.70	\$ -	\$ 81.58	\$ 288.28
2 Cubic Yard Bin - 6x/week	\$ 241.99	\$ -	\$ 97.89	\$ 339.88

Bin Service, Continued	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Bin - 1x/week	\$ 122.55	\$ -	\$ 24.47	\$ 147.02
3 Cubic Yard Bin - 2x/week	\$ 177.39	\$ -	\$ 48.95	\$ 226.33
3 Cubic Yard Bin - 3x/week	\$ 232.22	\$ -	\$ 73.42	\$ 305.64
3 Cubic Yard Bin - 4x/week	\$ 287.02	\$ -	\$ 97.89	\$ 384.91
3 Cubic Yard Bin - 5x/week	\$ 341.90	\$ -	\$ 122.36	\$ 464.26
3 Cubic Yard Bin - 6x/week	\$ 396.75	\$ -	\$ 146.84	\$ 543.58
4 Cubic Yard Bin - 1x/week	\$ 136.34	\$ -	\$ 32.63	\$ 168.97
4 Cubic Yard Bin - 2x/week	\$ 205.10	\$ -	\$ 65.26	\$ 270.36
4 Cubic Yard Bin - 3x/week	\$ 267.06	\$ -	\$ 97.89	\$ 364.95
4 Cubic Yard Bin - 4x/week	\$ 344.12	\$ -	\$ 130.52	\$ 474.64
4 Cubic Yard Bin - 5x/week	\$ 413.39	\$ -	\$ 163.15	\$ 576.54
4 Cubic Yard Bin - 6x/week	\$ 483.97	\$ -	\$ 195.78	\$ 679.75
MSW Compactor Bins – Flat Rate (Compactors containing MSW)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
2 Cubic Yard compactor - per pull	\$ 74.57	\$ -	\$ 12.98	\$ 87.55
3 Cubic Yard compactor - per pull	\$ 84.46	\$ -	\$ 18.54	\$ 103.00
4 Cubic Yard compactor - per pull	\$ 96.20	\$ -	\$ 22.25	\$ 118.45

The rate below for MSW Compactor Roll-off Boxes is the Collection cost per pickup plus the Disposal Cost per ton multiplied by the actual number of Tons Collected.

MSW Compactor Roll-Offs – Collection plus Per Ton Processing Rate	Collection Cost per Pick-up	Processing Cost per Ton	Disposal Cost per Ton	Total Rate
Compactor Haul-Only Rate	\$ 247.20	\$ -	\$ -	\$ 247.20
Landfill Rate per Ton	\$ -	\$ -	\$ 37.08	As calculated

**SECTION 3. COMMERCIAL AND MULTI-FAMILY MONTHLY RATES FOR COLLECTION OF DIVERTABLE MATERIALS INCLUDING SINGLE STREAM RECYCLABLE MATERIALS, SINGLE MATERIAL RECYCLABLES, YARD TRIMMINGS/WOOD, SOURCE SEPARATED FOOD SCRAPS, AND CO-COLLECTED YARD TRIMMINGS/FOOD SCRAPS.**

The rates below are for a Container (Cart, Split Bin, Bin or Compactor) containing any one of the above-listed Divertable Materials. For example, the total rate shown below of \$11.09 per month for a 35 gallon Cart emptied one time per week applies whether the Cart is for Single Stream Recyclable Materials, Food Scraps or any of the other Divertable Materials listed above.

The above-listed Divertable Materials may NOT be combined in a single Container. For example, Single Stream Recyclable Materials may not be combined with Yard Trimmings/Wood or Food Scraps in a single Container.

In a Split Bin, one side of the Bin must contain MSW. The other side of the Split Bin may contain any one of the above-listed Divertable Materials.

Divertable Materials Cart Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
35 Gallon Cart - 1x/week	\$ 9.55	\$ 1.40	\$ 0.14	\$ 11.09
35 Gallon Cart - 2x/week	\$ 19.09	\$ 2.80	\$ 0.29	\$ 22.18
35 Gallon Cart - 3x/week	\$ 28.63	\$ 4.20	\$ 0.43	\$ 33.27
35 Gallon Cart - 4x/week	\$ 38.17	\$ 5.60	\$ 0.58	\$ 44.35
35 Gallon Cart - 5x/week	\$ 47.72	\$ 7.00	\$ 0.72	\$ 55.44
35 Gallon Cart - 6x/week	\$ 57.26	\$ 8.40	\$ 0.87	\$ 66.53
65 Gallon Cart - 1x/week	\$ 10.28	\$ 2.10	\$ 0.26	\$ 12.64
65 Gallon Cart - 2x/week	\$ 20.55	\$ 4.20	\$ 0.52	\$ 25.27
65 Gallon Cart - 3x/week	\$ 30.83	\$ 6.30	\$ 0.77	\$ 37.90
65 Gallon Cart - 4x/week	\$ 41.10	\$ 8.40	\$ 1.03	\$ 50.53
65 Gallon Cart - 5x/week	\$ 51.38	\$ 10.51	\$ 1.29	\$ 63.17
65 Gallon Cart - 6x/week	\$ 61.65	\$ 12.61	\$ 1.55	\$ 75.80
95 Gallon Cart - 1x/week	\$ 11.02	\$ 2.80	\$ 0.37	\$ 14.19
95 Gallon Cart - 2x/week	\$ 22.03	\$ 5.60	\$ 0.74	\$ 28.38
95 Gallon Cart - 3x/week	\$ 33.05	\$ 8.40	\$ 1.11	\$ 42.57
95 Gallon Cart - 4x/week	\$ 44.06	\$ 11.21	\$ 1.48	\$ 56.75
95 Gallon Cart - 5x/week	\$ 55.08	\$ 14.01	\$ 1.85	\$ 70.95
95 Gallon Cart - 6x/week	\$ 66.10	\$ 16.81	\$ 2.22	\$ 85.13
Divertable Materials Bin Service and Split Bin Service	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Split Bin (1.5 yards of MSW) - 1x/week	\$ 25.73	\$ 9.81	\$ 1.23	\$ 36.76
3 Cubic Yard Split Bin (1.5 yards of MSW) - 2x/week	\$ 34.53	\$ 19.61	\$ 2.45	\$ 56.59
3 Cubic Yard Split Bin (1.5 yards of MSW) - 3x/week	\$ 43.32	\$ 29.42	\$ 3.68	\$ 76.42
3 Cubic Yard Split Bin (1.5 yards of MSW) - 4x/week	\$ 52.11	\$ 39.22	\$ 4.90	\$ 96.23
3 Cubic Yard Split Bin (1.5 yards of MSW) - 5x/week	\$ 60.91	\$ 49.03	\$ 6.13	\$ 116.07
3 Cubic Yard Split Bin (1.5 yards of MSW) - 6x/week	\$ 69.71	\$ 58.83	\$ 7.35	\$ 135.90
4 Cubic Yard Split Bin (2 yards of MSW) - 1x/week	\$ 28.01	\$ 12.62	\$ 1.63	\$ 42.25
4 Cubic Yard Split Bin (2 yards of MSW) - 2x/week	\$ 39.12	\$ 25.22	\$ 3.25	\$ 67.60
4 Cubic Yard Split Bin (2 yards of MSW) - 3x/week	\$ 48.53	\$ 37.82	\$ 4.88	\$ 91.24
4 Cubic Yard Split Bin (2 yards of MSW) - 4x/week	\$ 61.73	\$ 50.43	\$ 6.51	\$ 118.67
4 Cubic Yard Split Bin (2 yards of MSW) - 5x/week	\$ 72.97	\$ 63.04	\$ 8.14	\$ 144.14
4 Cubic Yard Split Bin (2 yards of MSW) - 6x/week	\$ 84.53	\$ 75.64	\$ 9.76	\$ 169.94
2 Cubic Yard Bin - 1x/week	\$ 28.02	\$ 12.61	\$ 1.63	\$ 42.25
2 Cubic Yard Bin - 2x/week	\$ 39.13	\$ 25.21	\$ 3.25	\$ 67.60
2 Cubic Yard Bin - 3x/week	\$ 48.53	\$ 37.82	\$ 4.88	\$ 91.24
2 Cubic Yard Bin - 4x/week	\$ 61.73	\$ 50.43	\$ 6.51	\$ 118.67
2 Cubic Yard Bin - 5x/week	\$ 72.97	\$ 63.04	\$ 8.14	\$ 144.14
2 Cubic Yard Bin - 6x/week	\$ 84.53	\$ 75.64	\$ 9.76	\$ 169.94
3 Cubic Yard Bin - 1x/week	\$ 52.15	\$ 18.91	\$ 2.45	\$ 73.51
3 Cubic Yard Bin - 2x/week	\$ 70.44	\$ 37.82	\$ 4.90	\$ 113.17
3 Cubic Yard Bin - 3x/week	\$ 88.73	\$ 56.73	\$ 7.35	\$ 152.82
3 Cubic Yard Bin - 4x/week	\$ 107.01	\$ 75.64	\$ 9.81	\$ 192.46
3 Cubic Yard Bin - 5x/week	\$ 125.32	\$ 94.55	\$ 12.26	\$ 232.13
3 Cubic Yard Bin - 6x/week	\$ 143.62	\$ 113.46	\$ 14.71	\$ 271.80

Bin Service, Continued	Collection Cost	Processing Cost	Disposal Cost	Total Rate
4 Cubic Yard Bin - 1x/week	\$ 56.01	\$ 25.21	\$ 3.27	\$ 84.49
4 Cubic Yard Bin - 2x/week	\$ 78.23	\$ 50.43	\$ 6.53	\$ 135.19
4 Cubic Yard Bin - 3x/week	\$ 97.04	\$ 75.64	\$ 9.80	\$ 182.47
4 Cubic Yard Bin - 4x/week	\$ 123.40	\$ 100.86	\$ 13.06	\$ 237.32
4 Cubic Yard Bin - 5x/week	\$ 145.88	\$ 126.07	\$ 16.33	\$ 288.28
4 Cubic Yard Bin - 6x/week	\$ 169.00	\$ 151.29	\$ 19.59	\$ 339.88
Divertable Materials Compactor Bins – Flat Rate (Compactors containing Single Stream/Single Material Recyclables)	Collection Cost	Processing Cost	Disposal Cost	Total Rate
2 Cubic Yard compactor - per lift	\$ 17.96	\$ 24.51	\$ 1.30	\$ 43.78
3 Cubic Yard compactor – per lift	\$ 14.63	\$ 35.02	\$ 1.85	\$ 51.50
4 Cubic Yard compactor – per lift	\$ 79.35	\$ 42.02	\$ 2.22	\$ 123.60

The rate below for Single Stream/Single Material Recyclables Compactor Roll-off Boxes is the Collection cost per pickup plus the Processing Cost per ton multiplied by the actual number of Tons Collected.

Single Stream/Single Material Recyclables Compactor Roll-Offs – Collection plus Per Ton Processing Rate	Collection Cost per Pick-up	Processing Cost per Ton	Disposal Cost	Total Rate
Compactor Haul-Only Rate	\$ 247.20	\$ -	\$ -	\$ 247.20
Source-separated Rate per Ton	\$ -	\$ 35.02	\$ -	As calculated

#### SECTION 4. TEMPORARY BIN AND ROLL-OFF BOX SERVICE

Rates for temporary Construction & Demolition Debris ("C&D") Roll-off Box service consist of the Collection Cost plus the Processing Cost.

The Collection cost shown below as the 'Haul Only Rate' will be charged to the Customer each time the Roll-off Box is serviced by the hauler. The Processing Cost is calculated by multiplying the actual number of Tons Collected by the Per Ton Processing Rate for each Roll-off Box serviced depending on the materials being processed (i.e. Single-Material Recyclables, mixed C&D Debris). For boxes being hauled direct to landfill as MSW, Customer is charged the Haul Only Rate plus the Landfill Tip Fee times the actual tons in the Roll-off Box.

	Collection Cost	Processing Cost per Ton	Disposal Cost per Ton	Total Rate
C&D Temporary Roll-off Box – Haul Only Rate	\$ 226.60	\$ -	\$ -	\$ 226.60
C&D Temporary Roll-off Box – Per Ton Rate for C&D Debris Processing	\$ -	\$ 70.04	\$ -	As calculated
C&D Temporary Roll-off Box - Per Ton Rate for Direct to Landfill Service	\$ -	\$ -	\$ 37.08	As calculated
C&D Temporary Roll-off Box – Haul Only Rate (Single-Material Recycling)	\$113.30	\$ -	\$ -	\$ 113.30
C&D Temporary Roll-off Box – Per Ton Processing Rate (Single-Material Recycling)	\$ -	\$ 35.02	\$ -	As calculated

The rates for Clean-up Bins below include the cost of collection plus processing or disposal based upon an average assumed tonnage in the Bin (not the actual Bin weight).

Clean-up Bin Rates	Collection Cost	Processing Cost	Disposal Cost	Total Rate
3 Cubic Yard Clean-up Bin (CUB) - C&D Debris Processing	\$ 100.73	\$ 28.02	\$ -	\$ 128.75
3 Cubic Yard Clean-up Bin (CUB) - Direct to Landfill	\$ 103.62	\$ -	\$ 14.83	\$ 118.45
3 Cubic Yard Clean-up Bin (CUB) - Single-Material Recycling	\$ 50.37	\$ 14.01	\$ -	\$ 64.38

## SECTION 5. MISCELLANEOUS RATES

	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Residential Valet Service	40.96	-	-	40.96
Residential Start Service	15.45	-	-	15.45
Vacation Hold (longer than 2 weeks, less than 4 weeks)	-	-	-	-
Additional Residential Service - per service	22.82	-	-	22.82
Residential Bulky Goods Collection, in excess of four items, price per additional item	16.48	-	-	16.48
Start Service for New Customer - residential	15.45	-	-	15.45
Start Service for New Customer - commercial	25.75	-	-	25.75
Pull-out Service 0-25'	-	-	-	-
Pull-out Service 25-50', per month, per bin, per frequency	30.52	-	-	30.52
Pull-out Service 50-75' per month, per bin, per frequency	61.04	-	-	61.04
Pull-out Service 75-100' per month, per bin, per frequency	83.63	-	-	83.63
Scout Service - per lift	16.48	-	-	16.48
Residential Bulky Goods Collection Service (For additional Collections of Bulky Goods from Residential Premises in Excess of Four (4) per year)	30.90	-	-	30.90
Multi-family Bulky Goods Collection Service (For additional Collections of Bulky Goods from Multi-family Premises in Excess of One (1) Per Unit per year)	30.90	-	-	30.90
Multi-family Bulky Goods Collection, Additional Bulky Item Service on same visit (per item after initial visit)	16.48	-	-	16.48
Commercial Bulky Goods Collection Service	56.65	-	-	56.65
Residential Bulky Good Collection for items containing Freon	-	-	-	-
Multi-family Bulky Good Collection for items containing Freon	56.65	-	-	56.65
Commercial Bulky Good Collection for items containing Freon	56.65	-	-	56.65
Residential E-Waste Collection (For additional Collections of E-waste from Residential Premises in Excess of One (1) per year)	-	-	-	-
Multi-family E-Waste Collection (For additional Collections of E-waste from Multi-family Premises in Excess of One (1) per year)	30.90	-	-	30.90
Residential U-Waste Collection (For additional Collections of U-waste from Residential Premises in Excess of One (1) per year)	87.55	-	-	87.55
Clean-up of Illegal Dumping (up to six items per incident - see Footnote 1 below)	128.75	-	-	128.75
Repair and Maintenance of Compactor	90.26	-	-	90.26
Bin Cleaning Service	88.17	-	-	88.17
Cart Replacement/Exchange	56.65	-	-	56.65
Damaged Bin Replacement/Exchange (in addition to 1 free annual exchange)	77.25	-	-	77.25
Extra Pick-up - Commercial/Multi-family Cart	25.75	-	-	25.75
Extra Pick-up - Commercial/Multi-family Bin	77.25	-	-	77.25
Roll-off or Compactor Service - False or Dry Run	77.25	-	-	77.25
Power wash/steam cleaning of enclosure	97.16	-	-	97.16
Dump and clean up enclosure	97.16	-	-	97.16
Sunday Service Premium (added to existing rate regardless of service line - charged on a monthly basis)	293.55	-	-	293.55
Roll-off/compactor bin overage charges (if max weight is included in rate and load exceeds max weight, include the listed per ton cost for processing the overage)	-	70.04	-	70.04
Roll-off/compactor MSW bin overage charges (if max weight is included in rate and load exceeds max weight, include per ton landfill cost for the overage)	-	-	37.08	37.08

Misc. Rates, Continued	Collection Cost	Processing Cost	Disposal Cost	Total Rate
Daily Rental Over 7 Days for Temporary 3-yard Bins	5.19	-	-	5.19
Clean-up Bin Trip Charge	51.50	-	-	51.50
Clean-up Bin Overweight	62.24	-	-	62.24
Daily Rental Over 7 Days for Temporary 10,20,30 and 40-yard Roll Off Boxes	10.37	-	-	10.37
Roll-off Relocation Charge	77.25	-	-	77.25
Roll-off Overweight Special Vehicle and Handling Charge (in addition to roll-off costs)	463.50	-	-	463.50
Compactor steam cleaning charge	154.50	-	-	154.50
Replacement Residential Counter-top food scraps kitchen pail (includes delivery)	10.30	-	-	10.30
Resumption of Service Charge (only after discontinuation for non-payment)	20.60	-	-	20.60
Locking Bin Installation	25.75	-	-	25.75
Bin Locking Lids or Gated Enclosures - per month, per bin, per frequency	15.45	-	-	15.45
Emergency Collection, hourly rate for (1) crew and (1) vehicle (See Footnote 2 below)	103.00	-	-	103.00
Late fees (1.5% of balance, minimum balance \$15, 90 days overdue for residential, commercial, and temp)	-	-	-	-

**Footnotes to Miscellaneous Rates:**

1. Charges for 'Cleanup of Illegal Dumping' do not apply to services performed in accordance with Section 4.11.A.2 of the Agreement ("Clean Up of Illegal Dumping").
2. Charges for 'Emergency Collection' do not apply to services performed in accordance with Section 4.11A.2 of the Agreement ("Cleanup of Illegal Dumping").

## ATTACHMENT E

---

### Specifications for Wheeled Carts to be Supplied by Contractor

1. Cart Design Requirements - The Carts shall be manufactured by injection or rotational molding and meet the Cart design requirements as specified below
  - 1.1. Capacity – The Company shall provide Carts in three sizes for residential MSW, Recycling, Yard Trimmings and Food Scraps collection. The Carts shall be uniform in appearance and Contractor shall provide the following sizes:
    - 35-gallons
    - 65-gallons
    - 95-gallons
  - 1.2. Cart Handles – The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. Bolt-on handles are acceptable for all Carts except for those that will accept Food Scraps. The Cart handles will provide comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable.
  - 1.3. Cart Lid – Each container shall be provided with a lid that continuously overlaps and comes in contact with the container body or otherwise causes an interface with the container body that simultaneously:
    - Prevents the intrusion of rainwater, rodents, birds, and flies;
    - Prevents the emission of odors;
    - Enables the free and complete flow of recycling material from the container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
    - The lid handle shall be an integrally molded part of the lid;
    - Permits users of the container to conveniently and easily open and shut the lid throughout the serviceable life of the container;
    - The lid (and body) must be of such design and weight that would prevent an empty container from tilting backward when flipping the lid open;
    - The lid shall be hinged to the Cart body in such a manner so as to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the container body; and
    - The lid shall be designed to be easily removed in the event of damage or failure. The hinge assembly shall not be capable of being readily removed by the public by hand or with ordinary tools.
  - 1.4. Foot-Hold – Each Cart shall have a foot-hold area on the back of the container to allow for foot placement so as to assist in tilting back the container prior to rolling it. If Food Scraps are being placed in the Cart, the foot hold holes shall be sealed so that Food Scrap liquids do not leak through the holes.
  - 1.5. Cart Colors – The MSW, Recyclable Materials, Yard Trimmings and Food Scrap Carts will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each

container, conforming through visual inspection to an acceptable range of color to be determined by the City. The colors shall follow the CalRecycle color scheme as follows:

The color-coding scheme for all Carts shall be black for MSW Carts, green for Yard Trimmings Carts, blue for Single Stream Recyclable Materials Carts and yellow for Food Scrap Carts. Any co-collected Yard Trimmings and Food Scraps shall be placed in the green Yard Trimmings Carts. Carts shall comply with the CalRecycle color-scheme on or before the dates in Attachment B, Section 1.

- 1.6. Wheel Design and Axle Assembly – Each cart shall be equipped with an axle and two wheels, positioned on the bottom of the container to facilitate it being pushed or pulled with little effort with load weights up to its maximum load capacity as set forth in Section 3.2. If Food Scraps are being placed in the Cart, the axel holes shall be sealed so that Food Scrap liquids do not leak through the holes.
- 1.7. Identification Markings – The following markings shall be permanently marked (hot stamped in white color) on the exterior lid of each container in character size of no less than **one (1) inch**, the phrases:

PROPERTY OF THE CITY OF LAGUNA NIGUEL

ILLEGAL TO REMOVE FROM ADDRESS

In character size in the range of **1/4 to 3/4 inch**, the following phrases:

DO NOT PLACE FLAMMABLE PRODUCTS

OR HOT ASHES IN THIS CONTAINER

DO NOT DISPOSE OR HAZARDOUS MATERIALS

IN THIS CONTAINER

NO PONGA PRODUCTOS INFLAMABLES O CENIZAS EN ESTE NO PONGA  
MATERIALS PELIGROSOS EN ESTE RECIPIENTE

In character size in the range of **1/4 to 3/4 inch**, the following item:

MANUFACTURED (MONTH, YEAR) (as appropriate) MANUFACTURER'S

IDENTIFICATION CODE (at the option of Contractor)

The following markings shall be hot-stamped in **white color** in both English and Spanish on the backside of the Cart.

In character size of no less than **1/4 inch**, the phrase:

DO NOT TILT OR ROLL CONTAINER WITH LID OPEN

NO RUEDE EL RECIPIENTE CON LA TAPA ABIERTA

An arrow (at least 3 inches by 5 inches) hot stamped in **white color** shall be place on the lid, indicating the direction of Cart placement.

In character size of no less than **3/16 inch**, the phrase:

PLACE CONTAINER WITH ARROW FACING STREET FOR COLLECTION

COLOQUE EL RECIPIENTE CON LAS FLECHAS HACIA LA CALLE

Additionally, the "City of Laguna Niguel," the City of Laguna Niguel logo and REFUSE, RECYCLING, YARD TRIMMINGS or FOOD SCRAPS must be hot stamped in white color on the front or sides of the Cart, for example:

City of Laguna Niguel

(Logo)

REFUSE

- 1.8. Sticker Attachment Area - Cart lids shall have a molded depression no less than 5 inches tall and 11 inches wide where the Contractor shall attach a color, weather-proof adhesive label indicating the materials accepted in each of the Carts.
- 1.9. Additional Parts – All parts necessary for the Cart to be complete and ready for operation and use by the residents of the City shall be furnished by the Company.

1.10. Replacement Parts – All replacement and repair parts and components shall be of the same or better quality as the original parts provided to the City and must meet the same requirements as set forth in Section 2 – Cart Performance Requirements.

2. Cart Performance Requirements – All Carts shall be designed and manufactured to meet the minimum performance requirements described below.

2.1 Minimum Service Life – Carts shall have the capability for continual, uninterrupted use as refuse/recycling/yard waste Carts in residential applications as set forth in the Agreement for a minimum period of ten (10) years, herein referred to as the "Minimum Service Life." The Minimum Service Life shall be measured from the date of delivery or distribution.

2.2 Cart Load Capacity – Depending on the capacity, the Carts shall have a minimum load capacity as noted below without container distortion, damage, or reduction in maneuverability or any other functions as required herein.

Cart Size (Gallons)	Minimum Load Capacity (LBS)
95	200
65	130
35	70

2.3 Cart Durability – Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy its intended use and performance, for a period of ten (10) years:

- Maintain its original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;
- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with its intended use;
- Resist degradation from ultraviolet radiation;
- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Cart bodies must remain impervious to any damage, that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface;

- All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the City.

2.4 Chemical Resistant – Carts shall resist damage from common household or residential products and chemicals. Carts, also, shall resist damage from human and animal urine and feces.

2.5 Stability and Maneuverability – The Carts shall be stable and self-balancing in the upright position, when either empty or loaded to its maximum design capacity with an evenly distributed load, and with the lid in either a closed or open position.

The Carts shall be capable of maintaining its upright position in sustained or gusting winds of up to 25 miles per hour as applied from any direction.

The Carts shall be capable of being easily moved and maneuvered, with an evenly distributed load equal to its maximum design capacity on a level, sloped or stepped surface.

2.6 Lid Performance – Cart lid assemblies shall meet the following minimum requirements:

- Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and closing of the lid by residents or in the dumping process as intended;
- Remain closed in winds up to 25 miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed or any position between the two extremes; and,
- Lids shall be designed and constructed such that it prevents physical injury to the user while opening and closing the container.

2.7 Reparability – Minor cracks, holes, and other damages to hinges, wheels, axle, hardware, and other component parts shall be readily repairable by the contractor personnel with minimum training and supervision. All repairs shall be capable of being performed by one person in the field. All repairs must restore the container to its full functionality to meet the design and performance requirements as set for herein.

3. Cart Ownership and Maintenance Responsibilities – The Company shall be responsible for Cart repair and maintenance, graffiti removal, and replacing lost, stolen or damaged Carts within 24 hours at no additional charge to the customer or to the City. If approved in advance by the City on a case-by-case basis, Company may charge customer a fee no higher than the Company's actual cost of repair and replacement in the event of willful

neglect or abuse of the cart by the customer. All Carts provided under this Agreement shall become the property of the City at the end of this Agreement. The City reserves the right to have the Company remove the carts at the end of the contract term at no charge to the City.

ATTACHMENT F-1

List of Collection Vehicles to be Furnished by Contractor

**COLLECTION VEHICLES TO BE FURNISHED BY CONTRACTOR**

	<u>Vehicle #</u>	<u>Vehicle Type</u>	<u>Fuel Type</u>	<u>Year *</u>
Residential MSW / Recycle Collection	57209	Automated Side Loader	LNG	2006
Residential MSW / Recycle Collection	57206	Automated Side Loader	LNG	2006
Residential MSW / Recycle Collection	57251	Automated Side Loader	LNG	2008
Residential MSW / Recycle Collection	57249	Automated Side Loader	LNG	2008
Residential MSW / Recycle Collection	57250	Automated Side Loader	LNG	2008
Residential MSW / Recycle Collection	57211	Automated Side Loader	LNG	2006
Residential MSW / Recycle Collection	57203	Automated Side Loader	LNG	2006
Residential Yard Trimmings / Food Scrap Collection	57252	Automated Side Loader	LNG	2008
Residential Yard Trimmings / Food Scrap Collection	57327	Automated Side Loader	LNG	2013
Commercial / Multi-Family MSW Collection	53240	Commercial Front Loader	LNG	2008
Commercial / Multi-Family MSW Collection	53239	Commercial Front Loader	LNG	2008
Commercial / Multi-Family MSW Collection	53216	Commercial Front Loader	LNG	2006
Commercial / Multi-Family MSW Collection	53161	Commercial Front Loader	LNG	2005
Commercial/Multi-Family Single Stream and Single Material Recyclables Collection	53250	Commercial Front Loader	LNG	2010
Rolloff MSW Collection	55201	Rolloff	CNG	2012
Rolloff Recycling Collection	55202	Rolloff	CNG	2012

\* Replacement of six oldest vehicles in 2019.

Chassis:

Peterbilt  
8830 E Slauson Ave., Pico Rivera, CA  
90660  
Contact: Kevin Voss 909-434-3406

Fuel System:

Creative Bus Sales Inc.  
14740 Ramona Ave, Chino, CA 91710  
Contact: Mark Matijevich 909-993-5045

Body:

Amrep  
15555 S. Cucamonga, Ontario, CA 91761  
Contact: Alex G. 909-923-0430

Ford Vehicles:

Trans West  
10150 Cherry Ave, Fontana, CA 92335  
Contact: David Pratt 951-515-435

ATTACHMENT F-2

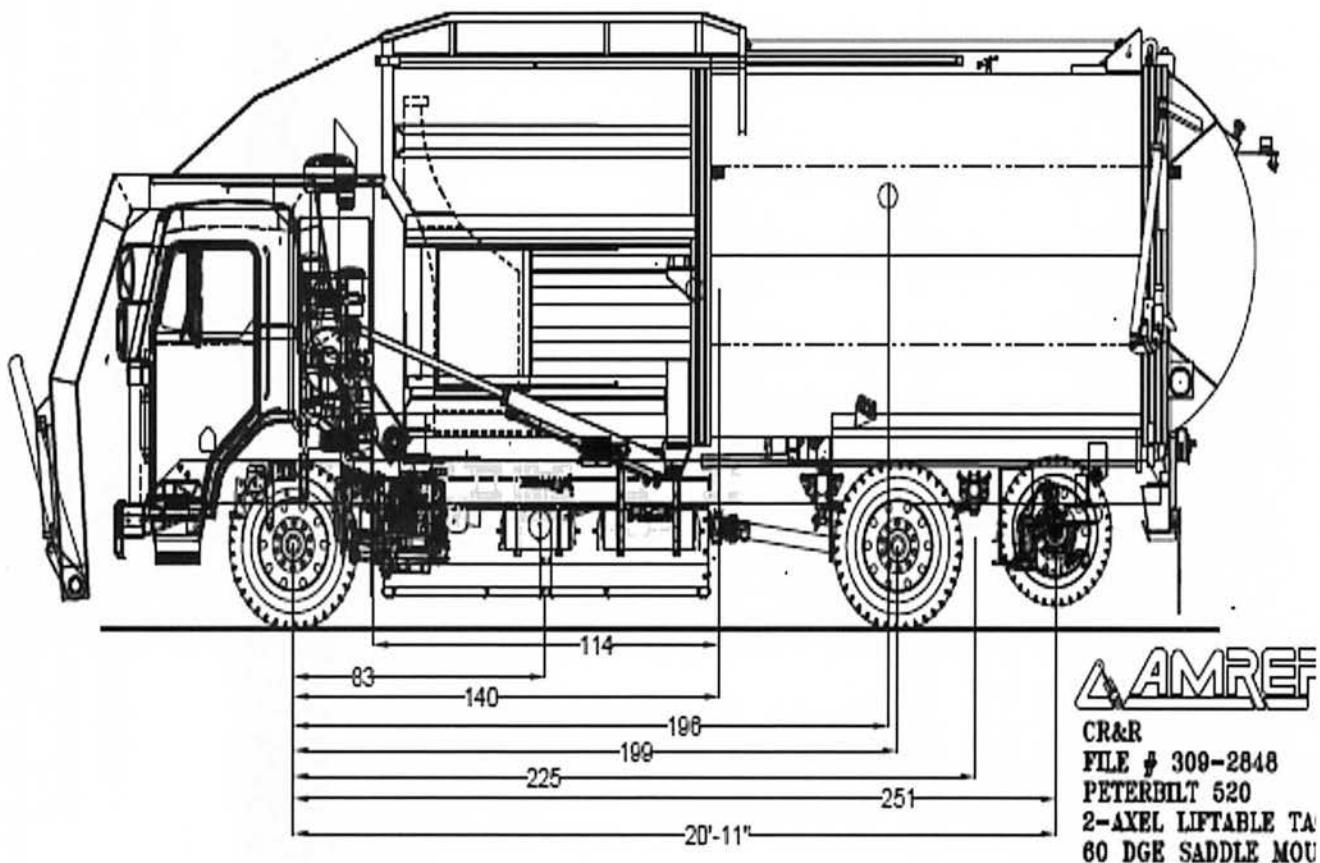
---

Light-weight Collection Vehicles to be Furnished By Contractor

**PLAN TO PROVIDE LIGHT WEIGHT COLLECTION VEHICLE(S)**

CR&R will deploy one (1) commercial frontend loader vehicles for single stream or single material recyclables collections in the City of Laguna Niguel. CR&R acknowledges there could be an additional opportunity to add a second light weight collection vehicle for commercial recycling collection knowing the impact our recycling coordinators will have in the broad adoption of our recycling programs.

Waste Stream	Year of Deployment	Quantity	Make	Type
Commercial Recycle	2019	1	Peterbilt or Equivalent	Frontend Loader
Commercial Recycle	TBD	1	Peterbilt or Equivalent	Frontend Loader



## ATTACHMENT F-3

---

### On-Board Technology to be Provided by Contractor on Collection Vehicles to Increase Safety and Efficiency

Contractor shall provide the following on-board technology on all Collection vehicles operated in City.

Digital in-cab operations:

**1. Mobile Pak**

- a. Provides on-board module for operational (CRM) software, I-Pak.
- b. Appears on a ruggedized tablet in truck cab
  - i. Tablets can be dismounted for mobility purposes
  - ii. Tablet contains digital camera to document service exceptions such as overfull Bins, blocked access, Contamination
  - iii. Exceptions will be documented on Customer's account, image captured, and template notification alerts e-mailed to the responsible party, including Recycling Coordinators and Route Manager. If needed, notifications can also be e-mailed to Customer/Customer's representatives.
- c. Captures driver, route tonnage and service confirmation in real time
- d. Makes data available to dispatch and customer service representatives
- e. Drivers can easily:
  - i. View and scroll through their route lists
  - ii. Confirm service completed
  - iii. Note an exception (e.g. Contamination, blocked Container, Container, Container not available)
  - iv. Receive additional dispatched work in real time
- f. Computable route statistics captured in real time & back office functions like route productivity, work orders, billing, and route follow-up completed instantly

**2. GoFleet**

- a. Communicates with a web-based tool through wireless data including a DVIR and direct connection to the vehicle computer (ECM)
- b. Functions whenever the truck is on
- c. Functions include:
  - i. Video surveillance, driver behavior, hours of service and maintenance integration
- d. Provides standard GPS tracking
- e. Provides CR&R managers event alerts to driver behavior such as:
  - i. Speeding violation
  - ii. Hard braking
  - iii. Hard acceleration
- f. Video capture with on-board DVIR can be viewed in real time or stored for review of past safety or service events.

## ATTACHMENT F-3

---

### On-Board Technology to be Provided by Contractor on Collection Vehicles to Increase Safety and Efficiency

- g. Video capture includes in-cab, front, rear, and side (side loaders) views.
- h. OBDII connection to trucks' computers allows for vehicle diagnostics, fuel management and maintenance reminders
- i. System will integrate with CR&R's maintenance software (TMT)
- j. This allows drivers to inspect vehicles pre and post trip and input directing into the TMT software any defects or issues to be addressed by the maintenance department
- k. Fault codes from the truck are transmitted to possibly prevent on-road breakdowns

## ATTACHMENT G

### Contractor-Furnished Personnel

#### **Names and Resumes of Key Personnel**

Below are the names of the key personnel that will be responsible for collection operations and the areas of the management, operations, and line personnel for the City of Laguna Niguel.

General Manager	James Laliberte
Operations Manager	Frank Campos
Manager of Recycling Coordinators	Maria Lazaruk
Senior Manager(s) Responsible for Marketing of Food Scraps/Yard Trimmings/Compost Products and/or AD Energy Digestate	Mike Silva Clarke Pauley
Customer Service Manager	Rose Eriksson
Maintenance Supervisor	Frank Alvarez
Billing Specialist	Rose Eriksson
Reporting and Compliance Supervisor	Chrystal Denning
Field Supervisor	Mike Marshalek
Recycling Coordinator	Karla Del Rosario
Recycling Coordinator	TBD

#### **James Laliberte**

Mr. Laliberte is the General Manager for CR&R South County operations. He is responsible for all aspects of the business units including, residential collections, commercial collections, roll off, dispatch, portable storage operations, and post collection. He is accountable for the service, safety and efficiencies of each of these businesses.

Mr. Laliberte currently oversees the operations manager as well as a team of route managers that supervise over 100 route employees. He will be responsible for the oversight and management of the daily operations for compliance with the terms of the franchise agreement.

#### **Frank Campos**

Mr. Campos is the Operations Manager for the San Juan Division. He is responsible for all aspects of the operation that services seven cities in South Orange County. Coming from a transportation family, Mr. Campos has over 15 years of industry experience which he has honed his skills through a number of increasingly responsible roles at CR&R. His leadership is reinforced by his ability to sincerely communicate to employees and customers alike as well as his ability to gain commitment in building a culture of service and safety.

Mr. Campos' progressive experience through the organization has provided him an in depth understanding of the internal systems and processes he employees to get the job done.



### **Maria C. Lazaruk**

Ms. Lazaruk is the Senior Public Relations and Environmental Compliance Manager for CR&R. She has worked in the solid waste management industry for 39 years and exclusively for CR&R and its affiliates for the past 24 years. Maria has developed solid waste and recycling outreach and educational material and has been responsible for ensuring full compliance with contract reporting and program monitoring to meet the goals of AB 939, AB 341, and AB 1826.

In addition, she guides the training and development of the CR&R Community Relations Sustainability Coordinator team.

Ms. Lazaruk has played a key role in all service transitions in Orange, Imperial, San Bernardino, and Los Angeles Counties. Ms. Lazaruk is responsible to instruct the Sustainability Coordinators and oversee the Implementation Plan of Action, Public Relations and Recycling Compliance for the City of Laguna Niguel.

### **Mike Silva**

Mr. Silva is Vice President of CR&R Environmental Services' Bioenergy division and he serves as the lead project manager and civil engineer. He has more than thirty years' senior level solid waste experience with expertise in technology development and construction management. In 1992, he designed and constructed one of the first processing facilities in the Country. Since that time, Mr. Silva has been instrumental in building several transfer station and material recovery facilities.

Mr. Silva is in charge of CR&R's Anaerobic Digestion (AD) project, which is the largest of its kind in the Country. Under his leadership and management, he will continue the development of phase three and four the AD facility. He is responsible for CR&R's Bioenergy division which includes operation of the AD facility and material management. His technical capability and industry experience will support management of the City of Laguna Niguel's organics program.



### **Clarke Pauley**

Clarke is a Vice President in CR&R Environmental Services' Bioenergy division which presently encompasses organics recycling, anaerobic digestion, and composting. Clarke's primary focus at CR&R is on the marketing and sales of Biomethane, Carbon Credits, and organic soil products from Anaerobic Digestion. Clarke has a diverse background in renewable energy, environmental science, marketing, and business development.

Clarke has worked in the fields of environmental engineering, gasification, biochar, and most recently Anaerobic Digestion of organic wastes. Clarke has previously worked for renewable energy startups, Tetra Tech-San Francisco, and has owned his own marketing services company. Clarke is a graduate of University of California Berkeley and aside from his extensive travels has been a California resident for his entire life.

### **Rose Eriksson**

Ms. Eriksson is responsible for establishing quality and service level goals for our Customer Service Center, measuring and reporting performance for all customer service representatives against goals, and standardizing processes and implementing new procedures to improve quality and efficiency. She continually develops and maintains written procedures and training documentation. In addition, she ensures systems and equipment support departmental needs and maintains billing system software functionality.

Ms. Eriksson also conducts process improvement meetings with other departments and will be involved in the transition process for the City of Laguna Niguel.

### **Frank Alvarez**

Mr. Alvarez manages over all of CR&R fleet operations for maintenance and vehicle purchases. He oversees the shop managers for each operation site to ensure CR&R's fleet is to the highest standards with all maintenance performed on a strict schedule and in conformance with the California Highway Patrol (CHP) Terminal Inspection procedures. Mr. Alvarez oversees all aspects of CHP inspections for operational sites.

Mr. Alvarez has over thirty years' experience in fleet maintenance and purchasing for CR&R. He will be responsible for vehicle procurement for the City of Laguna Niguel agreement. He works closely with operations manager James Laliberte and the shop manager for the City of Laguna Niguel fleet to be responsive to any vehicle related matters as they arise. Additionally, Mr. Alvarez has extensive experience with vehicle procurement for new contract rollouts. His



leadership, work ethic, and commitment to excellence are instrumental in meeting all new contract vehicle requirements for the CR&R operations team delivery for Laguna Niguel.

### **Chrystal Denning**

Chrystal Denning has extensive experience of over twenty years in the solid waste management industry. Her experience includes managing municipal waste diversion reporting, recycling outreach, state annual reporting, and AB341 implementation (mandatory commercial recycling) for several cities. In addition, she has worked extensively in developing and implementing public education and outreach programs for municipalities and assisting with grant administration for the Beverage Container City Payment Program and Used Oil Collection Program. She is currently finishing her MBA at the University of La Verne.

### **Mike Marshalek**

Mr. Marshalek is a Route Manager and a newer member of the CR&R operational service team. His current areas of responsibility include management of routes for the City of Laguna Niguel. As a seasoned veteran of the transportation industry with over 14 years of experience, Mr. Marshalek provides in depth knowledge of route management and service delivery. He has developed his skill sets from increasingly responsible roles within the transportation industry including management of 80 route employees with multiple shifts. His firsthand experience affords him the ability to plan, organize, and manage the work of the drivers to ensure service is accomplished in a consistent and safe manner.

### **Karla Del Rosario**

Ms. Del Rosario is the Recycling Coordinator for the City of Laguna Niguel. She is responsible for generating all compliance reports to track the progress and program implementations for the City of Laguna Niguel. With the goal towards achieving full compliance with AB 341 and AB 1826, Ms. Del Rosario has implemented many successful recycling and food waste programs through training and outreach.

Ms. Del Rosario received her B.A. in Environmental Studies with a minor in Biology from University of California, Santa Cruz. Her dedication for sustainability motivates her to continuously engage the public to ensure recycling becomes a lifestyle.

**Attachment H**  
**Density Audits**

**Residential, Multi-family, and Commercial Route Density Audit Protocol and Multi-family and Commercial Sector-Specific Density Audit Protocol**

**Note:** As used herein, "stream" refers to Residential, Commercial or Multi-Family "streams". Residential includes Gated Developments, HOA's and Mobile Home Parks with individual Cart service. Multi-Family includes Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart service. "Component" refers to the type of material: Single Stream Recyclable Materials, Yard Trimmings/Wood, Food Scraps, Co-collected Yard Trimmings/Wood and Food Scraps or Construction and Demolition Debris.

**1. Density Audit Protocol – Actual Material Densities**

Quarterly, the Contractor shall conduct the following Residential, Multi-family and Commercial route density audits for the following active routes:

<b>Stream</b>	<b>Component</b>	<b>Frequency of Density Audits</b>	<b>Sample Size</b>
Residential	MSW	Quarterly. City may direct less frequent audits if consistent results are achieved (i.e. plus or minus 10% variation).	At least 50 <b>full</b> Carts (95%+ full).
	Recyclable Materials		
	Yard Trimmings		
	Food Scraps (if directed by City)		
	Co-collected Yard Trimmings and Food Scraps (if directed by City)		
Commercial	MSW	Quarterly. City may direct less frequent audits if consistent results are achieved (i.e. plus or minus 10% variation).	At least 30 <b>full</b> Bins (95%+ full).
	Recyclable Materials		
	Yard Trimmings		
	Food Scraps		
	Co-collected Yard Trimmings and Food Scraps (if directed by City)		
Multi-family	MSW	Quarterly. City may direct less frequent audits if consistent results are achieved (i.e. plus or minus 10% variation).	At least 30 <b>full</b> Bins (95%+ full).
	Recyclable Materials		
	Yard Trimmings		
	Food Scraps (if directed by City)		
	Co-collected Yard Trimmings and Food Scraps (if directed by City)		

**Attachment H**  
**Density Audits**

**Audit Protocol**

1. During the course of each calendar quarter, beginning in Q3 of 2019 (July – September 2019), Contractor will select a random representative sample of 30 or more **full** Commercial Containers, 30 or more **full** Multi-family Containers and 50 or more **full** Residential Containers to Collect for each of the active routes noted above. Full is defined as 95% or more capacity utilization. Prior to each audit, Contractor will submit its proposed method for selection of a random representative sample of Containers for each stream for approval by City. The audit will proceed once City has approved a method for obtaining a random representative sample.
2. For each active component of each stream shown in the table above, Contractor will Collect at least 30 full Commercial, 30 full Multi-family Containers, and 50 or more full Residential Containers in a dedicated vehicle (i.e. one vehicle will collect a representative sample from the Commercial stream, MSW component) and deliver it to a certified scale to determine the total weight collected.
3. The net tonnage (gross tonnage minus vehicle tare weight) of the representative samples shall be divided by the total yards collected to calculate a density for each of the components of each stream audited.
4. The Contractor shall report to the City in the Quarterly reports included in Attachment K, the measured densities, in lbs. per cubic yard, of all active components of the Residential, Commercial and Multi-Family streams.

**2. Commercial vs. Multi-Family Stream-Specific Density Audit Protocol**

Twice annually beginning no later than April 2019 and October, 2019, if the Contractor opts to allocate tonnage between Commercial and Multi-family routes using a volume-based allocation system as described in Section 9.05 of the Agreement, the Contractor shall conduct the following Multi-Family and Commercial route density audits for the following active routes:

Commercial MSW  
Multi-Family MSW  
Commercial Single Stream and Single Material Recyclables  
Multi-Family Single Stream and Single Material Recyclables  
Commercial Yard Trimmings  
Multi-Family Yard Trimmings  
Commercial Food Scrap Recycling  
Multi-Family Food Scrap Recycling (if directed by City)  
Commercial Co-collected Food Scrap and Yard Trimmings Recycling (if directed by City)  
Multi-family Co-collected Food Scrap and Yard Trimmings Recycling (if directed by City)

Note: If the Contractor has dedicated routes (i.e. Multi-family only and Commercial only routes) or if an on-board scale system that weighs Containers at time-of-service, the following audits are not required. (See Section 9.05 of the Agreement.)

**Attachment H**  
**Density Audits**

**Protocol for Stream-Specific Density On-Service Audits**

1. Contractor will select a representative sample of accounts for each of the active routes noted above. A representative sample shall consist of no fewer than 100 cubic yards of service. Prior to each audit, Contractor will submit its proposed method for selection of a random representative sample of Containers for each stream for approval by City. The audit will proceed once City has approved a method for obtaining a random representative sample.
2. For each active component of each stream, Contractor will collect a representative sample in a dedicated vehicle (i.e. one vehicle will collect a representative sample from the Commercial stream, MSW component) and deliver it to a certified scale to determine the total weight collected.
3. The net tonnage of the material Collected in the representative sample shall be divided by the total yards on service to calculate a density for each of the streams audited.
4. The calculated density of each component's cubic yardage as obtained in Step 3, will be applied to the portion of cubic yards Collected from each stream when Collection routes are blended between Commercial and Multi-family Customers. For example, a route with 80 cubic yards on service Collects Food Scraps from both Commercial and Multi-Family Customers. If 50 cubic yards of the 80-cubic yard Food Scrap route is collected from Multi-Family Customers and this Food Scrap component had a measured density of 150 lbs. per cubic yard (as calculated in Step 3), a weight of 7,500 lbs. of Food Scraps would be ascribed to the Multi-Family Customers on this route in the monthly tonnage reports. If the other 30 cubic yards was Collected from Commercial Customers, and the density calculated in Step 3 was 250 lbs. per cubic yard, 7,500 lbs. of Food Scraps would be attributed to the Commercial Customers on this route in the monthly tonnage reports.
5. Stream and component-specific densities will be reported to the City in the first quarterly report, as described in Attachment K, following the completion of the audits (i.e. if the audits were completed in September 2019, the results shall be included in the quarterly reporting for July – September 2019). The densities will be used on the Contractor's monthly reports, as described in Attachment K, to allocate tonnage between Commercial and Multi-Family generators if mixed routes are used. The City-approved, sector-specific densities shall be applied to the reports described in Attachment K the first reporting period after approval by the City. Per Article 9.05 of the Agreement, the Contractor will not be required to conduct these audits if Contractor operates dedicated Multi-Family and Commercial routes or Contractor utilizes on-board scales to weigh each Container at the time of service.

**ATTACHMENT I**

**CITY LANDFILL CONTRACT WITH COUNTY OF ORANGE**

---

---

WASTE DISPOSAL AGREEMENT

Between

THE COUNTY OF ORANGE, CALIFORNIA

and  
the

CITY OF LAGUNA NIGUEL

Dated June 2, 2009

---

---

County Authorization Date:

March 24, 2009

City Authorization Date:

June 2, 2009

County Notice Address:

Director  
OC Waste & Recycling  
300 N. Flower Street, Suite 400  
Santa Ana, CA 92703

City Notice Address:

City Manager  
City of Laguna Niguel  
27801 La Paz Road  
Laguna Niguel, CA 92677

## TABLE OF CONTENTS

	<u>Page</u>
<b>ARTICLE I</b> <b>DEFINITIONS AND INTERPRETATION</b>	
Section 1.1	2
Section 1.2	7
<b>ARTICLE II</b> <b>REPRESENTATIONS AND WARRANTIES</b>	
Section 2.1	8
Section 2.2	9
<b>ARTICLE III</b> <b>DELIVERY AND ACCEPTANCE OF WASTE AND PROVISION OF DISPOSAL SERVICE</b>	
Section 3.1	9
Section 3.2	11
Section 3.3	12
Section 3.4	13
Section 3.5	14
Section 3.6	14
Section 3.7	15
<b>ARTICLE IV</b> <b>CONTRACT RATE</b>	
Section 4.1	15
Section 4.2	15
Section 4.3	21
Section 4.4	21
Section 4.5	21
Section 4.6	22
Section 4.7	22
<b>ARTICLE V</b> <b>BREACH, ENFORCEMENT AND TERMINATION</b>	
Section 5.1	23
Section 5.2	23
Section 5.3	23
Section 5.4	24
Section 5.5	24
<b>ARTICLE VI</b> <b>TERM</b>	
Section 6.1	24
Section 6.2	25

**ARTICLE VII**  
**GENERAL PROVISIONS**

Section 7.1	OPERATION AND MAINTENANCE OF THE DISPOSAL SYSTEM.....	26
Section 7.2	UNCONTROLLABLE CIRCUMSTANCES GENERALLY.....	26
Section 7.3	INDEMNIFICATION.....	27
Section 7.4	RELATIONSHIP OF THE PARTIES.....	27
Section 7.5	LIMITED RE COURSE.....	27
Section 7.6	PRE-EXISTING RIGHTS AND LIABILITIES.....	27
Section 7.7	NO VESTED RIGHTS .....	28
Section 7.8	LIABILITY FOR COLLECTION, TRANSPORTATION AND PROCESSING.....	28
Section 7.9	NO CONSEQUENTIAL OR PUNITIVE DAMAGES .....	28
Section 7.10	AMENDMENTS .....	28
Section 7.11	NOTICE OF LITIGATION .....	28
Section 7.12	FURTHER ASSURANCES .....	28
Section 7.13	ASSIGNMENT OF AGREEMENT .....	28
Section 7.14	INTEREST ON OVERDUE OBLIGATIONS .....	28
Section 7.15	BINDING EFFECT .....	28
Section 7.16	NOTICES.....	28

**APPENDIX 1**

**ESTIMATED ANNUAL TONNAGE**

**APPENDIX 2**

**CUMULATIVE TONNAGE TARGETS**

**APPENDIX 3**

**CUMULATIVE CAPITAL COSTS**

**APPENDIX 4**

**FORM OF HAULER ACKNOWLEDGEMENT**

## WASTE DISPOSAL AGREEMENT

THIS WASTE DISPOSAL AGREEMENT is made and dated as of the date indicated on the cover page hereof between the County of Orange, a political subdivision of the State of California (the "County"), and the City designated on the cover page of this Agreement, a general law or charter city and political subdivision of the State of California (the "City").

### RECITALS

The County owns, manages and operates a sanitary landfill system for the disposal of municipal solid waste generated by the cities and the unincorporated area within the County (the "Disposal System"). The Disposal System includes three active landfills and four regional household hazardous waste collection centers.

The Disposal System is used for the disposal of municipal solid waste which is not reused, recycled or otherwise diverted from landfill disposal, pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act").

The City, in the exercise of its police power and its powers under the Act, has entered into a franchise or other agreement with or issued permits or licenses to one or more private haulers for the collection and disposal of municipal solid waste generated within the City.

A significant portion of municipal solid waste generated within the City historically has been and currently is delivered by such hauler or haulers to the County for disposal in the Disposal System.

In 1997, the City and the County entered in a waste disposal agreement (the "Original WDA"), pursuant to which the County agreed to provide disposal capacity for waste generated in the City, and the City agreed to deliver or cause the delivery of waste generated in the City to the Disposal System, as more specifically set forth in, and subject to the terms and conditions of, the Original WDA.

The Original WDA, as amended, will expire by its terms on June 30, 2010, unless the City and the County agree to renew the Original WDA.

The City and the County desire to enter into this agreement to extend, amend and restate the Original WDA, on the terms and conditions set forth herein. The County and City acknowledge that the Original WDA shall remain in full force and effect until the Commencement Date.

The City has determined that the execution of this Agreement by the City will serve the public health, safety and welfare of the City by providing greater disposal rate stability, more predictable and reliable long-term disposal service, and the continuation of sound environmental management.

The County has determined that the execution by the County of this Agreement will serve the public health, safety and welfare by providing a more stable, predictable and reliable supply of municipal solid waste and the resulting service payment revenue to the Disposal System, thereby enabling the County to plan, manage, operate and finance improvements to the Disposal System on a more prudent and sound long term, businesslike basis consistent with its obligations to the State and the holders of obligations secured by its Disposal System.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the County on the County authorization date indicated on the cover page hereof.

Official action approving this Agreement and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the City on the City authorization date indicated on the cover page hereof.

It is, therefore, agreed as follows:

**ARTICLE I**  
**DEFINITIONS AND INTERPRETATION**

**SECTION 1.1    DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings set forth below.

“Acceptable Waste” means all garbage, refuse, rubbish and other materials and substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection and which are normally disposed of by or collected from residential (single family and multi-family), commercial, industrial, governmental and institutional establishments and which are acceptable at Class III landfills under Applicable Law.

“Act” means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded and replaced from time to time.

“Agreement” means this Waste Disposal Agreement between the County and the City as the same may be amended or modified from time to time in accordance herewith.

“Appendix” means an appendix to this Agreement, as the same may be amended or modified from time to time in accordance with the terms hereof

“Applicable Law” means the Act, the Orange County Code, CERCLA, RCRA, CEQA, any Legal Entitlement and any federal or state rule, regulation, requirement, guideline, permit, action, determination or order of any Governmental Body having jurisdiction, applicable from time to time to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, operation or maintenance of the Disposal System, the transfer, handling, transportation and disposal of Acceptable Waste, Unacceptable Waste, or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, mitigation monitoring plans and building codes).

“Board” means the California Integrated Waste Management Board.

“Capital Costs” means all costs of the Disposal System that are classified as capital costs for purposes of the budget of the Department in accordance with procedures established by the County of Orange Auditor-Controller in compliance with the California State Controller’s Manual, including but not limited to all of the categories of costs of the Disposal System reported as “Buildings and Improvements, and Infrastructure” (Object Code 4200) or “Equipment” (Object Code 4000) in the County of Orange – Chart of Accounts, or any successor accounting or reporting system utilized by the County.

“CEQA” means the California Environmental Quality Act, codified at Cal. Pub. Res. Code Section 21000 *et seq.* as amended or superseded, and the regulations promulgated thereunder.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601 *et seq.*, as amended or superseded, and the regulations promulgated thereunder.

“Change in Law” means any of the following events or conditions which has a material and adverse effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or on the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, operation or maintenance of the Disposal System or other matters to which Applicable Law applies:

(1)       the enactment, adoption, promulgation, issuance, material modification or written change in administrative or judicial interpretation on or after the Commencement Date of any Applicable Law (other than Applicable Law enacted by the County);

(2)       the order or judgment of any Governmental Body (other than the County), on or after the Commencement Date, to the extent such order or judgment is not the result of willful or negligent action, error or

omission or lack of reasonable diligence of the County or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(3) the denial of an application for, delay in the review, issuance or renewal of, or suspension, termination, interruption, imposition of a new or more stringent condition in connection with the issuance, renewal or failure of issuance or renewal on or after the Commencement Date of any Legal Entitlement to the extent that such denial, delay, suspension, termination, interruption, imposition or failure materially and adversely interferes with the performance of this Agreement, if and to the extent that such denial, delay, suspension, termination, interruption, imposition or failure is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the County or of the City, whichever is asserting the occurrence of a Change in Law; provided, however that the contesting in good faith or the failure in good faith to contest any such denial, delay, suspension, termination, interruption, imposition or failure shall not be construed as such a willful or negligent action, error or omission or lack of reasonable diligence.

A "Change in Law" shall include but not be limited to any new or revised requirements relating to the funding or provision of disposal services, including but not limited to any regulations for disposal operations or activities associated with the remediation, closure, funding or monitoring of closed sites with respect to facilities comprising the Disposal System, or facilities which the County previously utilized to provide waste disposal, transfer, recycling, processing or other waste related activities.

"City" means, as applicable, the city or Sanitary District designated on the cover page of this Agreement and party to this Agreement.

"City Acceptable Waste" means all Acceptable Waste which was originally discarded by the first generator thereof within the geographical limits of the City, and Residue from the foregoing wherever produced, whether within or outside the City (or Tonnage equivalencies of such Residues, as and to the extent provided in subsection 3.1(C) hereof).

"Commencement Date" means the date on which the obligations of the parties hereto commence, established as provided in Section 6.2(B) hereof.

"Contract Date" means the first date on which this Agreement has been executed by both parties hereto.

"Contract Rate" has the meaning specified in Section 4.2 hereof.

"Contract Year" means the fiscal year commencing on July 1 in any year and ending on June 30 of the following year.

"Controllable Waste" means all City Acceptable Waste with respect to which the City has the legal or contractual ability to determine the disposal location therefor and which is:

- (1) Non-Recycled City Acceptable Waste;
- (2) not generated from the operations of the Governmental Bodies which, under Applicable Law, have the independent power to arrange for the disposal of the waste they generate; and
- (3) collected and hauled by Franchise Haulers.

"County" means the County of Orange, a political subdivision of the State of California and party to this Agreement.

"County Plan" means the integrated waste management plan of the County approved by the Board pursuant to the Act as in effect from time to time.

“County Acceptable Waste” means Acceptable Waste generated in the County.

“County OC Waste & Recycling Enterprise Fund” means the waste management enterprise fund established and managed by the County pursuant to Section 25261 of the Government Code separate from its other funds and accounts for receipts and disbursements in connection with the Disposal System.

“County-wide Recycling Services” has the meaning set forth in subsection 3.7(A) hereof.

“Cumulative Tonnage Target” for any given Contract Year means the amount specified in Appendix 2 hereto with respect to such Contract Year.

“Department” means OC Waste & Recycling, and any agency, department or other Governmental Body which succeeds to the duties and powers thereof.

“Disposal Agreements” means each of the waste disposal agreements entered into between the County and any city within the County, Sanitary District or operator of any Transfer Station located in the County in accordance herewith.

“Disposal Services” means the solid waste disposal services to be provided by the County pursuant to the Service Covenant and otherwise hereunder.

“Disposal System” means the Orange County Waste Disposal System which includes solid waste disposal operations at three active landfills (Olinda Alpha, Frank R. Bowerman and Prima Deshecha); four regional Household Hazardous Waste Collection Centers; as well as services, such as monitoring and other activities, at closed refuse stations formerly operated by the County, as appropriate under Applicable Law.

“Environmental Fund” means the fund or funds held by the County to pay unanticipated costs of environmental mitigation, remediation or liability.

“Franchise Hauler” means any hauler or collector who provides Acceptable Waste collection services within the City pursuant to, or under authority granted by, a permit, contract, franchise or other agreement with the City. The term Franchise Hauler includes the City itself if Acceptable Waste collection and transportation services are provided directly by City operated municipal collection service.

“Governmental Body” means any federal, State, county, city or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any officer thereof acting within the scope of his or her authority.

“Hazardous Substance” has the meaning given such term in CERCLA, the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Section 25300 *et seq.*), and Titles 22 and 26 of the California Code of Regulations and other regulations promulgated thereunder.

“Hazardous Waste” means (a) any waste which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may do either of the following: cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial threat or potential hazard to human health or the environment, or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 *et seq.*) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117 (West 1992 & Supp. 1996); (4) the California Public Resources Code, Section 40141 (West 1996); and (5) future additional or substitute Applicable Law pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 *et seq.*) and the regulations contained in 10 CFR Part 40.

“Imported Acceptable Waste” means Acceptable Waste that is generated outside of the geographical boundaries of the County and delivered to the Disposal System.

“Independent Haulers” means those waste collection/hauler companies primarily engaged as a principal business in the collection and transportation of municipal solid waste generated in the County of Orange which are not obligated to deliver County Acceptable Waste to the Disposal System pursuant to a franchise, contract, permit or other authorization with a city in the County.

“Initial Term” has the meaning specified in Section 6.1(A) hereof.

“Legal Entitlement” means all permits, licenses, approvals, authorizations, consents and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Disposal System or the performance of any obligation under this Agreement or the matters covered hereby.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Agreement.

“Loss-and-Expense” means any and all loss, liability, obligation, damage, delay, penalty, judgment, deposit, cost, expense, claim, demand, charge, tax, or expense, including all fees and costs.

“Net Import Revenues” has the meaning ascribed thereto in Section 3.6(E).

“Non-Recycled City Acceptable Waste” means all City Acceptable Waste other than Recycled City Acceptable Waste.

“Overdue Rate” means the maximum rate of interest permitted by the laws of the State, if applicable, or the prime rate established from time to time by the Bank of America, N.A. or its successors and assigns, plus 2%, whichever is lower.

“Participating City” means any city or Sanitary District executing a Disposal Agreement in accordance with Section 3.6(A) hereof and meeting all requisite conditions to the Commencement Date thereof.

“Plan of Adjustment” means the County’s Modified Second Amended Plan of Adjustment, confirmed by the United States Bankruptcy Court Central District of California in that Conformed Order Confirming Modified Second Amended Plan of Adjustment, filed May 17, 1996.

“Posted Disposal Rate” means the per ton tipping fee charged by the County for the disposal of solid waste at the Disposal System by parties which are not entitled to disposal service at the Contract Rate pursuant to this Agreement.

“Prohibited Medical Waste” means any medical or infectious waste prohibited or restricted under Applicable Law from being received by or disposed at the Disposal System.

“Qualified Household Hazardous Waste” means waste materials determined by the Board, the Department of Health Services, the State Water Resources Control Board, or the Air Resources Board to be:

- (1) Of a nature that they must be listed as hazardous in State statutes and regulations;
- (2) Toxic/ignitable/corrosive/reactive; and
- (3) Carcinogenic/mutagenic/teratogenic;

which are discarded from households as opposed to businesses. Qualified Household Hazardous Waste shall not include Unacceptable Waste.

“Recycled City Acceptable Waste” means any otherwise Controllable Waste which is separated from Acceptable Waste by the generator thereof or by processing and which is “recycled” within the meaning of Section 40180 of the Public Resources Code.

“Renewal Term” has the meaning specified in Subsection 6.1(B) hereof.

“Residue” means any material remaining from the processing, by any means and to any extent, of City Acceptable Waste or Recycled City Acceptable Waste; provided, however, that Residue shall not include minimal amounts of material remaining after such processing (which minimal amounts shall in no event exceed 10% of the amount of such City Acceptable Waste or Recycled City Acceptable Waste prior to processing).

“Resource Conservation and Recovery Act” or “RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 *et seq.*, as amended and superseded.

“Restricted Reserves” has the meaning specified in Section 4.5.

“Sanitary Districts” means the sanitary districts in the County formed pursuant to the Sanitary District Act of 1923, codified at Cal. Ann. Health & Safety Code Section 6400 *et seq.*, as amended, supplemented, superseded and replaced from time to time.

“Self-Hauled Waste” means City Acceptable Waste collected and hauled by Self-Haulers.

“Self-Hauler” means any person not engaged commercially in waste haulage who collects and hauls Acceptable Waste generated from residential or business activities conducted by such person.

“Service Coordinator” means the service coordinator for either party designated pursuant to subsection 3.5(C) hereof.

“Service Covenant” means the covenants and agreements of the County set forth in Sections 3.2 and 3.3 hereof.

“Source-Separated Household Hazardous Waste” means Qualified Household Hazardous Waste which has been segregated from Acceptable Waste originating or generated within the geographical jurisdiction of the City at the source or location of generation.

“Source-Separated Household Hazardous Waste Disposal System” means the collection centers, facilities, contracts and other arrangements owned or administered by the County for the receipt, handling and disposal of Source-Separated Household Hazardous Waste.

“State” means the State of California.

“Term” shall mean the Term of this Agreement.

“Ton” means a “short ton” of 2,000 pounds..

“Transfer Station” means any materials recovery facility, composting facility, intermediate processing facility, recycling center, transfer station or other waste handling or management facility to which solid waste collected for the City is delivered for processing before disposal in the Disposal System.

“Unacceptable Waste” means Hazardous Waste; Hazardous Substances; Prohibited Medical Waste; Qualified Household Hazardous Waste separated from Acceptable Waste; explosives, ordnance, highly flammable substances, and noxious materials and lead-acid batteries (except if delivered in minimal quantities); drums and closed containers; liquid waste, oil, human wastes; machinery and equipment from commercial or industrial sources, such as hardened gears, shafts, motor vehicles or major components thereof, agricultural equipment, trailers, marine

vessels and steel cable; hot loads; and any waste which the Disposal System is prohibited from receiving under Applicable Law.

“Uncontrollable Circumstance” means any act, event or condition affecting the Disposal System, the County, the City, or any of their Franchise Haulers, contractors or suppliers to the extent that it materially and adversely affects the ability of either party to perform any obligation under the Agreement (except for payment obligations), if such act, event or condition is beyond the reasonable control of and is not also the result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under the Agreement; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of either party. Examples of Uncontrollable Circumstances are:

(1) an act of God, landslide, lightning, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance; and

(2) a Change in Law.

“Unincorporated Area” means those portions of the County which are not contained within the jurisdictional boundaries of incorporated cities.

“Unincorporated Area Acceptable Waste” means Acceptable Waste originating from or generated within the Unincorporated Area.

“Unrestricted Reserves” means cash and other reserves of the Disposal System which are not Restricted Reserves.

“Waste Disposal Covenant” means the covenants and agreements of the City set forth in Section 3.1 hereof.

**SECTION 1.2 INTERPRETATION.** In this Agreement, unless the context otherwise requires:

(A) References Hereto. The terms “hereby”, “hereof”, “herein”, “hereunder” and any similar terms refer to this Agreement, and the term “hereafter” means after, and the term “heretofore” means before, the Contract Date.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(E) No Third Party Beneficiaries. Nothing in this Agreement is intended to confer on haulers or any other person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this Agreement.

(F) Counterparts. This Agreement may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Agreement.

(G) Applicable Law. This Agreement shall be governed by and construed in accordance with the Applicable Laws of the State of California.

(H) Severability. If any clause, provision, subsection, Section or Article of this Agreement shall be ruled invalid by any court of jurisdiction, then the parties shall: (1) promptly meet and negotiate a substitute for such clause, provision, subsection, Section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties therein; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalidated portion of this Agreement; and (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist, unless such invalidity frustrates the underlying primary purpose of the Agreement.

(I) Integration; Preservation of Certain Agreements. This Agreement contains the entire agreement between the parties with respect to the transactions contemplated hereby. This Agreement shall completely and fully supersede all prior understandings and agreements between the Parties with respect to such transactions; provided, however, that this Agreement shall not supersede the following agreements:

1) MOU, dated March 10, 1992, between the City of Brea and the County of Orange regarding the Olinda Alpha Landfill as amended on April 6, 1993 and November 29, 1994;

2) MOU, dated May 11, 1995, between the City of Brea and the County of Orange regarding importation of out-of-County waste to the Olinda Alpha Landfill;

3) Settlement Agreement, dated August 1, 1984, between the City of Irvine and the County of Orange regarding the Bee Canyon Landfill (currently called Frank R. Bowerman Landfill);

4) MOU, dated May 16, 1995, between the City of Irvine and the County of Orange regarding importation of out-of-County waste to the Frank R. Bowerman Landfill;

5) MOU, dated September 12, 1995, and amended November 21, 1995, between the City of San Juan Capistrano and the County of Orange regarding importation of out-of-County waste to the Prima Deshecha Landfill;

6) MOU, dated July 1, 1997, between the City of San Clemente[, the Orange County Flood Control District] and the County of Orange regarding the Prima Deshecha Landfill; and

7) Cooperative Agreement, dated August 15, 2006, between the County and the City of Irvine.

(J) Recitals. The recitals to this Agreement are not intended to bind the parties hereto. In the event of a conflict between the recitals and the operative provisions of this Agreement, the operative provisions shall prevail. The recitals shall not be used to interpret the provisions of the Agreement.

## ARTICLE II REPRESENTATIONS AND WARRANTIES

SECTION 2.1 REPRESENTATIONS AND WARRANTIES OF THE CITY. The City represents and warrants that:

(A) Existence. The City is a general law or charter city validly existing under the Constitution and laws of the State.

(B) Due Authorization. The City has duly authorized the execution and delivery of this Agreement, and this Agreement has been duly executed and delivered by the City.

SECTION 2.2 REPRESENTATIONS AND WARRANTIES OF THE COUNTY. The County represents and warrants that:

(A) Existence. The County is a political subdivision of the State of California validly existing under the Constitution and laws of the State.

(B) Due Authorization. The County has duly authorized the execution and delivery of this Agreement, and this Agreement has been duly executed and delivered by the County.

### ARTICLE III DELIVERY AND ACCEPTANCE OF WASTE AND PROVISION OF DISPOSAL SERVICE

#### SECTION 3.1 DELIVERY OF WASTE.

(A) Waste Disposal Covenant. Subject to the occurrence of the Commencement Date and throughout the Term of this Agreement, the City shall exercise all legal and contractual power and authority which it may possess from time to time to deliver or cause the delivery of all Controllable Waste to the Disposal System in accordance herewith.

(B) Recycled City Acceptable Waste. The parties hereto acknowledge the responsibility of the City to meet the recycling and landfill diversion goals contained in the Act. Nothing in this Agreement is intended or shall be interpreted to prohibit or impair the ability of the City to meet such responsibilities, or to restrict the right of the residents, businesses or organizations in the City to practice source separation, recycling, composting or other materials recovery activities, or to restrict the right of the City to conduct, sponsor, encourage or require such activities in any form. No reduction in the amount of Controllable Waste generated in the City and delivered to the Disposal System by or on behalf of the City which may result from any such source separation or recycling program shall cause the City any liability hereunder (other than potential adjustment to the Contract Rate to the extent provided in Article IV hereof) and shall not constitute a breach of this Agreement.

(C) Waste Delivered to Transfer Station. All Residue from any processing of Controllable Waste by materials recovery, composting, recycling or other means, wherever performed, shall constitute Controllable Waste and be subject to the Waste Disposal Covenant. Where City Acceptable Waste is processed at a facility which concurrently processes other Acceptable Waste in a manner which produces commingled residue which cannot be traced to a geographic source, generic residues from such facility in Tonnage equal to the residues that would have been produced had City Acceptable Waste only been processed at the facility shall constitute Controllable Waste and be subject to the Waste Disposal Covenant. Any City Acceptable Waste or material derived or segregated therefrom which is held in storage and asserted by the possessor thereof to constitute Recycled City Acceptable Waste awaiting sale or distribution to the secondary materials markets shall constitute Controllable Waste if, when and to the extent that the storage or diversion thereof can be reasonably deemed to constitute an evasion of the Waste Disposal Covenant rather than generally recognized, accepted and prevailing practice in the Southern California materials recovery and recycling industry conducted in accordance with Applicable Law. In order for the owner and/or operator of a transfer station to be entitled to deliver Acceptable Waste from a Participating City to the Disposal System for the Contract Rate as provided in Article IV, such owner and/or operator must execute a direct agreement with the County, acknowledging and agreeing to comply with the obligation of the Participating City to cause the delivery of all Controllable Waste to the Disposal System pursuant to this Agreement. In addition, the County shall be authorized to implement procedures to determine if Acceptable Waste delivered by the owners or operators of Transfer Stations is entitled to utilize the Disposal System for the Contract Rate. Such procedures may include requiring Transfer Stations to certify, under penalty of perjury, the source of any such Acceptable Waste. If necessary, the County may require that, in order to qualify for use of the Disposal System for the Contract Rate, Transfer Stations must deliver Controllable Waste in loads containing only Controllable Waste, and not commingled with Acceptable Waste from entities which are not Participating Cities or Participating Independent Haulers.

(D) Power to Obligate Waste Disposal and Comply with this Agreement. On or before the Commencement Date, (i) any City franchise, contract, lease, or other agreement which is lawfully in effect relating to or affecting Controllable Waste shall provide, or shall have been amended to provide, that the City shall have the right without material restriction on and after the Commencement Date to direct the delivery of all Controllable Waste to a disposal location selected by the City (whether or not such Controllable Waste is delivered to a transfer station as an intermediate step prior to landfill disposal) and otherwise to comply with its obligations under this Agreement with respect to Controllable Waste and Franchise Haulers, and (ii) the City shall designate the Disposal System as the disposal location pursuant to such franchise, contract, lease or other agreement. On and after the Commencement Date and throughout the Term of this Agreement the City (a) shall not enter into any franchise, contract, lease, agreement or obligation, issue any permit, license or approval, or adopt any ordinance, resolution or law which is materially inconsistent with the requirements of the Waste Disposal Covenant, and (b) shall maintain non-exclusive or exclusive franchises or other contractual arrangements over any City Acceptable Waste which, as of the Contract Date, is subject to non-exclusive or exclusive franchise or other contractual arrangements. The City agrees that the County shall be a third party beneficiary of the obligation of Franchise Haulers to deliver Controllable Waste to the Disposal System, and may directly enforce such obligation through any legal means available. The City shall notify in writing each Franchise Hauler of the County's third party beneficiary rights.

(E) Waste Flow Enforcement. (1) The City, in cooperation with the Department, shall establish, implement, carry out and enforce a waste flow enforcement program which is sufficient to assure the delivery of all Controllable Waste to the Disposal System pursuant to and in accordance with the Waste Disposal Covenant for disposal at the times and in the manner provided herein. The waste flow enforcement program shall consist of amending City franchises, permits or authorizations with all Franchise Haulers, to the extent required by this Section and to the extent allowed by law, and shall include in addition, to the extent necessary and appropriate in the circumstances to assure compliance with the Waste Disposal Covenant, but shall not be limited to: (i) licensing or permitting Franchise Haulers, upon the condition of compliance with the Waste Disposal Covenant, (ii) providing for and taking appropriate enforcement action under any such franchise, license, or permit, such as but not limited to the suspension, revocation and termination of collection rights and privileges, the imposition of fines or collection of damages, and the exercise of injunctive relief against non-complying Franchise Haulers and (iii) causing any Transfer Station to which Controllable Waste is delivered for processing to deliver certification, under the penalty of perjury, of the amounts of Controllable Waste received and Residue remaining from processing at such Transfer Station.

(2) The City acknowledges and agrees that in the event of a breach of the Waste Disposal Covenant by the City, the City shall pay the County an amount equal to the amount that the City would have been required to pay to the County had the Waste Disposal Covenant not been breached, which shall be calculated by (x) subtracting the number of tons actually delivered during the month(s) of the breach from the number of tons that were delivered during the same month(s) closest in time when there was no such breach, even if such month(s) closest in time was prior to the Term, and (y) multiplying such amount by the Contract Rate in effect at the time of such breach (or any higher rate with respect to which the County has provided notice pursuant to Section 4.2). In the event that the County terminates the Waste Disposal Agreement as a result of such breach, the damages due as a result of such termination shall be equal to (aa) the average monthly deliveries by the City for the twelve months prior to the commencement of the breach multiplied by (bb) the Contract Rate in effect at the time of such breach (or any higher rate with respect to which the County has provided notice pursuant to Section 4.2), multiplied by (cc) the number of months that would have remained in the Term of the Agreement had the termination not occurred. The parties recognize that if the City fails to meet its obligations hereunder, the County will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the parties agree that the damages specified above represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. In signing this Agreement, each party specifically confirms the accuracy of the statements made above and the fact that each party had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision at the time that this Agreement was made.

(F) Legal Challenges to Franchise System. The City shall use its best efforts to preserve, protect and defend its right to exercise and comply with the Waste Disposal Covenant against any challenge thereto, legal or otherwise (including any lawsuits against the City or the County, whether as plaintiff or defendant), by a

Franchise Hauler or any other person, based upon breach of contract, violation of law or any other legal theory. The City shall bear the cost and expense of any such Legal Proceeding or other challenge. In the event any such Legal Proceeding relating to the Waste Disposal Covenant or the City's exercise thereof establishes in a final determination that such covenant or exercise thereof is void, unlawful or unenforceable, or if any Franchise Hauler fails to deliver Controllable Waste to the Disposal System in breach of its franchise with the City on the grounds that a judicial determination made by any court or other Applicable Law has rendered its obligation to deliver Controllable Waste to the Disposal System void, unlawful or unenforceable on any legal grounds, with the result that actual waste deliveries to the Disposal System fall below the Cumulative Tonnage Targets, the County shall be entitled to avail itself of the remedies described in Section 4.2(B) hereof.

(G) Franchise Haulers. The City shall compile and provide the Department with the following information concerning all Franchise Haulers: name, address and phone number; identification number; area of collection and transportation; and franchise and permit terms.

(H) Waste Information System. The City shall cooperate with the Department in collecting information and otherwise monitoring Franchise Haulers in order to assure compliance with this Agreement. Such information may include, to the extent practicable, data pertaining to Controllable Waste collected, transported, stored, processed and disposed of, Recycled City Acceptable Waste collected, transported, stored, processed and marketed or disposed of, Franchise Haulers' franchise, permit or license terms, collection areas, transportation routes and compliance with Applicable Law; and all other information which may reasonably be required by the Department in connection with this Agreement. The City agrees to include in any revised franchise, contract, license or permit or other authorization granted to Franchise Haulers an obligation of the Franchise Hauler to provide to the County information relating to the Controllable Waste collected by such Franchise Hauler, including origins from which such Controllable Waste was collected, tonnage by type of load (residential, commercial, roll-off box), customer service levels, tonnage delivered by transfer station or material recovery facility utilized, and other related information.

(I) City Actions Affecting County. The City agrees to carry out and fulfill its responsibilities under this Agreement and Applicable Law so as to permit full and timely compliance by the County with its covenants and agreements with the State. In particular, the City agrees not to conduct, authorize or permit any disposal services for Controllable Waste to be provided in competition with the Disposal Services provided by the County hereunder, and not to take or omit to take any action with respect to Controllable Waste or its collection, transportation, transfer, storage, treatment or disposal that may materially and adversely affect the County's ability to achieve such timely compliance. Notwithstanding the foregoing, the City shall not be required to deny any permit or license or refuse to grant any approval while exercising its police powers.

(J) No Right of Waste Substitution. Nothing in this Agreement shall authorize or entitle the City to deliver or cause the delivery to the Disposal System of Acceptable Waste originating from or generated outside the jurisdiction of the City, nor obligate the County to receive or dispose of any such Acceptable Waste. The City shall not assign in whole or in part its right to deliver or cause to be delivered Controllable Waste to the County hereunder, and shall not permit any Acceptable Waste originating from or generated outside the jurisdiction of the City to be substituted for Controllable Waste for any purpose hereunder.

(K) Annexations and Restructuring. It is the intention of the parties that this Agreement and the obligations and rights of the City hereunder, including particularly the Waste Disposal Covenant and the Contract Rate, shall, to the extent permitted by Applicable Law, extend to any territory annexed by the City (or any territory with respect to which the City assumes, after March 30, 2008, solid waste management responsibility from a Sanitary District or other public entity) and shall bind any successor or restructured Governmental Body which shall assume or succeed to the rights of the City under Applicable Law.

### SECTION 3.2 PROVISION OF DISPOSAL SERVICES BY THE COUNTY.

(A) Service Covenant. Commencing on the Commencement Date, the County shall provide or cause the provision of the service of (1) receiving and disposing of all Controllable Waste at the Disposal System (or such other facilities, including transfer stations, as the County may determine to use), (2) disposing in accordance with subsection 3.2(C) hereof of Controllable Waste which, at any time and for any reason, is in excess

of the disposal capacity of the Disposal System, and (3) in accordance with subsection 3.3(C) hereof, disposing of Unacceptable Waste inadvertently accepted at the Disposal System. The County, to the maximum extent permitted under Applicable Law, shall use its best efforts to keep the Olinda Alpha, Prima Deshecha and Frank R. Bowerman Landfills open for the receipt of waste for disposal or transfer of Controllable Waste pursuant to this Agreement. The County shall do and perform all acts and things which may be necessary or desirable in connection with its covenants in this subsection, including without limitation all planning, development, administration, implementation, construction, operation, maintenance, management, financing and contract work related thereto or undertaken in connection therewith. The County shall exercise all reasonable efforts to minimize the costs incurred in complying with the Service Covenant consistent with its responsibilities hereunder and under this Agreement, Applicable Law and prudent solid waste management practice and environmental considerations.

(B) Particular Facilities. The Department and the City shall consult and cooperate in determining whether and to what extent from time to time other landfills other than that primarily used by the City shall be utilized to receive Controllable Waste. The Department shall immediately advise the City by telephone of any situation, event or circumstance which results in the partial or complete inability of the County to receive Controllable Waste at any particular landfill within the Disposal System, its effect on the County's ability to perform its obligations hereunder, and the County's best estimate of the probable duration. The Department shall confirm such advice in writing within 24 hours of the occurrence of any such inability. The County shall use its best efforts to resume normal operation of the landfill primarily used by the City as soon as possible. In the event of a temporary material increase in average daily deliveries of Controllable Waste from the City which the County reasonably believes could result in the permitted daily disposal capacity limit to be exceeded with respect to a particular landfill within the Disposal System, the County shall have the right to redirect the increased Controllable Waste to another landfill within the Disposal System for the duration of the increase in average daily deliveries; provided, however, that in such circumstances the County shall utilize reasonable efforts to first redirect waste which is not Controllable Waste.

(C) Compliance with Service Covenant Not Excused for any Reason. Commencing on the Commencement Date, the obligations of the County to duly observe and comply with the Service Covenant shall apply continuously and without interruption for the Term of this Agreement. In the event that any Change in Law or other Uncontrollable Circumstance impairs or precludes compliance with the Service Covenant by the means or methods then being employed by the County, the County shall implement alternative or substitute means and methods to enable it to satisfy the terms and conditions of the Service Covenant. In the event that a Change in Law precludes the County from complying with such covenants with the means or methods then being employed and from utilizing any alternate or substitute means or methods of compliance, the County shall continuously use all reasonable efforts to effectuate executive, legislative or judicial change in or relief from the applicability of such law so as to enable the County lawfully to resume compliance with such covenants as soon as possible following the Change in Law.

### SECTION 3.3 COUNTY RIGHT TO REFUSE WASTE.

(A) Right of Refusal. Notwithstanding any other provision hereof, the County may refuse delivery of:

- (1) Hazardous Waste;
- (2) Controllable Waste delivered at hours other than those provided in Section 3.5 hereof;
- (3) Waste that does not constitute Acceptable Waste;
- (4) Waste that is delivered by any party which has not executed a Waste Disposal Agreement; and
- (5) Controllable Waste consisting primarily of construction and demolition debris or inerts which may cause a particular facility's daily tonnage limit to be exceeded.

(B) Identification of Unacceptable Waste. The Department shall have the right (but not the duty or the obligation) to inspect the vehicles of all Franchise Haulers delivering material to the Disposal System, and may require that the Franchise Hauler remove any Unacceptable Waste from such vehicle before it is unloaded. If the Department determines that it is impractical to separate Controllable Waste from Unacceptable Waste in any vehicle, or if the Franchise Hauler delivering such waste is unwilling to make such separation, or if any vehicle is carrying waste which may spill or leak, then the Department may reject the entire vehicle, and the City shall forthwith remove or cause the removal of the entire delivery from the Disposal System. The Department may take all reasonable measures to prevent waste from being blown or scattered before and during unloading. The City shall cause the Franchise Haulers to observe and comply with Applicable Law, the operating rules and regulations of the Department, and the provisions of this Agreement prohibiting the delivery of Unacceptable Waste to the Disposal System.

(C) Hazardous Waste and Hazardous Substances. The parties acknowledge that the Disposal System has not been designed or permitted, and is not intended to be used in any manner or to any extent, for the handling, transportation, storage or disposal of Hazardous Waste or Hazardous Substances. Neither the County nor the City shall countenance or knowingly permit the delivery of Hazardous Waste or Hazardous Substances to the Disposal System.

(D) Disposal of Unacceptable Waste and Hazardous Waste. If Unacceptable Waste or Hazardous Waste is discovered in a vehicle at any landfill within the Disposal System, the driver of the vehicle will not be permitted to discharge the load. If a vehicle is observed unloading Unacceptable Waste or Hazardous Waste in the tipping area of a landfill within the Disposal System Department personnel will use reasonable efforts to assure that such material has been characterized, properly secured and its disposition resolved. The return or reloading onto the delivery vehicle of any Hazardous Waste, Prohibited Medical Waste or other waste requiring handling or transportation shall be conducted in accordance with Applicable Law. Whenever Hazardous Waste is detected at any landfill within the Disposal System, the Department shall take immediate action in accordance with Applicable Law.

(E) Source-Separated Household Hazardous Waste. The County shall maintain, as part of the Disposal System, a Source-Separated Household Hazardous Waste Disposal System for the disposal of Source-Separated Household Hazardous Waste. The disposal service provided by such system shall constitute part of the Disposal Services, and shall be available to Participating Cities as part of the Contract Rate. The County may impose additional fees and charges for services relating to Source-Separated Household Hazardous Waste with respect to cities which are not parties to a Disposal Agreement. The County may provide for the expansion, contraction or modification of the Source-Separated Household Hazardous Waste Disposal System and its services to the extent necessary to ensure the Disposal System's viability; provided, however, if the County chooses to reduce services, the County shall nonetheless continue to expend funds for the Source-Separated Household Hazardous Waste Disposal System each year during the term of this Agreement in an amount at least equal to the amount of funds expended for the Source-Separated Household Hazardous Waste Disposal System during fiscal year 2006-07 as adjusted by changes in the Producer Price Index.

**SECTION 3.4 UNINCORPORATED AREA ACCEPTABLE WASTE.** Commencing on the Commencement Date, the County in accordance with Applicable Law shall provide or cause to be provided the service of disposing of non-recycled Acceptable Waste originating or generated within the Unincorporated Area and, with respect to such waste, shall comply with the Waste Disposal Covenant as if the County constituted a City subject to the Waste Disposal Covenant hereunder. Rates charged by the County for the disposal of each class of non-recycled Acceptable Waste generated in the Unincorporated Area shall be the same as the Contract Fee charged for the disposal of each class of Controllable Waste. The County shall use its best efforts to preserve, protect and defend its right to exercise and comply with the Waste Disposal Covenant (with respect to non-recycled Acceptable Waste generated in the Unincorporated Area) against any challenge thereto, legal or otherwise, by a Franchise Hauler or any other person, based upon breach of contract, violation of law or any other legal theory. The County shall bear the cost and expense of any such Legal Proceeding or other challenge (with respect to non-recycled Acceptable Waste generated in the Unincorporated Area).

### SECTION 3.5 MISCELLANEOUS OPERATIONAL MATTERS.

(A) Operating Hours. The County shall keep the Disposal System open for the receiving of Controllable Waste during such regular operating hours as may be established by the Department in the operating rules and regulations applicable to the Disposal System. The County shall utilize best efforts to maintain substantially similar hours, as were in effect on January 2, 2009, for the receipt of waste through the term of this Agreement (subject to Applicable Law).

(B) Scales and Weighing. The Department shall operate and maintain permanent scales at the Disposal System. The Department shall weigh all vehicles delivering waste by or on behalf of the City (whether or not the County accepts such waste) and prepare a daily weight record with regard to such delivery.

(C) Service Coordinator. The County and the City each shall designate in writing thirty days prior to the expected Commencement Date a person to transmit instructions, receive information and otherwise coordinate service matters arising pursuant to this Agreement (each a "Service Coordinator"). Either party may designate a successor or substitute Service Coordinator at any time by notice to the other party.

(D) Review of Records. Each party may review the other party's books and records with respect to matters relevant to the performance by either party under this Agreement or otherwise related to the operation of the Disposal System to the extent allowed under the California Public Records Act (interpreted as if the parties to this Agreement were natural persons for purposes of the Public Records Act).

### SECTION 3.6 OTHER USERS OF THE DISPOSAL SYSTEM.

(A) On or Before July 23, 2009, the County shall have the right to enter into waste disposal agreements with Orange County entities with respect to Acceptable Waste which was originally discarded by the first generator thereof within the geographical limits of the County, including other cities in the County, Sanitary Districts, Transfer Stations and Independent Haulers, which waste disposal agreements shall have terms and provisions substantially identical to the terms and provisions of this Agreement; provided, however, that in no event shall such agreements have terms and provisions more favorable than the terms and provisions of this Agreement (including but not limited to the Contract Rate and availability of disposal capacity).

(B) After July 23, 2009, the County shall have the right to enter into waste disposal agreements with Orange County entities, including any city, Sanitary District, Transfer Station and Independent Hauler, or otherwise accept Acceptable Waste from such parties, but only within the limitations contained in this Section. Any such agreement or waste acceptance agreement must provide that the party delivering waste shall pay a Posted Disposal Rate at least 10% higher than the Contract Rate unless the County determines it is in the best interest of the Disposal System to establish a Posted Disposal Rate less than 10% higher than the Contract Rate. In no event shall the Posted Disposal Rate be equal to or less than the Contract Rate. In addition, the County shall reserve the right in any such waste disposal agreement at any time, to the extent permitted by Applicable Law, to refuse to receive and dispose of Acceptable Waste from any city, County Sanitary District, Transfer Station and Independent Hauler if and to the extent that such receipt and disposal may materially and adversely affect the ability of the County to comply with its obligations to the Participating Cities under the Disposal Agreements to which each is a party.

(C) Receipt of Imported Acceptable Waste on a Contract Basis. The County shall have the right to enter into a contract or other agreement with any municipal or private non-County entity for the delivery of Imported Acceptable Waste on terms and conditions that the County determines to be necessary to ensure and enhance the viability of the Disposal System for the benefit of the County and the Participating Cities and to generate Net Import Revenues. The County certifies that in its good faith judgment the contract or other agreement for the delivery of such waste will not materially and adversely affect the ability of the County to receive and dispose of Acceptable Waste from the Participating Cities in accordance with the applicable Disposal Agreements throughout the Term thereof. The term of any such agreement for the disposal of Imported Acceptable Waste shall end by the later to occur of (i) December 31, 2015 or (ii) the date on which County general purpose revenues are no longer expended to pay debt service on the Orange County Public

Financing Authority Lease Revenue Refunding Bonds Series 2005, but in no event later than the last day of the fiscal year commencing July 1, 2015.

(D) Self Haulers. The City and the County acknowledge that Self-Haulers shall be entitled to deliver Self-Hauled Waste to the Disposal System, on a non-contract basis, at the Posted Disposal Rate. Such Self-Haulers shall not be entitled to dispose of Acceptable Waste for the Contract Rate.

(E) Application and Use of Revenues From Other Users. All revenues received by the County from the disposal of County Acceptable Waste by the Disposal System, and all revenues received by the County from the disposal of Imported Acceptable Waste by the Disposal System, shall be deposited by the County in the County OC Waste & Recycling Enterprise Fund and shall constitute revenues of the Disposal System. Pursuant to the County's Plan of Adjustment, the County is entitled to receive net revenues (after payment of all costs attributable to the acceptance of such Imported Acceptable Waste at the Disposal System) ("Net Import Revenues") from the disposal of Imported Acceptable Waste by the Disposal System, and such Net Import Revenues may be used for the payment of bankruptcy related obligations in accordance with the Plan of Adjustment. Costs attributable to the disposal of Imported Acceptable Waste include deposits to the Environmental Fund, deposits to closure and postclosure reserves, City host fees (if applicable), incremental operating costs (such as manpower expenditures, equipment, services and supplies expenditures), state surcharges, and a pro rata share of capital project costs. The parties acknowledge that their intention in determining to allow the importation of Imported Acceptable Waste for disposal by the Disposal System is to stabilize the Contract Rate at rates below those which would otherwise prevail in the absence of such importation.

#### **SECTION 3.7 COUNTY PROVISION OF WASTE DIVERSION SERVICES.**

(A) County-Wide Recycling Services. This Agreement does not require the County to provide for any source reduction, materials recovery, recycling, composting, or other waste diversion services by the County nor any payment therefor by the City, by Franchise Haulers or by ratepayers; provided, however, any County-Wide Recycling Services may be funded through the County OC Waste & Recycling Enterprise Fund. Any such recycling services may be expanded, contracted or modified by the County at any time in its sole discretion.

(B) Separate City-County Diversion Service Agreements. Nothing in this Agreement is intended to limit the right of the County to enter into a separate agreement with the City or any other person to provide source reduction, materials recovery, recycling, composting or other waste diversion services. Any such program conducted by the County, whether in participation with the City, any other of the Participating Cities, other Cities, Sanitary Districts, Transfer Stations, Independent Haulers, Unincorporated Area or non-County entity, shall be operated, managed and accounted for as a program separate and distinct from the Disposal Services program contemplated by the Disposal Agreements and shall not be funded through the general revenues of the Disposal System.

#### **ARTICLE IV CONTRACT RATE**

**SECTION 4.1 CHARGING AND SECURING PAYMENT OF CONTRACT RATE.** The City acknowledges that the County shall have the right to charge and collect a Contract Rate for the acceptance and disposal of Controllable Waste delivered to the System by any Franchise Hauler. The Contract Rate shall be calculated and established, and may be modified, as provided in Section 4.2 hereof. In addition, the City acknowledges that the County shall have the right to establish as part of the operating rules and regulations reasonable measures to secure the payment of all Contract Rates.

#### **SECTION 4.2 CONTRACT RATE.**

(A) Establishment of Contract Rate. The Contract Rate payable by each Franchise Hauler shall be (x) \$22.00 per ton from the Commencement Date through June 30, 2010, and (y) \$29.95 per ton on and after July 1, 2010, in both cases contingent on the delivery to the Disposal System of an amount of Acceptable Waste at

least equal to the Cumulative Tonnage Targets identified in Appendix 2, and subject to adjustment necessary to reflect the circumstances set forth in this Section 4.2:

- (i) increased costs incurred by the County (in excess of available insurance proceeds) due to the occurrence of one or more Uncontrollable Circumstances, other than Changes in Law;
- (ii) costs incurred by the County (in excess of available insurance proceeds and amounts available in the Environmental Fund for such purposes) remediating environmental conditions at the Disposal System or inactive or closed disposal sites in the County, which, if uncorrected, could give rise to potential claims under CERCLA or related federal or state statutes, including costs incurred providing indemnification to any Participating City pursuant to subsection 7.3; or
- (iii) tonnage shortfalls to the extent permitted by Sections 4.2(B);
- (iv) average annual inflation prior to July 1, 2010 in excess of the levels set forth in Section 4.2(H) and escalation pursuant to Section 4.2(F);
- (v) increased costs incurred by the County (in excess of available insurance proceeds) due to the occurrence of one or more Changes in Law; or
- (vi) Capital Costs in excess of the Capital Costs at any point in time during the term hereof exceeding the Cumulative Capital Costs set forth in Appendix 3.

Prior to adjusting the Contract Rate as a result of any of the circumstances described in clauses (i), (ii) or (iii) above, the County shall utilize the following remedies in the following order of priority:

- (x) reduce the costs of operating the Disposal System to the extent practicable; and
- (y) utilize Unrestricted Reserves to pay costs of the Disposal System.

The County will not be required to utilize such remedies prior to adjusting the Contract Rate as a result of any of the circumstances described in clauses (iv), (v) or (vi) above.

Any adjustments to the Contract Rate permitted by this Section shall be calculated by the County to reflect the actual costs or expenses of addressing the circumstance or circumstances pursuant to which the adjustment is authorized. The County agrees that it will evaluate the feasibility of long term financing for significant capital costs where appropriate.

(B) County Acceptable Waste Shortfall. In the event that the actual amount of County Acceptable Waste delivered to the Disposal System at the end of any Contract Year is less than the Cumulative Tonnage Target for such Contract Year for County Acceptable Waste, as specified in Appendix 2, the County shall utilize the following options, in the following order of priority, in order to remedy any adverse effects of such tonnage shortfall:

- (i) reduce the costs of operating the Disposal System to the extent practicable;
- (ii) utilize Restricted Reserves described in clause (iii) of Section 4.5 to pay costs of the Disposal System;
- (iii) utilize Unrestricted Reserves to pay costs of the Disposal System; and
- (iv) adjust the Contract Rate.

In the event that implementation of the steps described above does not result in sufficient revenues to satisfactorily address the shortfall in tonnage, the County shall have the right to terminate the Agreement on 60 days written

notice to the City. In addition, in the event that actual deliveries to the Disposal System exceed the Cumulative Tonnage Target as of the end of any Contract Year, the City acknowledges the County shall have the right to establish reserves intended to reflect the potential for lower than expected annual waste deliveries in subsequent years, and that any such reserves shall constitute "Restricted Reserves".

(C) [RESERVED]

(D) Interim Use of Remedies. In the event that, during any Contract Year, waste deliveries to the Disposal System are 25% or more below delivery projections for such Contract Year with the result that the County determines it is unlikely that the Cumulative Tonnage Target will be achieved as of the end of such Contract Year, the County may utilize the remedies described in Section 4.2(B) prior to the end of such Contract Year; provided, however, that if at the end of such Contract Year, the Cumulative Tonnage Target is actually met, the County shall reimburse any adjustments to the Contract Rate made pursuant to this Section to Participating Cities. Such reimbursement may be given as a credit or adjustment to the Contract Rate for future deliveries, rather than a lump sum payment.

(E) Special Charges. Notwithstanding Section 4.2(A), the County shall have the right to impose special charges for the receipt of hard to handle materials, such as bulky materials, construction and demolition debris, tree stumps and sludge. Such special charges shall be calculated to reflect the reasonable incremental costs to the County of accepting such hard to handle materials. In addition, in the event that the Board of Supervisors of the County makes a determination to implement a facility (including but not limited to a transfer station, landfill, conversion technology facility, or a materials recovery or processing facility), which facility would be intended to provide for disposal alternatives after the closure of one or more of the landfills currently operating within the Disposal System, the County may impose an additional charge of \$0.50 per ton of Acceptable Waste in order to pay the costs of the study, development, planning, construction and/or operation of such facility.

Adjustments pursuant to this Section 4.2(E) shall not require compliance with the provisions of Section 4.2(I).

(F) Escalation. The Contract Rate shall be adjusted each July 1, beginning July 1, 2011. The change will be equal to the positive percentage change in the Consumer Price Index – All Urban Consumers, U.S. city average, All items, Not Seasonally Adjusted, Series ID CUUR0000SA0 ("CPI") as measured from the October 21 months prior to the rate adjustment to the October immediately preceding the rate adjustment. For example: The July 1, 2011 rate adjustment shall be based upon the index change from October 2009, to October 2010, referred to as year 1 and year 2 respectively in the following example.

Formula to calculate percentage change in the Contract Rate:

Step 1:

$$\left[ \frac{\text{October Year 2 CPI}}{\text{October Year 1 CPI}} \right] - 1 = \% \text{ increase in Contract Rate}$$

Step 2: Current Contract Rate  $\times (1 + \% \text{ increase in Contract Rate}) = \text{Contract Rate as of July 1 Year 2}$

On each April 1, commencing April 1, 2011, the County shall provide the City with notice of the adjustment to the Contract Rate to be effective the following July 1. Such notice shall contain the calculation of the adjustment set forth above. The County will calculate the new Contract Rate each year.

In the event that the change in the CPI is negative, no rate adjustment will be made for that year. No adjustment under this Section 4.2(F) will take place until the October CPI index surpasses the index level as of the October immediately preceding the last annual rate adjustment pursuant to this Section 4.1(F), which will be considered "year 1" in calculating the change in the Contract Rate.

For example, if the CPI is measured as follows: October 2009 = 205, October 2010 = 204, October 2011 = 201, October 2012 = 208, then there would be no adjustment in July 2011, or July 2012, and an adjustment equal to the change from 205 to 208 would be implemented on July 1, 2013.

Adjustments pursuant to this Section 4.2(F) shall not require compliance with the provisions of Section 4.2(I).

(G) Adjustment Resulting from Increased Fees. In addition to the other adjustments specified herein, the Contract Rate shall be adjusted to reflect the imposition of new fees or increase in existing fees relating to the disposal of Controllable Waste imposed by state, federal or other agencies (i.e., the State's Integrated Waste Management fee, which is currently \$1.40 per ton). The adjustment shall be equal to the amount of any new or increased fee, and the adjustment shall take effect so as to coincide with the imposition of the new or increased fee. The County shall provide notice of any increase pursuant to this Section 4.2(G) as soon as practicable after becoming aware of the imposition of any fees described above.

Adjustments pursuant to this Section 4.2(G) shall not require compliance with the provisions of Section 4.2(I).

(H) Calculation of Cumulative Inflation Rate. For purposes of Section 4.2(A)(iv) for adjustments prior to July 1, 2011, the inflation shall be calculated as the change in the CPI between July of the year of calculation and July 1, 2008. Inflation shall be deemed to exceed the levels set forth below if the ratio between the CPI for July for the year of calculation (calculated in accordance with the formula below) and July 2008 exceeds the ratio corresponding to such year of calculation on the table below. The ratio shall be calculated in accordance with the following formula:

(July CPI of calculation year / CPI for July 2008)

<i>Year of Calculation</i>	<i>Ratio</i>
July 1, 2008	1.0000
July 1, 2009	1.0356
July 1, 2010	1.0723

In the event the CPI is no longer published during the term of this Agreement, such other index identified by the Bureau of Labor Statistics or otherwise generally accepted as a replacement for CPI shall be used for purposes of this Agreement. In the event of an adjustment to the Contract Rate pursuant to this section 4.2(H), such adjustment shall be applied to the Contract Rate effective until June 30, 2010, and the Contract Rate effective July 1, 2010.

Adjustments pursuant to this Section 4.2(H) shall not require compliance with the provisions of Section 4.2(I).

(I) Procedure for Rate Adjustments. In the event the County determines that it is entitled to an adjustment of the Contract Rate pursuant to Section 4.2(A) (other than 4.2(A)(iv)) or Section 4.2(B), it shall utilize the procedures described in this Section 4.2(I). The County shall be required to provide the City with at least 90 days prior written notice of the adjustment, which notice shall identify the specific event(s) or circumstances which require the adjustment. The notice shall also specify the earliest date on which the County Board of Supervisors shall consider the proposed adjustment. At least 45 days prior to such meeting of the Board of Supervisors, the County shall provide the City with a report which shall contain the following information: a description of the specific event(s) or circumstances which require the adjustment; a description (including cost estimates) of any activities (which may include, but not be limited to capital improvements to the Disposal System) required in order to remedy such event or circumstance; certification by the County that it has implemented the remedies described in Section 4.2(A) or (B) prior to requiring the rate adjustment; and a description of the methodology used by the County to calculate the adjustment to the Contract Rate (hereinafter the "County Report"). In the event the City disputes the adjustment, it shall provide the County with a written description of the reason for the dispute at least 10 days prior to the meeting of the Board of Supervisors identified in the initial notice of the County (hereinafter the "City Report"). The City Report shall be provided to the Board of Supervisors for

consideration at such meeting in connection with the proposed rate adjustment. At any time from and after the date that the County provides the City with the County Report, upon the request of either party, the City and County shall meet and confer in good faith to resolve any dispute that may arise regarding the proposed adjustment to the Contract Rate. In any such meeting, the County shall be represented by the Director of the Department or his or her designee. In the event the Board of Supervisors approves all or a portion of the proposed rate adjustment, such rate adjustment shall become effective on the date identified in the initial notice sent by the County regardless of whether or not the procedures in Section 4.2(J) are utilized, but subject to potential reimbursement pursuant to clause (11) of Section 4.2(J).

(J) Procedure for Expedited Judicial Review of Contested Rate Adjustment. In the event that, within 30 days after the effective date of any Contract Rate adjustment made pursuant to Section 4.2(I), Participating Cities which, in the aggregate, accounted for more than 50% of the County Acceptable Waste delivered to the County System in the twelve months preceding the Contract Rate adjustment, provide notice to the County of their election to utilize the procedures described in this Section 4.2(J), then the provisions of this Section 4.2(J) shall be utilized by such Participating Cities and the County to resolve the dispute over the Contract Rate Adjustment. In the event that Participating Cities which have delivered the amount of waste contemplated in the preceding sentence do not provide notice to the County of such election, the County shall have no obligation to participate in or cooperate in the implementation of the procedures described below in this Section 4.2(J).

(1) In order to pursue the expedited judicial determination described in this Section (the "Expedited Rate Determination"), the Participating Cities which have made the election described in the paragraph above (the "Challenging Cities") must commence a civil action for breach of contract (the "Action") in the Orange County Superior Court within 45 days of the date on which the Board of Supervisors approves the challenged adjustment to the Contract Rate.

(2) Within two (2) days of filing the Action, the Challenging Cities shall personally serve on the County Counsel both the summons and complaint, and a stipulation and request for the entering of an order incorporating all of the procedural provisions relating to the Expedited Rate Determination as set forth in this Section 4.2(J) (such stipulation and request for order is hereinafter referred to as the "Expedited Rate Determination Stipulation"). The Expedited Rate Determination Stipulation shall be signed by each of the Challenging Cities.

(3) Within fifteen (15) days of the date of service upon the County of the summons and complaint, and Expedited Rate Determination Stipulation, the County Counsel shall execute the Expedited Rate Determination Stipulation and personally serve upon the Challenging Cities through their counsel of record the Expedited Rate Determination Stipulation and its answer to the complaint in the Action. The Stipulation shall also include a waiver by each of the parties of their right to a jury trial of the issues raised in the Action. The City and the County mutually agree that the duty to execute the Expedited Rate Determination Stipulation and comply with the procedures set forth for Expedited Rate Determination in this Section 4.2(J) shall be, and are hereby deemed to be, ministerial duties which the law specifically enjoins upon each of them, and shall be subject to enforcement by the parties herein pursuant to Code of Civil Procedure Section 1085, *et seq.*, or by means of a complaint for specific performance.

(4) Within three (3) days of the date of service by the County upon the Challenging Cities of the fully signed Expedited Rate Determination Stipulation, the County and the Challenging Cities shall jointly make *ex parte* application to the Orange County Superior Court in the Action for the issuance of the order contained in the Expedited Rate Determination Stipulation. At such *ex parte* application, the County and the Challenging Cities shall also seek to confirm with the Orange County Superior Court the briefing schedule, and request a hearing date in accordance with the procedures set forth in this Section 4.2(J).

(5) Within ten (10) days of the date of service by the County upon the Challenging Cities of the answer in the Expedited Rate Determination, the Challenging Cities shall file with the court and personally serve upon the County the Challenging Cities' opening brief and the Record in the Expedited Rate Determination. The opening brief shall not exceed 15 pages in length. The Record shall consist of, and be limited to, the record of the proceedings before the Board of Supervisors with respect to the adjustment of the Contract Rate, including but not limited to the County Report and the City Report prepared by each or any of the Challenging Cities pursuant to Section 4.2(I), any materials filed or lodged with the Board of Supervisors and the Orange County

Waste Commission, the transcript of the proceedings of the Board of Supervisors meeting and the Orange County Waste Commission, the minutes of the Board of Supervisors and the Orange County Waste Commission meeting, and the resolution and/or other documentation evidencing action by the Board of Supervisors and the Orange County Waste Commission to adjust the Contract Rate pursuant to Section 4.2(A) or (B). The record shall also include the most recent reports prepared pursuant to Sections 4.6 and 4.7. The Expedited Rate Determination shall be decided solely on the evidence in the Record, and no extrinsic evidence shall be submitted to or considered by the court.

(6) Within ten (10) days of service by the Challenging Cities of their opening brief and the Record, the County shall file and personally serve upon the Challenging Cities the County's opposition brief. The opposition brief shall not exceed 15 pages in length.

(7) Within five (5) days of service by the County upon the Challenging Cities of the opposition brief, the Challenging Cities may file and personally serve upon the County a rebuttal brief, which shall not exceed 10 pages in length.

(8) The trial of the Expedited Rate Determination shall be conducted as a hearing which shall be conducted at the date set by the court in the *ex parte* hearing conducted pursuant to Section 4.2(J)(4), or such other date and time ordered by the court. If the court requests the parties to prepare supplemental briefs in response to any question or issue raised by the court, the parties may do so.

(9) The standard of review for the Expedited Rate Determination shall be the preponderance of the evidence based upon the Record. The burden of proof shall be borne by the Challenging Cities, and the burden of proof shall be the same as with respect to a plaintiff in a damages action for breach of contract. Both parties have participated in the drafting of this Agreement. Accordingly, nothing set forth in this Agreement shall be interpreted or construed for or against either of the parties as a consequence of their participation in the drafting of this Agreement.

(10) The court shall issue its written statement of decision and enter judgment within thirty (30) days of the date of the hearing in the Expedited Rate Determination.

(11) If the court determines that any portion of the County's adjusted Contract Rate which is the subject of the Expedited Rate Determination was improperly imposed, the County shall, within 30 days of the date of the statement of decision, reimburse to the City the amount improperly imposed, together with interest calculated at the highest percentage rate that does not constitute usury under California laws. Such reimbursement may be made in the form of a reduction in the Contract Rate for a future period (not to exceed twelve months) reasonably calculated to provide full reimbursement of the amounts described above.

(12) If for any reason the court does not sign the order contained in the Expedited Rate Determination Stipulation, the City shall, within 30 days of the court's denial of such requested order, file with the court and personally serve upon the County a motion for summary judgment and/or motion for judgment on the pleadings, in accordance with Code of Civil Procedure Section 437(c) and 438. By executing this Agreement, the parties hereby stipulate that, in the event that the Challenging Cities file such summary judgment motion and/or motion for judgment on the pleadings, the Record shall be deemed to have been incorporated into the complaint and answer filed by the Challenging Cities and the County, and no evidence outside of the Record is relevant or material to the dispute raised in the Expedited Rate Determination. The briefing schedule and hearing on such motion for summary judgment and/or motion for judgment on the pleadings shall be in accordance with Code of Civil Procedure Section 437(c). The Challenging Cities and the County shall be bound by all of the requirements and restrictions set forth in Section 4.2(J) that are not in conflict with this paragraph (12).

(13) In the event that the court both does not sign the order contained in the Expedited Rate Determination Stipulation and either does not hear or does not issue a ruling on the merits on the motion for summary judgment and/or judgment on the pleadings which is dispositive of the issues, claims and causes of action in the complaint filed by the Challenging Cities, the County and the Challenging Cities shall, within twenty days following the issuance of the Court's order or decision not to honor the parties' stipulation or not to hear the parties' motion for summary judgment, make application to the Presiding Judge of the Orange County

Superior Court for an expedited hearing or trial date. The Challenging Cities and the County shall be bound by all of the requirements and restrictions set forth in Section 4.2(J) that are not in conflict with this paragraph (13). In this regard, and without limiting the foregoing, the only evidence to be presented at the hearing or trial shall be the Record, no testimony shall be presented at the hearing or trial; and both the County and the Challenging Cities waive all rights to a jury trial, to any reconsideration of the decision of the court, to a new trial after the court renders a decision, and to any appeal or review of the decision of the court.

#### **SECTION 4.3 RESPONSIBILITY FOR PAYMENT OF THE CONTRACT RATE.**

(A) Payment by City. In the event and to the extent (1) the City uses municipal collection forces directly for the haulage of Controllable Waste to the Disposal System or (2) the City uses non-municipal Franchise Haulers for collection but nonetheless elects to pay the Contract Rate from City revenues, the City, as its own Franchise Hauler, shall have direct responsibility for payment of the Contract Rate, and shall take all such budgetary, appropriation and other action as may be necessary to provide for the timely payment of the Contract Rate. Such action may include, depending upon the means authorized by the City to provide for such payment, the levy and collection of general or special taxes, the imposition of benefit assessments, or the collection of user fees, generator charges or other similar impositions for municipal solid waste disposal. The City shall use best efforts in accordance with Applicable Law to levy and impose all such taxes, assessments, fees or charges, and will take all steps, actions and proceedings for the enforcement, collection and payment of all such amounts which shall become delinquent, to the full extent permitted by Applicable Law. To the extent provided in Section 7.5 hereof, the obligation of the City for such Contract Rates shall be limited to amounts in the City's Solid Waste Enterprise Fund. From the Commencement Date to the date of expiration or termination of this Agreement, the obligation to the City to pay the Contract Rate, to the extent the City rather than Franchise Haulers is responsible directly for payment and provided that the Service Covenant has been complied with, shall be absolute and unconditional and shall not be subject to delay or diminution by reason of set-off, abatement, counterclaim, existence of a dispute or otherwise.

(B) Payment by Franchise Haulers. With respect to Controllable Waste delivered by Franchise Haulers other than City municipal collection forces, the obligation to pay the Contract Rate shall rest with such Franchise Haulers and not with the City and, unless the City has agreed with the County to be responsible for Franchise Hauler payments, the City shall not be financially responsible for any delay or failure by such Franchise Hauler to pay the Contract Rate or any portion thereof when due. In the event of any such failure, the County and the City shall cooperate with each other and use their best efforts to obtain timely payment. Such efforts by the County may include, as appropriate, requiring cash payments for disposal rights from such Franchise Hauler and bringing a legal proceeding for payment and damages. Such efforts by the City may include, as appropriate, legal proceedings to suspend, revoke or terminate the Franchise Hauler's franchise, permit or license rights.

(C) Disputes. If the City or the Franchise Hauler disputes any amount billed by the County in any Billing Statement, the City or the Franchise Hauler shall nonetheless pay the billed amount and shall provide the County with written objection within 30 days of the receipt of such Billing Statement indicating the amount that is being disputed and providing all reasons then known to the City or the Franchise Hauler for any objection to or disagreement with such amount. If the City or the Franchise Hauler and the County are not able to resolve such dispute within 30 days after the City's or the Franchise Hauler's objection, either party may pursue appropriate legal remedies.

**SECTION 4.4 BILLING OF THE CONTRACT RATE.** The County shall continue to bill Contract Rates after the Commencement Date, in the same manner as it has customarily billed tipping fees. Subject to the other provisions of this Agreement, the County shall have the right to modify or amend such manner of billing on reasonable notice to affected parties.

**SECTION 4.5 RESTRICTED RESERVES.** For purposes of this Agreement, "Restricted Reserves" means cash and other reserves of the Disposal System which are restricted to specific uses or are otherwise being reserved by the County to meet its obligations hereunder throughout the term of the Agreement with respect to the Disposal System pursuant to any Applicable Law, contract, adopted budget, budgetary policy of the County with respect to the Disposal System, or other arrangement. Such cash and other reserves are not required to be deposited in separate accounts or funds in order to constitute "Restricted Reserves" hereunder, and may be commingled with

Unrestricted Reserves or other funds of the County attributable to the Disposal System. "Restricted Reserves" shall include, but not be limited to, the following:

- (i) reserves for closure of components of the Disposal System to the extent required by Applicable Law;
- (ii) amounts reserved by the County for funding of post closure maintenance and monitoring with respect to components of the Disposal System;
- (iii) reserves established to protect the Disposal System against the adverse financial impact of potential decreases in waste deliveries pursuant to Section 4.2(B);
- (iv) amounts reserved to pay the costs of capital improvements with respect to the Disposal System;
- (v) amounts funded from revenues during the early years of the term of the Agreement reserved to enable the County to provide disposal services for the Contract Rate during the later years of the Agreement;
- (vi) amounts temporarily held by the County prior to payment to the State or other Governmental Bodies pursuant to Applicable Law (including any fees or charges payable to the State Integrated Waste Management Board);
- (vii) reserves required to meet bond covenants pursuant to financing agreements for Disposal System assets to the extent such amounts must be legally separate and distinct from other reserves identified in this Section;
- (viii) security deposits from landfill deferred payment program users;
- (ix) amounts held by the County in the Environmental Fund (provided, however, that such amounts in the Environmental Fund will be made available and used by the County if required to pay costs relating to environmental remediation or other related costs);
- (x) AB939 surcharges;
- (xi) amounts held by the County in the Corrective Action Fund held pursuant to CCR Title 27 to demonstrate financial assurance to pay for potential groundwater contamination; and
- (xii) an amount equal to three months of budgeted expenses for the Disposal System for the current fiscal year, representing working capital of the Disposal System.

**SECTION 4.6 AUDITED FINANCIAL STATEMENTS.** The County shall annually, on or before January 1 each year, prepare or cause to be prepared and have on file for inspection an annual report for the preceding Contract Year, accompanied by a certificate of an independent public accountant or of the County Auditor and Controller as to the examination of the financial statements therein (describing such statements as fairly presenting the information therein in conformity with generally accepted accounting principles) relating to the Disposal System, the Disposal Services, and the fiscal activities of the County OC Waste Disposal Enterprise Fund, and including statements in reasonable detail of the financial condition of the County OC Waste Disposal Enterprise Fund as of the end of the Contract Year and revenue and expenses for the Contract Year.

**SECTION 4.7 ANNUAL UPDATE OF TEN-YEAR FINANCIAL PROJECTION.** The County shall annually, on or before May 1 of each year, prepare or cause to be prepared, an updated Ten-Year Financial Projection for the Disposal System. Said Financial Projection shall include at least two full years of prior actual data and ten years of future projections including the following elements:

1. County Acceptable Waste, in tons;
2. Imported Acceptable Waste, in tons;
3. Revenues and expenditures;
4. Cash fund balances, including all monies in the County Solid Waste Enterprise Fund, with specific delineation of monies in the Environmental Fund, Restricted Reserves, Unrestricted Reserves, and all other funds of the System.

5. Projected liabilities for closure and post closure as well as reasonable reserves for other environmental costs.

The purpose of the Ten-Year Financial Projection is to keep the City fully informed about the future financial condition of the Disposal System. The County shall cause a copy of the Ten-Year Financial Projection to be delivered to the City Manager of the City no later than May 1 of each year. Upon request, the County shall make available to the Cities supporting information related to the ten-year financial projection

## ARTICLE V BREACH, ENFORCEMENT AND TERMINATION

**SECTION 5.1 BREACH.** The parties agree that in the event either party breaches any obligation under this Agreement or any representation made by either party hereunder is untrue in any material respect, the other party shall have the right to take any action at law or in equity (including actions for injunctive relief, mandamus and specific performance) it may have to enforce the payment of any amounts due or the performance of any obligations to be performed hereunder. Neither party shall have the right to terminate this Agreement except as provided in Section 5.2 and Section 5.3 hereof or as otherwise provided in this Agreement.

**SECTION 5.2 CITY CONVENIENCE TERMINATION.** The City shall have the right to terminate this Agreement in its sole discretion, for its convenience and without cause at any time during the Term hereof upon 90 days' written notice to the County. If the City exercises its rights to terminate the Agreement pursuant to this Section, the City shall pay the County a termination fee equal to the Contract Rate in effect at the time of such termination (or any higher rate with respect to which the County has provided notice pursuant to Section 4.2) multiplied by the number of tons of City Acceptable Waste delivered to the Disposal System during the preceding twelve months (or, if the City had been in breach of the Waste Disposal Covenant during such prior months, such amount as would have been delivered if the City had complied with the Waste Disposal Covenant), multiplied by the number of years remaining in the Term of the Agreement.

**SECTION 5.3 TERMINATION.**

(A) By City. Except as expressly provided herein, the City shall have no right to terminate this Agreement for cause except in the event of the repeated failure or refusal by the County substantially to perform any material obligation under this Agreement unless such failure or refusal is excused by an Uncontrollable Circumstance; except that no such failure or refusal shall give the City the right to terminate this Agreement for cause under this subsection unless:

(1) The City has given prior written notice to the County stating that a specified failure or refusal to perform exists which will, unless corrected, constitute a material breach of this Agreement on the part of the County and which will, in its opinion, give the City the right to terminate this Agreement for cause under this subsection unless such breach is corrected within a reasonable period of time, and

(2) The County has neither challenged in an appropriate forum (in accordance with Section 5.5) the City's conclusion that such failure or refusal to perform has occurred or constitutes a material breach of this Agreement nor corrected or diligently taken steps to correct such breach within a reasonable period of time not more than 90 days from the date of the notice given pursuant to clause (1) of this subsection (but if the

County shall have diligently taken steps to correct such breach within such reasonable period of time, the same shall not constitute a breach giving rise to the right of termination for as long as the County is continuing to take such steps to correct such breach).

(B) By County. Except as expressly provided herein, the County shall have no right to terminate this Agreement for cause except in the event of the repeated failure or refusal by the City substantially to perform any material obligation under this Agreement unless such failure or refusal is excused by an Uncontrollable Circumstance; except that no such failure or refusal shall give the County the right to terminate this Agreement for cause under this subsection unless:

(1) The County has given prior written notice to the City stating that a specified failure or refusal to perform exists which will, unless corrected, constitute a material breach of this Agreement on the part of the City and which will, in its opinion, give the County right to terminate this Agreement for cause under this subsection unless such breach is corrected within a reasonable period of time, and

(2) The City has neither challenged in an appropriate forum (in accordance with Section 5.5) the County's conclusion that such failure or refusal to perform has occurred or constitutes a material breach of this Agreement nor corrected or diligently taken steps to correct such breach within a reasonable period of time not more than 90 days from the date of the notice given pursuant to clause (1) of this subsection (but if the City shall have diligently taken steps to correct such breach within such reasonable period of time, the same shall not constitute a breach giving rise to the right of termination for as long as the City is continuing to take such steps to correct such breach).

**SECTION 5.4 NO WAIVERS.** No action of the County or the City pursuant to this Agreement (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the County or the City in exercising any right, power or remedy under this Agreement shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the County or the City under this Agreement shall preclude any other or further exercise thereof of the exercise of any other right, power or remedy.

**SECTION 5.5 FORUM FOR DISPUTE RESOLUTION.** It is the express intention of the parties that all legal actions and proceedings related to this Agreement or to the Disposal System or to any rights or any relationship between the parties arising therefrom shall be solely and exclusively initiated and maintained in courts of the State of California having appropriate jurisdiction.

## ARTICLE VI TERM

### SECTION 6.1 EFFECTIVE DATE AND TERM.

(A) Initial Term. This Agreement shall become effective, shall be in full force and effect and shall be legally binding upon the City and the County from the Contract Date and shall continue in full force and effect until June 30, 2020, unless earlier terminated in accordance with its terms, in which event the Term shall be deemed to have expired as of the date of such termination.

(B) Option to Renew. This Agreement shall be subject to renewal by mutual agreement of the parties, on or before June 30, 2018, for an additional term of ten years (the "Renewal Term") on the same terms and conditions as are applicable during the Initial Term hereof. The City shall give the County written notice of its irrevocable election to renew this Agreement on or before June 30, 2017. If the parties do not renew this Agreement by June 30, 2018, the Agreement shall expire on June 30, 2020.

(C) Contract Rate During Renewal Term. In connection with the parties' right to renew this Agreement for an additional ten-year term pursuant to Section 6.1(B), the parties shall, on or before June 30, 2018, negotiate an applicable change in the Contract Rate for such renewal term. In determining any revisions to the

Contract Rate to be applicable during any renewal period, in addition to the circumstances described in Section 4.2(A), the parties may take into consideration the following parameters, including but not limited to:

- (i) actual cost of operations;
- (ii) population growth;
- (iii) increase or decrease in available tonnage;
- (iv) economic and disposal market conditions in the Southern California region;
- (v) changes in transportation and technology;
- (vi) closure and expansion of nearby landfills;
- (vii) capacity of the Disposal System; and
- (viii) available reserves which are in excess of the amount reasonably required as reserves.

(D) Survival; Accrued Rights. The rights and obligations of the parties hereto pursuant to Sections 3.1(E)(2), 5.1, 5.3, 5.5, 7.2, 7.3, 7.5, 7.7, 7.8, 7.9, and 7.10 hereof shall survive the termination or expiration of this Agreement, and no such termination or expiration shall limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination or expiration. At the end of the Term of this Agreement, all other obligations of the parties shall terminate.

## SECTION 6.2 COMMENCEMENT DATE.

(A) Obligations of the Parties Prior to the Commencement Date. The parties acknowledge that the Disposal Agreements may be executed and delivered on different dates and that, except as provided in this subsection, neither the County nor the City shall be obligated to perform its obligations hereunder until the participation threshold provided herein has been met and the other conditions to the occurrence of the Commencement Date have occurred. Prior to the Commencement Date, each party hereto shall at its own expense exercise good faith and due diligence and take all steps within its reasonable control in seeking to satisfy the conditions to the Commencement Date set forth herein as soon as reasonably practicable. The County and the City, each at its own expense, shall cooperate fully with each other and the other Participating Cities in connection with the foregoing undertaking. Until the Commencement Date occurs, the Original WDAs shall remain in full force and effect.

(B) Condition to the Commencement Date. The Commencement Date for the Agreement shall be the date on which the percentage of the County's Acceptable Waste attributable to Participating Cities which have executed and delivered Disposal Agreements shall exceed 85% percent (using the percentage rates attributed to such Cities in Appendix 1). Unincorporated County is assumed to be a Participating City for the purposes of determining the Commencement Date in accordance with this Section 6.2(b) and Appendix 1 of this Agreement.

(C) Satisfaction of Condition and Commencement Date. Upon the satisfaction or waiver of the condition to the Commencement Date, the County shall give written notice thereof to the cities which have theretofore executed Disposal Agreements. The parties shall thereupon hold a formal closing acknowledging the satisfaction or waiver of the condition to the Commencement Date, certifying that the Commencement Date has occurred and designating the Participating Cities. Copies of all of the documents or instruments constituting or evidencing satisfaction of the Commencement Date-conditions shall be furnished to each party prior to or on the Commencement Date.

(D) Newly Incorporated Cities. Any city within Orange County which becomes incorporated after the Commencement Date shall upon request be offered the opportunity by the County to become a Participating City. If any such City executes a Disposal Agreement and meets the applicable condition provided in subsection 6.2(B) hereof within 180 days following the date of its municipal incorporation, then such City shall be entitled to execute a Waste Disposal Agreement on substantially the same terms and conditions as this Agreement (including the Contract Rate), notwithstanding the limitations contained in Section 3.6(B).

(E) Failure of Condition. If by July 23, 2009, or such later date as the County may agree, the condition to the Commencement Date specified in this Section is not satisfied, either party hereto may, by notice in writing to the other party, terminate this Agreement. Neither party shall be liable to the other for the termination of this Agreement pursuant to this subsection, and each of the parties shall bear its respective costs and expenses incurred in seeking to satisfy the condition to the Commencement Date. Notwithstanding anything in this Agreement to the contrary, in the event that this Agreement is terminated pursuant to this Section, the provisions of the Original WDA shall remain in full force and effect on the terms and conditions set forth therein.

## ARTICLE VII GENERAL PROVISIONS

**SECTION 7.1 OPERATION AND MAINTENANCE OF THE DISPOSAL SYSTEM.** The County, at its cost and expense through the County Solid Waste Enterprise Fund, shall at all times operate, or caused to be operated, the Disposal System in accordance with Applicable Law and the operating rules and regulations of the Department.

### SECTION 7.2 UNCONTROLLABLE CIRCUMSTANCES GENERALLY.

(A) Performance Excused. Except as otherwise specifically provided in this Agreement, neither the County nor the City shall be liable to the other for any failure or delay in the performance of any obligation under this Agreement (other than any payment at the time due and owing) to the extent such failure or delay is due to the occurrence of an Uncontrollable Circumstance.

(B) Notice, Mitigation. The party experiencing an Uncontrollable Circumstance shall notify the other party by telecommunication or telephone and in writing, on or promptly after the date the party experiencing such Uncontrollable Circumstance first knew of the commencement thereof, followed within 15 days by a written description of (1) the Uncontrollable Circumstance and the cause thereof (to the extent known), (2) the date the Uncontrollable Circumstance began and the cause thereof, its estimated duration, the estimated time during which the performance of such party's obligations hereunder will be delayed, (3) the estimated amount, if any, by which the Contract Rate may need to be adjusted as a result of such Uncontrollable Circumstance, (4) its estimated impact on the other obligations of such party under this Agreement and (5) potential mitigating actions which might be taken by the County or City and any areas where costs might be reduced and the approximate amount of such cost reductions. Each party shall provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as reasonably possible, use its best efforts to eliminate the cause therefor, reduce costs and resume performance under this Agreement. In addition, with respect to Changes in Law, the County shall diligently contest any such changes the imposition of which would have a material adverse impact on the Disposal System. While the delay continues, the County or City shall give notice to the other party, before the first day of each succeeding month, updating the information previously submitted.

(C) Impact on Contract Rate. If and to the extent that Uncontrollable Circumstances interfere with, delay or increase the cost to the County of meeting its obligations hereunder and providing Disposal Services to the Participating Cities in accordance herewith, the County shall be entitled to an increase in the Contract Rate as provided in Section 4.2 herein or an extension in the schedule for performance equal to the amount of the increased cost or the time lost as a result thereof. The proceeds of any insurance available to meet any such increased cost shall be applied to such purpose prior to any determination of cost increases payable under this subsection. Any cost reductions achieved through the mitigating measures undertaken by the County pursuant to subsection 7.2(B) hereof upon the occurrence of an Uncontrollable Circumstance shall be reflected in a reduction of the amount by which the

Contract Rate would have otherwise been increased or shall serve to reduce the Contract Rate to reflect such mitigation measures, as applicable.

**SECTION 7.3 INDEMNIFICATION.** To the extent permitted by law, the County agrees that, it will protect, indemnify, defend and hold harmless the City from and against all Loss-and-Expense arising from the City's activity as an "arranger" (for purposes of and as such term is defined under CERCLA or comparable state statutes) of municipal solid waste disposal pursuant to this Agreement. In the event the City shall determine that because of conflict or any other reason that it wishes to be defended by legal counsel other than the legal counsel provided by the County, the cost of providing such legal counsel shall be the City's sole responsibility. The City acknowledges the County's legitimate interest in actively participating in any defense, litigation or settlement whether the County or the City provides legal counsel. Any costs incurred by the County pursuant to this Section shall be considered an Uncontrollable Circumstance cost and the County shall be entitled to adjust the Contract Rate as provided in subsection 4.2(A) herein. The County shall not, however, be required to indemnify or defend the City from and against all Loss-and-Expense arising from any willful, knowing, illegal or negligent disposal of hazardous waste (other than incidental amounts of Household Hazardous Waste commonly found in municipal solid waste and permitted to be disposed in Class III landfills under RCRA) which violates the County's landfill permits or Applicable Law. The parties agree that this provision constitutes an indemnity under CERCLA (to the extent of the specific provisions of this Section). The parties acknowledge that this subsection is not intended to and does not create any obligation on the part of the County to provide any indemnification or defense to any Franchise Hauler, whether franchised or not, or any Independent Hauler or Transfer Station, under any circumstances. The City acknowledges the County's legitimate interest in actively participating in any defense, litigation or settlement, and shall, as a condition to this indemnity, coordinate fully with the County in the defense.

**SECTION 7.4 RELATIONSHIP OF THE PARTIES.** Neither party to this Agreement shall have any responsibility whatsoever with respect to services provided or contractual obligations or liabilities assumed by the other party hereto, whether accrued, absolute, contingent or otherwise, or whether due or to become due. The County is an independent contractor of the City and nothing in this Agreement shall be deemed to constitute either party a partner, agent or legal representative of the other party or to create any fiduciary relationship between the parties.

**SECTION 7.5 LIMITED RE COURSE.**

(A) **To the City.** Except in the event the City has not established or maintained a City Solid Waste Enterprise Fund, no recourse shall be had to the general funds or general credit of the City for the payment of any amount due the County hereunder, or the performance of any obligation incurred hereunder, including any Loss-and-Expense of any nature arising from the performance or non-performance of the City's obligations hereunder. The sole recourse of the County for all such amounts shall be to the funds held in any such Solid Waste Enterprise Fund. All amounts held in any City Solid Waste Enterprise Fund shall be held for the uses permitted and required thereby, and no such amounts shall constitute property of the County. The City shall make adequate provision in the administration of any City Solid Waste Enterprise Fund for the payment of any amount or the performance of any obligation which may be due hereunder.

(B) **To the County.** No recourse shall be had to the general funds or general credit of the County for the payment of any amount due the City hereunder, or the performance of any obligation incurred hereunder, including any Loss-and-Expense of any nature arising from the performance or non-performance of the County's obligations hereunder. The sole recourse of the City for all such amounts shall be to the funds held in the County Solid Waste Enterprise Fund in accordance with the terms of this Agreement. All amounts held in the County Solid Waste Enterprise Fund shall be held for the uses permitted and required thereby, and no such amounts shall constitute property of the City. The County shall make adequate provision in the administration of the County Solid Waste Enterprise Fund for the payment of any amount or the performance of any obligation which may be due hereunder.

**SECTION 7.6 PRE-EXISTING RIGHTS AND LIABILITIES.** Nothing in this Agreement is intended to affect, release, waive or modify any rights, obligations or liabilities which any party hereto may have to or against the other party as of the Contract Date relating to the disposal of waste in the Disposal System or any other related matter.

SECTION 7.7 NO VESTED RIGHTS. The City shall not acquire any vested property, license or other rights in the Disposal System by reason of this Agreement.

SECTION 7.8 LIABILITY FOR COLLECTION, TRANSPORTATION AND PROCESSING. Any liability incurred by the City as a result of collecting Acceptable Waste or processing it for diversion from landfill, or as a result of causing, franchising, permitting, licensing, authorizing or arranging any of the foregoing, shall be its sole liability, except as expressly otherwise provided herein.

SECTION 7.9 NO CONSEQUENTIAL OR PUNITIVE DAMAGES. In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Agreement, or the material inaccuracy of any representation made in this Agreement, whether such claims are based upon contract, tort, negligence, warranty or other legal theory.

SECTION 7.10 AMENDMENTS. Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by written agreement duly authorized and executed by both parties.

SECTION 7.11 NOTICE OF LITIGATION. Each party shall deliver written notice to the other of any Legal Proceeding to which it is a party and which questions the validity or enforceability of this Agreement executed by the City or the County or any Legal Entitlement issued in connection herewith.

SECTION 7.12 FURTHER ASSURANCES. At any and all times the City and the County so far as may be authorized by law shall pass, make, do, execute, acknowledge and deliver any and every such further resolutions, acts, deeds, conveyances, instruments, assignments, transfers and assurances as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

SECTION 7.13 ASSIGNMENT OF AGREEMENT. (A) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party, which may be withheld in the other party's sole discretion. Notwithstanding the foregoing, either party may assign this Agreement to another public entity, subject to the reasonable consent of the other party. In such circumstances the party not requesting the assignment shall have the right to demand assurances of the financial, technical and legal ability of the proposed assignee to undertake the responsibilities and obligations of the assigning party.

(B) Sale. The County shall not enter into any agreement for the sale of the Disposal System which provides for an effective date for such sale prior to the termination of this Agreement.

SECTION 7.14 INTEREST ON OVERDUE OBLIGATIONS. Except as otherwise provided herein, all amounts due hereunder, whether as damages, credits, revenue or reimbursements, that are not paid when due shall bear interest at the Overdue Rate on the amount outstanding from time to time, on the basis of a 365-day year, counting the actual number of days elapsed, and all such interest accrued at any time shall, to the extent permitted by Applicable Law, be deemed added to the amount due, as accrued.

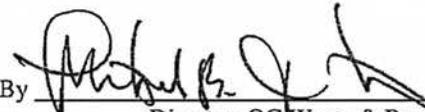
SECTION 7.15 BINDING EFFECT. This Agreement shall bind and inure to the benefit of the parties hereto and any successor or assignee acquiring an interest hereunder consistent with the provisions of Section 7.13 hereof.

SECTION 7.16 NOTICES. Any notice or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth on the cover page of this Agreement. Changes in the respective addresses to which such notices may be directed may be made from time to time by any party by notice to the other party.

IN WITNESS WHEREOF, COUNTY and CITY have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

COUNTY OF ORANGE

Date 6/11/09

By   
Michael B. D. Jackson  
Director, OC Waste & Recycling

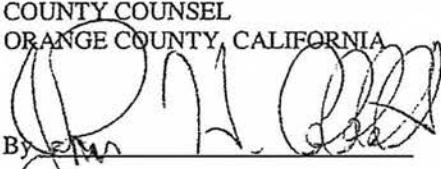
Date 6/8/09

By   
Robert Ming, Mayor  
City Representative  
City of Laguna Niguel

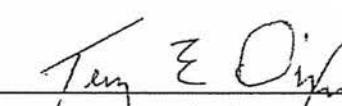
Date 4/8/09

By   
Pamela Lawrence, Acting City Clerk  
City Representative  
City of Laguna Niguel

APPROVED AS TO FORM:  
COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By   
Date 06.25.09

APPROVED AS TO FORM:  
CITY ATTORNEY  
LAGUNA NIGUEL, CALIFORNIA

By   
Date 6/5/09

**APPENDIX 1**

**ESTIMATED ANNUAL TONNAGE**

APPENDIX I

PERCENTAGE OF COUNTY ACCEPTABLE WASTE ATTRIBUTABLE TO PARTICIPATING CITIES FOR PURPOSE OF SECTION 6.2(b)

Jurisdiction	Percentage of County Acceptable Waste
Anaheim	13.4%
Santa Ana	10.6%
Irvine	7.5%
Huntington Beach	6.0%
Orange	5.8%
Garden Grove	5.1%
Fullerton	4.5%
Unincorporated Orange County <sup>(1)</sup>	4.3%
Costa Mesa	3.6%
Newport Beach	3.0%
Lake Forest	2.6%
Buena Park	2.5%
Mission Viejo	2.3%
Westminster	2.3%
Yorba Linda	2.3%
Brea	2.1%
Tustin	2.0%
Cypress	1.9%
La Habra	1.8%
San Clemente	1.7%
Fountain Valley	1.6%
Laguna Niguel	1.6%
Placentia	1.6%
San Juan Capistrano	1.6%
Laguna Beach	1.4%
Dana Point	1.2%
Stanton	1.1%
Rancho Santa Margarita	1.0%
Laguna Hills	0.9%
Seal Beach	0.8%
Aliso Viejo	0.7%
Los Alamitos	0.5%
La Palma	0.3%
Laguna Woods	0.2%
Villa Park	0.2%
Total	100%

(1) Unincorporated County is assumed to be a Participating City for the purposes of determining the Commencement Date in accordance with Section 6.2(b) of this Agreement.

(2) A Participating City will only be included for purposes of determining the Commencement Date upon (i) execution of a Waste Disposal Agreement by that Participating City and (ii) execution of a Hauler Acknowledgement(s) by the Franchise Hauler(s) operating within such Participating City

**APPENDIX 2**  
**CUMULATIVE TONNAGE TARGETS**

## APPENDIX 2

### Cumulative County Acceptable Waste Tonnage Target to be Used for Purposes of Section 4.2 (B)

<i>Fiscal Year</i>	<i>County Acceptable Waste Tonnage</i>	<i>Cumulative County Acceptable Waste Tonnage</i>
FY 2008-09	3,170,387	3,170,387
FY 2009-10	3,092,806	6,263,193
FY 2010-11	3,185,590	9,448,783
FY 2011-12	3,344,870	12,793,653
FY 2012-13	3,445,216	16,238,869
FY 2013-14	3,514,120	19,752,989
FY 2014-15	3,549,262	23,302,251
FY 2015-16	3,565,608	26,867,859
FY 2016-17	3,582,033	30,449,892
FY 2017-18	3,598,535	34,048,427
FY 2018-19	3,615,115	37,663,542
FY 2019-20	3,631,774	41,295,316

**APPENDIX 3**  
**CUMULATIVE CAPITAL COSTS**  
**to be Used**  
**for Purposes of Section 4.2(A)vi**

Fiscal Year (ending June 30)	Annual Capital Costs	Cumulative Capital Costs
2009	\$37,939,538	\$37,939,538
2010	\$59,343,405	\$97,282,943
2011	\$10,433,978	\$107,716,921
2012	\$13,678,113	\$121,395,034
2013	\$17,525,040	\$138,920,074
2014	\$11,259,518	\$150,179,592
2015	\$37,682,758	\$187,862,350
2016	\$5,068,800	\$192,931,150
2017	\$10,662,265	\$203,593,415
2018	\$29,397,698	\$232,991,113
2019	\$8,263,795	\$241,254,908
2020	\$45,103,805	\$286,358,713

**APPENDIX 4**  
**FORM OF HAULER ACKNOWLEDGMENT**

## FRANCHISE HAULER ACKNOWLEDGMENT

THIS FRANCHISE HAULER ACKNOWLEDGMENT, dated as of June 2, 2009 (the "Acknowledgment"), by and between the City of Laguna Niguel (the "City") and the County of Orange, California (the "Franchise Hauler").

### WITNESSETH

[WHEREAS, the City and the Franchise Hauler have heretofore entered into an agreement entitled Waste Disposal Agreement Between the County of Orange, California and the City of Laguna Niguel dated as of June 2, 2009 (the "Franchise"); and]

[WHEREAS, the City has issued to the Franchise Hauler a permit, license, approval or other authorization (the "Authorization") which allows the Franchise Hauler to provide solid waste collection services within the City; and]]

[WHEREAS, the Franchise [SUBSTITUTE "AUTHORIZATION" THROUGHOUT IF APPLICABLE] provides for the collection and disposal of certain municipal solid waste as described therein ("Franchise Waste") generated within the City; and]

WHEREAS, Orange County (the "County") owns, manages and operates a sanitary landfill disposal system for municipal solid waste generated within the County; and

WHEREAS, the City and the County have heretofore entered into a Waste Disposal Agreement, dated as of June 2, 2009 (the "Disposal Agreement") determining that the execution of such Disposal Agreement will serve the public health, safety and welfare of the residents of the City and County, by maintaining public ownership and stewardship over the Orange County Landfill Disposal System (the "Disposal System"); and

WHEREAS, under the Disposal Agreement, the County has agreed to provide long-term disposal of all municipal solid waste generated within the City and the City has agreed to exercise all legal, and contractual power which it possesses from time to time to deliver or cause the delivery of such waste to the Disposal System; and

WHEREAS, the provisions of the Waste Disposal Agreement which guarantee capacity for the long term disposal of waste at specified rates generated in the City provide significant benefits to the Franchise Hauler;

WHEREAS, notwithstanding any Franchise provisions to the contrary, the Franchise Hauler explicitly acknowledges the aforementioned benefits to the City, the County and the Franchise Hauler in providing for the disposal of all Franchise Waste to the Disposal System; and

WHEREAS, the City and the Franchise Hauler desire to enter into this Acknowledgment to assure that the City and the Franchise Hauler will be entitled to the benefits of the Waste Disposal Agreement and to assure conformity with the waste delivery obligations which have been agreed to by the City under the Disposal Agreement through the delivery of waste by the Franchise Hauler to the Disposal System; and

WHEREAS, the Franchise Hauler's agreement to deliver Franchise Waste to the Disposal System under this Acknowledgment is given in consideration of the Franchise Hauler's right to receive the Contract Rate for such disposal as provided in the Disposal Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Capitalized terms used and not otherwise defined herein are used as defined in the Disposal Agreement.

2. The Franchise Hauler hereby waives any right which it may possess under applicable law to contest on any ground, constitutional, statutory, case law, administrative or otherwise, (a) the right, power or authority of the County or the City to enter into or perform their respective obligations under the Disposal Agreement, (b) the enforceability against the County or the City of the Disposal Agreement, or (c) the right, power or authority of the City to deliver or cause the delivery of all Controllable Waste to the Designated Disposal Facility in accordance with this Acknowledgment.

3. The City and the Franchise Hauler each hereby represent that this Acknowledgment has been duly authorized by all necessary action of their respective governing bodies.

4. The Franchise Hauler shall deliver or cause to be delivered all Controllable Waste (including all residue from the processing by any means, wherever conducted, of Controllable Waste), to the Disposal System, and shall otherwise assist the City in complying with its obligations under the Waste Disposal Covenant in Section 3.1 of the Disposal Agreement.

5. The Franchise Hauler shall not haul Controllable Waste to any materials recovery facility, composting facility, intermediate processing facility, recycling center, transfer station or other waste handling or management facility unless the contract or other agreement or arrangement between the Franchise Hauler and the operator of such facility is sufficient in the opinion of the County to assure that the Residue from such facility constituting City Acceptable Waste (or Tonnage equivalencies) and the City Acceptable Waste transferred by such facility shall be delivered to the Designated Disposal Facility in compliance with the Waste Disposal Covenant.

6. The Franchise Hauler shall pay the Contract Rate imposed by the County at the Designated Disposal Facility for the disposal of all Controllable Waste, which rate shall be subject to potential adjustment necessary to reflect the circumstances set forth in the Disposal Agreement.

7. Nothing in this Acknowledgment is intended to restrict any right or responsibility explicitly given the Franchise Hauler in the Franchise to recycle City Acceptable Waste, except as provided in paragraph 5 above with respect to Residue from any such recycling operations.

8. The obligations of the Franchise Hauler under this Acknowledgment shall apply notwithstanding any provision of the Franchise which may conflict herewith.

9. This Acknowledgment may be enforced by the City by any available legal means. In any enforcement action by the City, the burden of proof shall be on the Franchise Hauler to demonstrate compliance herewith.

10. This Acknowledgment shall be in full force and effect and shall be legally binding upon the City and Franchise Hauler from the dated hereof and shall continue in full force and effect until the earlier of (i) the end of the term of the Franchise or (ii) the end of the term of the Disposal Agreement.

11. The City and Hauler agree that the County shall be an express third party beneficiary of this Acknowledgment, and shall be entitled to independently enforce the obligations of the Franchise Hauler hereunder.

12. The Hauler agrees to assist the County in verifying tonnage collected by the Franchise Hauler and providing information required by the County. Hauler will provide upon request refuse tonnage collected within the County, and outside the County (if relevant to confirming tonnage origination), separated by jurisdiction, by load type (residential, commercial, roll-off box), and by facility to which it was delivered (specify which landfill or transfer station). Hauler will provide customer service levels and route lists. Hauler will cooperate with County audits to verify reported origin of tonnage by making records and personnel available to the County and/or its auditors.

IN WITNESS WHEREOF, the parties have caused this Acknowledgment to be executed by their duly authorized officers or representatives as of the 2nd day of June, 2009.

## CITY OF LAGUNA NIGUEL

Signature: Collins

Printed Name: Robert Ming

Title: Mayor

(Franchise Hauler)

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

---

---

---

AMENDMENT TO WASTE DISPOSAL AGREEMENT

Between

THE COUNTY OF ORANGE, CALIFORNIA

and the

CITY OF LAGUNA NIGUEL

*April 28, 2016*  
~~FEBRUARY 16, 2016~~

---

---

---

County Amendment Authorization Date:

\_\_\_\_\_, 2015

City Amendment Authorization Date:

February 16, 2016

County Notice Address:

Director  
OC Waste and Recycling  
300 N. Flower, Suite 400  
Santa Ana, CA 92703

City Notice Address

City Manager  
City of Laguna Niguel  
30111 Crown Valley Parkway  
Laguna Niguel, CA 92677

## AMENDMENT TO WASTE DISPOSAL AGREEMENT

THIS AMENDMENT TO WASTE DISPOSAL AGREEMENT (the "Amendment") is made and dated as of the date indicated on the cover page hereof between the County of Orange, a political subdivision of the State of California (the "County"), and the City designated on the cover page of this Amendment, a general law or charter city and political subdivision of the State of California (the "City").

### RECITALS

The County owns, manages and operates a sanitary landfill system for the disposal of municipal solid waste generated by the cities and the unincorporated area within the County (the "Disposal System"). The Disposal System includes three active landfills and four regional household hazardous waste collection centers.

The Disposal System is used for the disposal of municipal solid waste which is not reused, recycled or otherwise diverted from landfill disposal, pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act").

The County has entered into waste disposal agreements in 2009 (the "Original Waste Disposal Agreements") with all of the cities in the County, including the City, as well as certain sanitary districts located in the County (the "Participating Cities"), pursuant to which the County agreed to provide disposal capacity for waste generated in or under the control of the Participating Cities, and the Participating Cities agreed to deliver or cause the delivery of waste generated in or under the control of the Participating Cities to the Disposal System, as more specifically set forth in, and subject to the terms and conditions of, the Original Waste Disposal Agreements.

The City has determined that the execution of this Amendment by the City is in the best interest of the City and will serve the public health, safety and welfare by providing greater disposal rate stability, more predictable and reliable long-term disposal service, and sound environmental management.

The County has determined that the execution by the County of this Amendment will serve the public health, safety and welfare by providing a more stable, predictable and reliable supply of municipal solid waste and the resulting service payment revenue to the Disposal System, thereby enabling the County to plan, manage, operate and finance improvements to the Disposal System on a more prudent and sound long term, businesslike basis consistent with its obligations to the State and the holders of obligations secured by its Disposal System.

Official action approving this Amendment and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the County on the County authorization date indicated on the cover page hereof.

Official action approving this Amendment and determining it to be in the public interest and authorizing its execution and delivery was duly taken by the City on the City authorization date indicated on the cover page hereof.

It is, therefore, agreed as follows:

Section 1. Amendment to Original Waste Disposal Agreement.

(a) Sections 3.6(C) and 3.6(E) of the Original Waste Disposal Agreement are deleted and replaced in their entirety, as set forth below:

“(C) Receipt of Imported Acceptable Waste on a Contract Basis. Throughout the Term hereof, the County shall have the right to enter into a contract or other agreement with any municipal or private non-County entity for the delivery of Imported Acceptable Waste on terms and conditions that the County determines to be necessary to ensure and enhance the viability of the Disposal System for the benefit of the County and the Participating Cities and to generate Net Import Revenues. The County certifies that in its good faith judgment the contract or other agreement for the delivery of such waste will not materially and adversely affect the ability of the County to receive and dispose of Acceptable Waste from the Participating Cities in accordance with the applicable Disposal Agreements throughout the Term thereof. “

“(E) Application and Use of Revenues From Other Users. (1) Throughout the term hereof, all revenues received by the County from the disposal of County Acceptable Waste by the Disposal System, and all revenues received by the County from the disposal of Imported Acceptable Waste by the Disposal System (including amounts received by the County as a result of the failure of contract counterparties to deliver minimum required amounts of Imported Acceptable Waste) , shall be deposited by the County in the County OC Waste & Recycling Enterprise Fund and shall constitute revenues of the Disposal System. Pursuant to the County’s Plan of Adjustment, the County is entitled to receive net revenues (after payment of all costs attributable to the acceptance of such Imported Acceptable Waste at the Disposal System) (“Net Import Revenues”) from the disposal of Imported Acceptable Waste by the Disposal System. Costs attributable to the disposal of Imported Acceptable Waste include deposits to the Environmental Fund, deposits to closure and postclosure reserves, City host fees (if applicable), operating costs (such as manpower expenditures, equipment, services and supplies expenditures), state surcharges, and a pro rata share of capital project costs. Net Import Revenues shall be used for the payment of bankruptcy related obligations until payment in full of such bankruptcy related obligations required to be paid from such Net Import Revenues pursuant to the Plan of Adjustment. It is estimated that payment in full of such bankruptcy related obligations required to be paid from such Net Import Revenues pursuant to the Plan of Adjustment will occur by the end of Fiscal Year 2017-18.

(2) Until the County’s obligation to apply Net Import Revenues for the payment of bankruptcy related obligations in accordance with the Plan of Adjustment has been satisfied in full, Net Import Revenues shall be calculated as provided in Section (3.6)(E)(1). For any period after the County’s obligation to apply Net Import Revenues for the payment of bankruptcy related obligations in accordance with the Plan of Adjustment has been satisfied in full, Net Import Revenues shall be calculated as follows:

(i) in Fiscal Year 2017-18, Net Import Revenues for each ton of Imported Acceptable Waste received shall be equal to the revenues received for the disposal of such ton of Imported Acceptable Waste (excluding any newly established per-ton fees or increases to existing per-ton fees with respect to Imported Acceptable Waste payable to the State, other regulatory agencies or cities in which facilities in the Disposal System are located) in excess of \$17.57 per ton;

(ii) in Fiscal Year 2018-19, Net Import Revenues for each ton of Imported Acceptable Waste received shall be equal to the revenues received for the disposal of such ton of Imported

Acceptable Waste (excluding any newly established per-ton fees or increases to existing per-ton fees with respect to Imported Acceptable Waste payable to the State, other regulatory agencies or cities in which facilities in the Disposal System are located) in excess of \$18.01 per ton;

(iii) in Fiscal Year 2019-20, Net Import Revenues for each ton of Imported Acceptable Waste received shall be equal to the revenues received for the disposal of such ton of Imported Acceptable Waste (excluding any newly established per-ton fees or increases to existing per-ton fees with respect to Imported Acceptable Waste payable to the State, other regulatory agencies or cities in which facilities in the Disposal System are located) in excess in excess of \$18.46 per ton; and

(iv) thereafter, Net Import Revenues shall be equal to 30% of the revenues received by the County from the disposal of Imported Acceptable Waste (excluding any newly established per-ton fees or increases to existing per-ton fees with respect to Imported Acceptable Waste payable to the State, other regulatory agencies or cities in which facilities in the Disposal System are located).

(3) After the County's obligation to apply Net Import Revenues for the payment of bankruptcy related obligations in accordance with the Plan of Adjustment has been satisfied in full (i) 50% of any Net Import Revenues (as calculated pursuant to Section 3.6(E)(2)) shall be paid to the County General Fund; and (ii) 50% of such Net Import Revenues shall be paid to the Participating Cities (and to the County, with respect to the unincorporated area) listed in Appendix 5 for use for any purpose by the Participating City, including but not limited to state mandated solid waste programs. Payments of such amounts to the County General Fund and the Participating Cities shall be made by the County within 90 days after the end of each fiscal year. The portion of Net Import Revenues specified above payable to the Participating Cities shall be apportioned in the percentages set forth in Appendix 5.

(4) The percentages set forth in Appendix 5 with respect to each Participating City will be adjusted at the end of Fiscal Year 2019-20 to reflect the percentage of actual deliveries of Acceptable Waste from each Participating City as compared to the total amount of actual deliveries from all of the Participating Cities during Fiscal Years 2017-18, 2018-19, and 2019-20. The County shall notify each Participating City of the revised percentages in Appendix 5 within 120 days after the end of Fiscal Year 2019-20. The revised percentages will be used for the allocation of Net Import Revenues generated during Fiscal Year 2020-21 and thereafter.

(b) Section 4.2(A)(z) is added to the Original Waste Disposal Agreement (immediately following Section 4.2(A)(y)) as follows:

“(z) decrease the amount of Net Import Revenues otherwise payable to the County General Fund and the Participating Cities pursuant to Section 3.6(E)(2) and Section 3.6(E)(3) and use the amount of such decrease to pay costs of the Disposal System.”

(c) Section 6.1(A) and Section 6.1(B) of the Original Waste Disposal Agreement are deleted and replaced in their entirety with the following:

**“SECTION 6.1 EFFECTIVE DATE AND TERM.**

(A) Initial Term. This Agreement shall continue in full force and effect until June 30, 2025, unless earlier terminated in accordance with its terms, in which event the Term shall be deemed to have expired as of the date of such termination.

(B) Option to Renew. This Agreement shall be subject to renewal by mutual agreement of the parties, on or before June 30, 2023, for an additional term of ten years (the “Renewal Term”) on the same terms and conditions as are applicable during the Initial Term hereof. The City shall give the County written notice of its irrevocable election to renew this Agreement on or before June 30, 2022. If the parties do not renew this Agreement by June 30, 2023, the Agreement shall expire on June 30, 2025.”

(d) The first sentence of Section 6.1(C) of the Original Waste Disposal Agreement is deleted in its entirety and replaced with the following:

“In connection with the parties’ right to renew this Agreement for an additional ten-year term pursuant to Section 6.1(B), the parties shall, on or before June 30, 2023, negotiate an applicable change in the Contract Rate for such renewal term.”

(e) Appendix 2 of the Original Waste Disposal Agreement is deleted in its entirety and replaced with the form attached hereto.

(f) Appendix 5 shall be added to the Original Waste Disposal Agreement as a new appendix, in the form attached hereto.

(g) All other terms and conditions of the Original Waste Disposal Agreement shall remain in full force and effect.

Section 2. Initial Payment. As consideration for the execution of this Amendment by all of the Participating Cities, and subject to the occurrence of the Amendment Effective Date pursuant to Section 3, the County agrees to pay, from the County OC Waste & Recycling Enterprise Fund, the Amendment Payment to the Participating Cities listed in Appendix 5. The aggregate Amendment Payment shall be \$5,400,000, and shall be distributed to the individual Participating Cities (including the City) in the percentages set forth in Appendix 5 by September 30, 2016.

Section 3. Effectiveness of Amendment. The provisions of this Amendment shall not become effective unless and until the Amendment has been executed by the County and all of the Participating Cities. The date on which the County and all of the Participating Cities have executed the Amendment shall be the “Amendment Effective Date.” The County shall give written notice of the Amendment Effective Date to the City. In the event that the Amendment Effective Date does not occur by June 30, 2016, this Amendment shall be automatically terminated and the County shall have no obligation to make the Amendment Payment.

Section 4. REPRESENTATIONS AND WARRANTIES OF THE PARTIES. Each of the parties to this Amendment represent and warrant that it is a political subdivision of the State of California validly existing under the Constitution and laws of the State and (ii) it has duly authorized the execution and delivery of this Amendment, and has duly executed and delivered the Amendment.

All other terms and conditions of the 2009 Original Waste Disposal Agreement not specifically changed by this Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, COUNTY and CITY have caused this Amendment to be executed by their duly authorized officers or representatives as of the day and year first above written.

COUNTY OF ORANGE

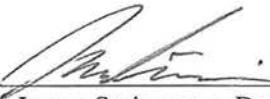
Date 4/28/16

By   
Director, OC Waste & Recycling

Date 4/6/16

By   
Laurie Davies  
Mayor  
City of Laguna Niguel

APPROVED AS TO FORM:  
COUNTY COUNSEL  
ORANGE COUNTY, CALIFORNIA

By   
James Steinmann, Deputy

## APPENDIX 2

### **County Acceptable Waste Tonnage Target to be Used for Purposes of Section 4.2(b)**

<u>Fiscal Year</u>	<u>Tonnage</u>	<u>Cumulative</u>
FY 2015-16	2,724,250	2,724,250
FY 2016-17	2,681,153	5,405,403
FY 2017-18	2,638,746	8,044,149
FY 2018-19	2,597,017	10,641,166
FY 2019-20	2,558,522	13,199,688
FY 2020-21	2,520,605	15,720,293
FY 2021-22	2,483,256	18,203,549
FY 2022-23	2,483,256	20,686,805
FY 2023-24	2,483,256	23,170,061
FY 2024-25	2,483,256	25,653,317

## APPENDIX 5

### PARTICIPATING CITY ALLOCATION PURSUANT TO SECTION 3.6

<u>City</u>	<u>Allocation Percentage for Purposes of Section 3.6</u>	<u>Allocation of Initial Payment</u>
Anaheim	13.18%	\$711,509
Aliso Viejo	0.67	36,416
Buena Park	2.34	126,275
Brea	2.28	123,085
Costa Mesa	2.18	117,936
Costa Mesa Sanitary District	1.48	79,976
Cypress	2.56	138,115
Dana Point	0.99	53,278
Fullerton	4.10	221,271
Fountain Valley	1.76	95,217
Garden Grove/		
GG Sanitary District	7.17	387,197
Huntington Beach	6.13	330,807
Irvine	8.22	444,036
Laguna Beach	1.14	61,796
Laguna Hills	0.74	40,098
Laguna Niguel	1.36	73,341
Laguna Woods	0.41	22,274
La Habra	1.69	91,431
Lake Forest	2.45	132,214
La Palma	0.32	17,325
Los Alamitos	0.58	31,362
Mission Viejo	2.42	130,902
Newport Beach	3.68	198,946
Orange	4.90	264,468
Placentia	1.58	85,116
Rancho Santa Margarita	1.11	60,009
Santa Ana	10.60	572,184
San Clemente	1.40	75,728
San Juan Capistrano	1.23	66,420
Seal Beach	0.82	44,292
Stanton	1.62	87,287
Tustin	1.42	76,648
Villa Park	0.21	11,081
Midway City Sanitary District (Westminster)	2.13	114,893
Yorba Linda	1.78	96,344
County Unincorporated	3.35	180,723
Totals	100%	\$5,400,000

## ATTACHMENT J

### Annual Rate and Disposal Cost Adjustments

The original "Collection", "Processing", and "Disposal" components of rates are identified in Attachment D. Each component shall be adjusted according to the following procedures. No Adjustments will be made to any rate component that was proposed as "0" or as a negative value rate component upon the Effective Date of the Agreement.

***The following rounding protocol shall be used in the calculations described herein:*** For the calculation of the percentage change in all indexes described in this Attachment J, the calculations shall be rounded to one decimal place. (Example: 2.3% or 0.2%). For calculation of all rates and rate components described in this Attachment J, the calculations shall be rounded to two decimal places. (Example: \$2.39). The numbers 1,2,3, and 4 in all calculations shall be rounded down. (Example: If the result of the calculation were 7.344, the final figure would be 7.3.) The numbers 5, 6, 7, 8 and 9 in all calculations shall be rounded up. (Example: If the result of the calculation were \$3.468, the final figure would be \$3.47).

The Bureau of Labor Statistics issues the indexes referred to herein. The Bureau issues both "preliminary" and "final" versions of each index for the specified timeframes. For purposes of the rate adjustments described herein, the parties agree that the "preliminary" version of each index shall be used for the time period indicated.

In the event that the standard reference base period for any index used herein is revised, the calculations will be performed using the officially released data published by the Bureau of Labor Statistics.

If an index used herein is discontinued, the successor index with which it is replaced, will be used for subsequent calculations. If no successor index is identified by the Bureau of Labor Statistics, the government index which is most comparable will be used.

#### **1. ANNUAL RATE ADJUSTMENT METHOD AND DISPOSAL COST ADJUSTMENT METHOD**

##### **A. ADJUSTMENT FOR COLLECTION COMPONENT OF ANNUAL RATE BASED ON PPI**

Perform the following calculations of the most current adjusted Collection component of the rate. The initial adjustment shall be applied to the Collection component of the rate as identified in Attachment D beginning on the dates described in Section 12.03 of the Franchise Agreement.

ATTACHMENT J

Annual Rate and Disposal Cost Adjustments

Step One. Calculate the percentage change in the Producer Price Index for Natural Gas (Series ID WPU0531). The first adjustment to be made on July 1, 2019 shall be calculated by:

- 1) Calculate the value of the annual average change in the 'Natural Gas' PPI for the twelve-month period spanning January 2017 through December 2017. The annual average of these indices is calculated by taking the sum of all 12 monthly indices and then dividing that number by 12.
- 2) The annual average value shall then be calculated for the period January 2018 through December 2018. The annual average of these indices is calculated by taking the sum of all 12 monthly indices and then dividing that number by 12.
- 3) Next, the percentage change for the Natural Gas PPI shall be determined by calculating the annual change between the 2017 and 2018 values. The annual change shall be calculated by taking the difference between the 2018 and 2017 annual averages and dividing this by the 2017 annual average. For example, if the 2017 annual average was 100 and the 2018 annual average was 110, the change in these values would be 10%  $((110-100)/100)$ .

This same calculation shall be performed by comparing the average of the two prior twelve-month periods ending on December 31 for every year of the Term.

Step Two. Calculate the fuel costs by subtracting the portion of the Collection component of the rate attributed to fuel by multiplying Collection by 15%.

Step Three. Multiply the fuel cost (15% of Collection) by 1 plus the percentage change in PPI for Natural Gas. If the PPI percentage change is negative, then 15% of Collection will be adjusted downward; and if the PPI percentage change is positive, then 15% of Collection shall be adjusted upward. The percentage change shall not exceed 25% for a percentage increase, or -25% for a percentage decrease, per annum.

Step Four. Calculate the percentage change to be applied to the remaining (non-fuel) portion of the Collection rate using the annual average value of the Producer Price Index for 'Finished Goods Less Food and Energy' (Bureau of Labor Statistics Series ID WPUFD4131). The first adjustment to be made on July 1, 2019 shall be calculated by:

- 1) Calculate the value of the annual average change in the 'Finished Goods Less Food and Energy' PPI for the twelve-month period spanning January 2017 through December 2017. The annual average of these indices is calculated by taking the sum of all 12 monthly indices and then dividing that number by 12.
- 2) The 2018 annual average value shall then be calculated for the period January 2018 through December 2018. The annual average of these

## Annual Rate and Disposal Cost Adjustments

indices is calculated by taking the sum of all 12 monthly indices and then dividing that number by 12.

3) Next, the percentage change for the Finished Goods Less Food and Energy PPI shall be determined by calculating the annual change between the 2017 and 2018 values. The annual change shall be calculated by taking the difference between the 2018 and 2017 annual averages and dividing this by the 2017 annual average. For example, if the 2017 annual average was 100 and the 2019 annual average was 110, the change in these values would be 10%  $((110-100)/100)$ .

This same calculation shall be performed by comparing the average of the two prior twelve-month periods ending on December 31 for every year of the Term. The percentage change shall not exceed 4% per annum. In the event the calculated average percentage change in the PPI is negative, the rate adjustment for the non-fuel portion of the Collection rate shall be zero (0).

Step Five. Multiply the Collection component of the rate by 85% to calculate the Collection fee less fuel costs.

Step Six. Multiply the Collection fee, less fuel costs (85% of Collection) by 1 plus the percentage change in PPI for Finished Goods similar to the calculation shown in Step Four above.

Step Seven. Add the Collection component adjusted for fuel costs (15% of Collection as calculated in Step 3) to the Collection component less fuel costs (85% of Collection as calculated in Step 6) for the total adjusted Collection component of the rate.

**Sample Rate Adjustment Calculation for Change in PPI applied to the**

Collection portion of the rate:

(All numbers are examples only and are used here for illustration purposes).

Example Assumptions:

Annual Average PPI for Finished Goods (old)	140.00
Annual Average PPI for Finished Goods (new)	144.00
Annual Average PPI for Natural Gas (old)	237.4
Annual Average PPI for Natural Gas (new)	270.7
Current Residential Recycling Cart Collection Rate	\$ 0.91
Current Commingled 3-yd bin Collection Rate	\$32.28

Step One. Calculate average annual percentage change in PPI for Natural Gas.

$$270.7 - 237.4 = (33.3/237.4) \times 100 = 14.0\%$$

ATTACHMENT J

---

Annual Rate and Disposal Cost Adjustments

Step Two. Calculate average annual percentage of Collection attributable to fuel costs (= 15%).

Residential Collection Rate:  $\$ .91 \times .15 = \$ .14$   
3 yd. Bin Collection Rate:  $\$ 32.28 \times .15 = \$ 4.84$

Step Three. Apply annual percentage change of PPI for Natural Gas to fuel costs calculated in Step Two.

Residential Collection Rate:  $\$ .14 \times 1.14 = \$ .16$   
3 yd. Bin Collection Rate:  $\$ 4.84 \times 1.14 = \$ 5.52$

Step Four. Calculate average annual percentage change in PPI for Finished Goods.

$144 - 140 = (4/140) 100 = 2.9\%$

Step Five. Calculate Collection less fuel costs (= 85%).

Residential Collection Rate:  $\$ .91 \times .85 = \$ .77$   
3 yd. Bin Collection Rate:  $\$ 32.28 \times .85 = \$ 27.44$

Step Six. Apply annual percentage change of PPI for Finished Goods to Collection fee less fuel costs calculated in Step Five.

Residential Collection Rate:  $\$ .77 \times 1.029 = \$ .79$   
3 yd. Bin Collection Rate:  $\$ 27.44 \times 1.029 = \$ 28.24$

Step Seven. Add the rates calculated in step three and step six to calculate the total adjusted Collection rate.

New Residential Collection Rate:  $\$ .16 + \$ .79 = \$ .95$   
New 3 yd. Bin Collection Rate:  $\$ 5.52 + \$ 28.24 = \$ 33.76$

**B. ADJUSTMENT FOR PROCESSING COMPONENT OF ANNUAL RATE BASED ON PPI**

Perform the following calculations of the most current adjusted Processing component of the rate. The initial adjustment shall be applied to the Processing component of the rate as identified in Attachment D beginning July 1, 2019.

Step One. Calculate the percentage change in the 'Finished Goods Less Food and Energy' (Bureau of Labor Statistics Series ID WPUFD4131). The change in the PPI shall be the average of the twelve-month period ending on December 31 as compared to the prior year's average percentage change during the 12-month

ATTACHMENT J

---

Annual Rate and Disposal Cost Adjustments  
period ending on December 31. The change allowed shall not exceed 4% per annum.

Step Two. Multiply the Processing component of the rate by 1 plus the percentage change in the annual average PPI.

Step Three. In the event the calculated percentage change in the PPI is negative, the rate adjustment shall be zero (0).

**Sample Rate Adjustment Calculation for Change in PPI**

(All numbers are examples only and are used here for illustration purposes).

Example Assumptions:

Annual Average PPI for Finished Goods (old)	140.00
Annual Average PPI for Finished Goods (new)	144.00
Current Residential Recycling Cart Processing Rate	\$ 2.48
Current Single-Stream 3 yd. Bin Processing Rate	\$18.16

Step One. Calculate percentage change in PPI.

$$144-140 = (4/140) 100 = 2.9\%$$

Step Two. Apply percent change to Processing component of rate.

$$\begin{aligned} \text{Residential Processing Rate: } & \$2.48 \times 1.029 = \$2.55 \\ \text{3 yd. Bin Processing Rate: } & \$18.16 \times 1.029 = \$18.69 \end{aligned}$$

**C. ADJUSTMENT FOR CHANGE IN DISPOSAL CHARGE (TIP FEES)  
APPLIES ONLY WHEN TIPPING FEE ACTUALLY CHANGES  
(INCREASES OR DECREASES)**

Step One. Calculate the percentage change in the Disposal Charge per ton, based upon the change between the most recent tipping fee on which rates are based, and the new tipping fee.

Step Two. Apply the resulting percentage change to the most current Disposal component of rate by multiplying the Disposal component by 1 plus the percentage change. If the percentage change is negative, then the Disposal Charge will be adjusted downward; and if the percentage change is positive, then Disposal Charge shall be adjusted upward.

**Sample Rate Adjustment Calculation for Change in Disposal Charge**

(All numbers are examples only and are used here for illustration purposes)

Example Assumptions:

## ATTACHMENT J

---

Annual Rate and Disposal Cost Adjustments	
Disposal Tip Fee (old)	\$30.00/ton
Disposal Tip Fee (new)	\$35.00/ton
Current Disposal Charge	
Component of Residential MSW Cart rate	\$ 0.11
Current Disposal Charge	
Component of 3 yd. Bin rate	\$1.01

Step One. Calculate percentage change in Tip Fee.

$$\$35.00 - \$30.00 = (\$5/\$30.00) 100 = 16.7\%$$

Step Two. Apply percent change to Disposal Charge component of existing rates.

$$\text{Residential Disposal rate: } \$0.11 \times 1.167 = \$0.13$$

$$\text{3 yard Bin Disposal rate: } \$1.01 \times 1.167 = \$1.18$$

## D. CALCULATE TOTAL ANNUAL RATE

Step One. Add the Collection Component of the Rate (as adjusted in A. above), the Processing Component of the Rate (as adjusted in B. above), and the Disposal Component of Rate (as adjusted in C. above) to calculate total rate for service. (Note: the Disposal Component of Rate will not be adjusted up or down if the tipping fee has not changed).

Example:

$$\text{Adjusted Residential Rate: } \$0.95 + \$2.55 + \$0.13 = \$3.63$$

$$\text{Adjusted 3 yd. Bin Rate: } \$33.76 + \$18.69 + \$1.18 = \$53.62$$

## ATTACHMENT K

### Reports to be Submitted to City

The reports listed in this Attachment K are required at a minimum. The City has the right to request additional reports, to direct Contractor to modify format and layout, and to require that Contractor use existing City report formats. All report formats shall be approved by City and shall be submitted electronically (i.e. via e-mail attachment). Paper copies shall be made available upon request by the City. The reporting year shall be the Calendar Year (i.e. January 1st through December 31). City will work with Contractor during the first year of the Franchise Agreement to tailor and refine reporting formats to the City's desired level of detail.

Contractor shall provide, for all monthly, quarterly, and annual reports, a certification statement, under penalty of perjury, signed by the responsible corporate official, that the reports are true and correct.

#### **Monthly Reports**

Monthly reports shall include a Year-To-Date summary. Monthly reports shall be submitted within twenty-five (25) calendar days after the end of each month for information on preceding months, beginning with the report for January 2019, which shall be submitted no later than February 25, 2019. The information listed may be combined into one or several reports and shall be the minimum reported:

1. Diversion Program(s) tonnage and goal summary listed by program and DPS Code.
2. Calculation of the Diversion rate achieved year-to-date.
3. Tons Collected and Diverted by Sector: Tons Collected and the Tons Diverted in the City using the characterization study-derived Diversion and Residue percentages as described in Attachment N. Tons Collected and Diverted shall be grouped by class of Customer (e.g. Commercial, Multi-family, Residential, Roll Off and Compactor Service, etc.) and also by each type of Collection service for each class of Customer, as described below:
  - Single Materials Recyclables Tons Collected and Diverted from Commercial, Multi-family, and Roll-off Customers
  - Single Stream Recyclable Materials Tons Collected and Diverted from Commercial, Multi-family, Roll-off, and Residential Customers
  - Food Scrap Tons collected from Commercial, Roll-off, and, if directed by the City, Multi-family and Residential Customers
  - Yard Trimmings Tons Collected and Diverted from Commercial, Multi-family, Roll-off, and Residential Customers
  - Co-collected Food Scraps and Yard Trimmings Tons Collected and Diverted from Commercial, Multi-family, Roll-off, and Residential Customers (if directed by the City)
  - MSW Tons Collected from Commercial, Multi-family, Roll-off, and Residential Customers
4. Tons Delivered to, and Diverted by, Processing Facilities: Report shall list the number of Tons that were delivered to, and Diverted by, each Compost Facility, Clean MRF, Construction and Demolition Debris Processing Facility, Anaerobic Digestion Facility, Bioengineered Feedstock Facility, and all other Processing Facilities used. Diversion

## ATTACHMENT K

---

### Reports to be Submitted to City

rates shall be based upon the results of the characterization studies described in Attachment N.

5. All Materials Diverted by Contractor. Statement showing types of materials and quantities sold (in Tons).
6. Number of Tons of MSW Disposed during the month from both Contractor's Collection routes and Tons of Residue Disposed from each Processing Facility used by Contractor to process Recyclable Materials, Yard Trimings, Food Scraps, Construction and Demolition Debris and all other materials Collected in City. The report shall include backup documentation showing how the Tons of Residue from each Facility were calculated and allocated to City. The report shall also include the name, telephone number and e-mail address of the contact person at each Processing Facility that the City can contact with questions about the allocations and/or reported Residue percentages and/or the number of Tons processed from City.
7. Narrative summary of problems encountered including scavenging, incidents of Contamination found during on-site field Container Contamination audits, including a listing of specific location addresses for each and actions taken with recommendations for the City, as appropriate.
8. An on-going listing of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" who, despite the Recycling Coordinators' adherence to the required implementation steps included in Attachment B, Section 3.3.6, still refuse to implement a State-mandated Diversion program. The listing shall include detailed information on all interactions with, and attempts to bring the Customer into compliance with state laws by implementing a Diversion program.
9. Summary of service complaints, with a description of the nature of the complaint and how it was resolved.
10. Summary, and type, of Customers that implemented Diversion services the previous month and/or cancelled service. The reasons for cancelled service must be provided with the report.
11. Recycling Coordinators' activity, tracked in a color-coded Red/Green Tracking Spreadsheet (Customers are shaded red to indicate non-compliance and shaded green to indicate compliance), showing individual interactions with businesses, including the date, a description of, and the nature of each outreach/contact effort; status of program implementation or educational efforts; issues with recycling such as Contamination or overflow; objections to implementing Diversion programs; individual compliance status with AB 341, AB 1826 and SB 1383; the Customer type (i.e. Commercial, Multi-family, Gated Development/HOA/Mobile Home Park with Centralized Bin Service, Food Service Establishment, City Account); and other information as directed by the City. The results from most recent on-site field Container Contamination audits, as described in Attachment N, shall also be included in the Red/Green Tracking Spreadsheet for each account and for each line of service used by each account. An example is included as Exhibit K.1. If the City directs the Contractor to use a third-party to assist with program implementation due to non-attainment of minimum implementation levels as described in

Article 14.11 of the Franchise Agreement, accounts that receive technical assistance from the third-party shall be tracked and color-coded as directed by the City. Accounts that are listed as "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall also be color-coded accordingly.

If implementation of a Residential source-separated Food Scrap program or of a Residential Co-Collection program for Yard Trimmings and Food Scraps is directed by City, Contractor shall record and report all the activities performed by the Recycling Coordinators to implement and maintain said Residential programs. All such activities shall be recorded and reported in the red/green tracking spreadsheets in a format approved by City.

12. The number of warning notices issued to Customers for Contamination and the account information associated with these notices pursuant to Section 5.7 of Attachment B.
13. Number of Commercial and Residential accounts for whom E-Waste and U-Waste pick-ups were provided.
14. Number of Commercial, Multi-Family, Residential, and public right-of-way Bulky Goods pick-ups.
15. A listing of all accounts, in Excel format, including:
  - a. Customer number
  - b. Customer name
  - c. Account type (Commercial, Multi-family, Gated Development/HOA/Mobile Home Park with Centralized Bin Service, Food Service Establishment, City Account)
  - d. Street address
  - e. Billing address
  - f. All service information, including
    - i. Line of service (i.e. MSW, Food Scraps, Recyclable Materials)
    - ii. Container inventory
    - iii. Container size
    - iv. Frequency of collection
    - v. Collection days
    - vi. Monthly rate collected
  - g. Service Contact name
  - h. Service Contact number
  - i. Billing Contact Name
  - j. Billing Contact Number
16. Number of Customers participating in Diversion programs provided by Contractor (i.e. Single Material Recyclables Collection Program, Single Stream Recyclable Materials Collection Program, Food Scraps Diversion Program, Composting Program, Anaerobic Digestion, Co-digestion, etc.). This section of the report must also include the total number of Containers (Bin, Carts, Split Bins, etc.) in use for Single Material Recycling, Single Stream Recyclables, Food Scrap Diversion, Composting, Anaerobic Digestion, Co-digestion, and MSW Collection/Disposal service.
17. Number of Residential accounts with Extra MSW pick-ups.

18. Number of Residential accounts participating in residential 'valet' service (i.e. back-yard/side-yard residential wheel-out service).
19. Inventory of Residential curbside Containers by size and stream
20. A summary table of AB 341, AB 1826 and SB 1383 compliance information by Customer type and by compliance tier, including the following items:
  - a. Total number of AB 341, AB 1826 and SB 1383 Customers serviced by the Contractor broken out by Customer type (i.e. Commercial, Multi-family, Gated Development/HOA's/Mobile Home Park with Centralized Bin service, Food Service Establishment, City accounts).
  - b. The total number of Customers that have a Single Stream and/or Single Material Recycling Program, Food Scrap Diversion Program, and/or Yard Trimmings/Wood Recycling provided by Contractor broken out by Customer type (i.e. Residential, Commercial, Multi-family, Gated Development/HOA/Mobile Home Park with Centralized Bin Service, Food Service Establishment, City Account).
  - c. The number of Customers with Contractor-documented internal Diversion programs that comply with AB 1826, AB 341 and SB 1383 broken out by Customer type (i.e. of Commercial, Multi-family, Gated Development/HOA/Mobile Home Park with Centralized Bin Service, Food Service Establishment, City Account).
  - d. The number of Customers that do not have an AB 341 and/or AB 1826 and/or SB 1383-compliant Diversion program(s) broken out by Customer type (i.e. Residential, Commercial, Multi-family, Gated Development/HOA/Mobile Home Park with Centralized Bin Service, Food Service Establishment, City Account).
  - e. The number of Customers that have refused service and have been placed on the listing of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance".

### **Quarterly Reports**

Within 30 days after the completion of each quarter of the Calendar Year, Contractor shall submit a Quarterly Report, beginning with submittal of the Quarterly Report for the first quarter of 2019 on or before April 30, 2019. The report shall provide a quarterly summary of the monthly reports in addition to the following at a minimum:

1. Report of any Characterization Studies completed during the reporting quarter as described in Attachment N.
2. Copies of promotional and public education materials sent during the quarter.
3. A narrative description of problems encountered and actions taken, including efforts to deter and prevent Scavenging and Contamination of Recyclable Materials, Yard Trimmings/Wood, Food Scraps, and Construction and Demolition Debris. The narrative is to include a description of Tons rejected for sale after processing (type of material, tonnage), reason for rejection, Contractor's actions taken to re-process the material and to locate alternative market(s) for the rejected materials, including information on the current location and status of the rejected materials.
4. Recycling sales revenue by type of material marketed on a gross and net basis.

5. Tons into each composting facility, Tons of final product sold and end-users/markets for finished compost.
6. Tons delivered to, and processed by the Anaerobic Digestion facility and Tons of Anaerobic Digestate produced; tons of Digestate composted and specific Tons delivered to which Composting Facility(ies) and end-uses and end-users of all Compost produced; disposition of Digestate at third party Composting Facility(ies) and end-uses and end-users of all Compost Produced; if approved by the City, the disposition of Digestate as land application, including Tons, locations, dates of delivery, depth of applications, and lab results for metals, pathogens, and all other required parameters per Title 14 CCR Section 17852(a)(24.5)(A) et seq. and per CDFA and USDA laws and regulations; and any other handling practices and/or destinations (e.g. small parcel land application, other, etc.) including tons where digestate was delivered.
7. A list and narrative description of monthly trainings held on prevention of spills of fluids from Collection vehicles, including employee group(s) trained, the trainer that presented each training and the topics covered.
8. Results of quarterly Residential, Multi-Family and Commercial Route Density Audits described in Attachment H.
9. Results of semi-annual Multi-Family and Commercial Sector-Specific Density On-Service Audits as described in Attachment H (if applicable).

#### **Annual Reports**

On or before March 15, 2020, and on or before the same date in all subsequent years of the Term, Contractor shall submit to the City a written year-end Annual Report, in a form approved by the City. The annual report shall include information as to timely compliance with Contractor's Diversion obligations and MSW Collection and the following information for the Calendar Year then ending:

1. Annual Diversion Rate Achieved as identified in Article 6 of the Contract.
2. Annual AB 341, AB 1826 and SB 1383 compliance status report, with a detailed work plan to meet minimum performance standards in Section 14.11 of the Franchise Agreement and for earning of extension(s) set forth in Article 6 of the Agreement.
3. A report of the previous Calendar Year's activities in the City, including a cumulative summary of the Monthly and Quarterly Reports, and information and statistics with respect to City's compliance with the Act.
4. A complete inventory of equipment used to provide all services (including vehicles and Containers by size and material or waste stream type).
5. Number of routes, type of route, and route hours per day.
6. Number of accounts and Cart and Bin information as requested in the Monthly reports.

7. Changes in Solid Waste management and Recycling/Diversion efforts, including projections and proposed implementation dates and costs, recommended by Contractor and recommended amendments to the City's Source Reduction and Recycling Element based on developments in technology or additional Diversion opportunities identified by Contractor. Contractor's recommendations with respect to compliance with the Act and other Diversion requirements shall state the specific requirement that the implementation of the recommendation(s) is intended to satisfy.
8. Total number of Customers that used special collection programs, including number of Residential, Commercial, Multi-family, and City Customers that requested Bulky item Collection, E-Waste Collection, U-Waste Collection, and Freon Collection.

**Exhibit K.1. Example of Red/Green Tracking Spreadsheet Account Listing**

**COMMERCIAL ACCOUNTS**

CCYCLE	CCUSTL	CCNAME	ADDRESS	CSCITY	PHONE NUMBER	BBQTY	BSIZE	BBOTPU	YDS/WEEK	BCHG	ACCT NOTES/SITE VISIT DATES	AB341 QLFT	AB341 CMPL
C1	21317					1	3	6CB			They have a planter box sitting outside in addition to a raised recycling bin.		
C1	17661					4	3	48CB				12.8	n
C1	18779					1	3	6CB				y	n
C1	27773					1	3	6CB				y	n
C1	17905					1	3	6CB				y	n
C1	17954					1	3	6CB			They share their recycling with the other buildings they have mixed paper.		
C1	17957					1	3	6CB				y	n
C1	20705					1	3	27	12 CB		12/28 site check. Left on with pm		
C1	23571					1	4	21	6CB		12-29 ab341 site check		
C1	18033					1	4	21	6CB		12/28 site check. M with acc		
C1	17413					1	3	21	6CB			y	n
C1	19588					1	3	2	6CB		currently they leave cb out and a guy comes to collect it. Left a quote for a split bin.		
C1	17791					1	3	2	6CB		12-29 site check		
C1	17558					1	3	2	6CB		site check 12-29. Left proposal for split bin		
C1	17316					1	3	2	6CB		site check 12/28 l/u		
C1	17447					1	2	3	6CB		they have a customer built end for 2yd bin. Nowhere to put a recy bin. Need to figure out		
C1	17271					1	2	3	6CB		and recy bin 1.5		
C1	17497					1	3	21	6CB		12-29 site check. Left response for split bin		
C1	17627					1	3	21	6CB		site check 12-29. Left proposal for split bin		
C1	17859					1	3	21	6CB		site check 12-29 l/u with pm		
C1	17854					1	3	21	6CB		did site check 12/27. l/u with pm		
C1	17993					1	3	21	6CB		site check 12/28		

## Attachment L: Performance Bond

Bond No. \_\_\_\_\_

Amount \_\_\_\_\_

Premium \_\_\_\_\_

### CITY OF LAGUNA NIGUEL

### PUBLIC CONTRACT

### FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That \_\_\_\_\_, as and hereinafter referred to collectively as "Principal", and \_\_\_\_\_ a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact surety business in the State of California, as, and hereinafter referred to as, "Surety", are held and firmly bound unto the City of Laguna Niguel hereinafter referred to as the "City", in the sum of Five Hundred Thousand Dollars (\$500,000) for payment of which Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally as follows:

#### THE CONDITION OF THE ABOVE OBLIGATION IS THAT:

WHEREAS, Principal has entered into a contract dated \_\_\_\_\_, 20\_\_\_\_, with City to do and perform the following, generally described work, which is more particularly described in said contract for:

**COLLECTION, TRANSPORTATION, PROCESSING AND DIVERSION OF RECYCLABLE MATERIALS, FOOD SCRAPS, YARD TRIMMINGS, WOOD, CONSTRUCTION AND DEMOLITION DEBRIS AND OTHER MATERIALS AND FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE**

WHEREAS, all of such is to be completed in accordance with the specifications described, referred to and incorporated in said contract; and

WHEREAS, Principal shall commence and complete services as provided in said contract; and

NOW, THEREFORE, if Principal shall faithfully perform all agreements contained in the aforesaid contract, then this obligation shall be null and void.

PROVIDED, HOWEVER, if Principal shall not faithfully perform all agreements contained in the hereinabove described contract and all obligations, then this obligation shall remain in full force and effect.

PROVIDED FURTHER HOWEVER, that Surety hereby stipulates and agrees that no change, extension of time, alteration or modification of the contract documents or of the work to be performed thereunder shall in any way affect its obligation on this bond and it does hereby waive notice of any such change, extension of time, alteration or modification of the contract documents or of the work to be performed thereunder; and

PROVIDED FURTHER, that in case suit is brought upon this bond by the City or any other person who may bring an action on this bond, a reasonable attorney's fee, to be fixed by the Court, shall be paid by Principal and Surety.

IN WITNESS WHEREOF, Principal and Surety have caused these presents to be duly signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

SURETY: \_\_\_\_\_  
(Name) \_\_\_\_\_

BY: \_\_\_\_\_  
(SEAL) Attorney-in-Fact

BY: \_\_\_\_\_

Address of Surety:

APPROVED AS TO FORM: \_\_\_\_\_

\_\_\_\_\_  
City Attorney \_\_\_\_\_

PRINCIPAL: \_\_\_\_\_  
BY: \_\_\_\_\_  
(SEAL) TITLE: \_\_\_\_\_  
(Name) \_\_\_\_\_

Address of Principal:

APPROVED AS TO CONTENT: \_\_\_\_\_

\_\_\_\_\_  
City Engineer Date \_\_\_\_\_

Note: Attach proper acknowledgment for both Surety & Principal

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT****CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
Date *Here Insert Name and Title of the Officer*

personally appeared \_\_\_\_\_  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY  
under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
*Signature of Notary Public*

*Place Notary Seal Above*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
 Corporate Officer – Title(s): \_\_\_\_\_  
 Partner -  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
Conservator  
 Other: \_\_\_\_\_  
Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer – Title(s): \_\_\_\_\_  
 Partner -  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or  
 Other: \_\_\_\_\_  
Signer is Representing: \_\_\_\_\_

ATTACHMENT M

---

Bond Continuation Certificate

In consideration of the premium charged,

\_\_\_\_\_ hereby continues in force:

Bond #: \_\_\_\_\_

Dated: \_\_\_\_\_

In the amount of: \_\_\_\_\_ on behalf of the City of  
Laguna Niguel, for the period:

Beginning: \_\_\_\_\_

And Ending: \_\_\_\_\_ subject to all terms and  
conditions of said Bond, PROVIDED that the liability of:

\_\_\_\_\_  
(NAME OF SURETY)

shall not exceed in the aggregate the amount above written, whether the loss  
shall have occurred during the term of said bond or during any continuation or  
continuations thereof, or partly during said term and partly during any  
continuation or continuations thereof.

ATTACHMENT M

---

Bond Continuation Certificate

Signed and Sealed: \_\_\_\_\_ (date)

By: \_\_\_\_\_  
Attorney-In-Fact

[ACKNOWLEDGEMENT]

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

In order to measure attainment of performance metrics during the course of the Term, the Contractor shall conduct periodic Processing Facility characterizations and field Contamination audits to determine the levels of Contamination in the MSW, Recyclable Materials, Food Scrap, and Yard Trimmings/Wood streams. The following table provides a summary of the studies and audits required to monitor performance. The specific protocols that shall be used to conduct the studies and audits are also included in this section.

**Table of Contents**

1. Processing Facility Characterization Protocols .....	3
1a. Characterization Protocol for Single-Stream/Single-Material Recyclables Delivered to Clean MRF .....	3
1b. Characterization Protocol for Yard Trimmings and/or Food Scraps Delivered to Processing Facilities.....	5
1c. Characterization Protocol for MSW Delivered to Disposal Site .....	7
1d. Characterization Methodology for C&D Processing Facilities .....	9
2. On-site Field Container Contamination Audits .....	11
2a. Residential Curbside Field Contamination Audits .....	11
2b. Commercial/Multi-family In-Field Container Contamination Audits .....	12
3. Third-Party Assessment of Phase 1 and Phase 2 Performance Metrics .....	14
3.a. Assessment of First Extension Opportunity Performance Metrics .....	14
3.b. Assessment of Second Extension Opportunity Performance Metrics .....	15

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

Sector	Diversion Programs by Sectors	Required Frequency of Studies & Audits		Field and Facility Performance Requirements				Notes
		Processing Facility Characterization Study	On-site Field Container Contamination Audit	Facility diversion rate	On-site Contamination Rate	Minimum Material density	Minimum Avg. Cart Capacity Utilization	
Residential	Residential Single Stream Recycling	2x/year	2x/year	90%+	Less than 10% non-recyclable	NA	NA	
	Residential Curbside Yard Trimmings	2x/year	2x/year	90%+	Less than 10% non-yard trimmings	NA	NA	
	Residential Curbside Co-collected Yard Trimmings/Organics	2x/year	2x/year	90%+	Less than 10% non-yard trimmings/food scraps	NA	NA	Additional facility and in-field audits triggered by less than 35% residential participation
	Residential Curbside Source-Separated Organics	2x/year	2x/year	90%+	Less than 10% non-yard trimmings/food scraps	NA	NA	
	Residential Curbside MSW	Annually	2x/year	NA	Less than 20% recyclables and food scraps by April 1, 2025	NA	NA	In order to earn the Second 1-year extension, Contractor must demonstrate a cross-contamination cap of 20% recoverable materials in the residential MSW
Commercial and Multi-family	Commercial/Multi-family Single-stream Recycling	2x/year	On-going	90%+	Less than 10% non-recyclable by April 1, 2025	30 lbs./CY	50%	In order to earn the Second 1-year extension, Contractor must demonstrate that no more than 10% of the single-stream recycling stream is non-recoverable
	Commercial/Multi-family Source-separated Food Scraps	2x/year	On-going	90%+	Less than 10% non-yard trimmings/food scraps by April 1, 2025	500 lbs./CY	50%	In order to earn the Second 1-year extension, Contractor must demonstrate that no more than 10% of the organics stream is non-recoverable
	Commercial/Multi-family Co-collected Yard Trimmings and Food Scraps	2x/year	On-going	90%+	Less than 10% non-yard trimmings/food scraps by April 1, 2025	200 lbs./CY	50%	In order to earn the Second 1-year extension, Contractor must demonstrate that no more than 10% of the organics stream is non-recoverable
	Commercial/Multi-family Yard Trimmings	2x/year	On-going	90%+	Less than 10% non-yard trimmings/food scraps by April 1, 2025	150 lbs./CY	50%	In order to earn the Second 1-year extension, Contractor must demonstrate that no more than 10% of the organics stream is non-recoverable
	Commercial MSW	Annually	On-going	NA	Less than 10% recyclables and food scraps by April 1, 2025	NA	NA	In order to earn the Second 1-year extension, Contractor must demonstrate that no more than 20% of the MSW stream is recoverable
C&D	Construction and Demolition	2x/year	-	65%+	NA	NA	NA	C&D diversion requirement will be pegged to CALGreen diversion requirement which will be updated on January 1, 2020 and tri-annually going forward

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

## **1. Processing Facility Characterization Protocols**

Note: As used herein, "stream" refers to Residential, Commercial or Multi-Family "streams". Residential includes Gated Developments, HOA's and Mobile Home Parks with individual Cart service. Multi-Family includes Gated Developments, HOA's and Mobile Home Parks with centralized Bin/Cart service. "Component" refers to the type of material: Single Stream Recyclable Materials, Yard Trimmings/Wood, Food Scraps, Co-collected Yard Trimmings/Wood and Food Scraps or Construction and Demolition Debris.

### **1a. Characterization Protocol for Single-Stream/Single-Material Recyclables Delivered to Clean MRF**

The following protocol will be used to conduct characterizations at the Clean MRF(s) where the following material components are processed:

- Residential Stream - Single-Stream Recyclable Materials component
- Commercial Stream - Single-Stream Recyclable Materials component
- Multi-Family Stream - Single-Stream Recyclable Materials component

**Timing:** Characterization studies shall be conducted two (2) times each calendar year for each of the above-listed streams and components with the first two (2) characterizations taking place beginning June 2019 and November 2019. The timing for when the characterization studies are conducted shall be staggered so that after two (2) years, one (1) characterization will have taken place during each calendar quarter. For example, for contract year 2 (1/1/2020 – 12/31/2020), the Contractor shall conduct one characterization study of each stream in February 2020 (Calendar Quarter 1) and July 2020 (Calendar Quarter 3). In Contract Year 3 (1/1/2021 – 12/31/2021), the Contractor shall conduct one characterization study of each stream in June 2021 (Calendar Quarter 2) and November 2021 (Calendar Quarter 4). Please see Exhibit N.1. for an example schedule of characterization studies that will be conducted over the course of the contract.

**Methodology:** For each characterization study, loads shall be sampled only from the specified stream (sector of origin). For example, a load sampled from the Commercial Single-Stream Recycling shall not contain any Multi-Family Single Stream Materials.

Each characterization shall be done by hand (i.e. a manual sort not a mechanized sort) and total load weights shall be established for each load sampled. A five-day sampling for each component of each stream shall be conducted to account for changes in the specified stream's component over a week's time.

A total of four (4) samples per load shall be manually sorted separately each day of the five (5) day characterization study. Materials shall be collected using a grid method and shall be hand collected. The grid method assigns an imaginary XY axis over the load

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

after it is dumped on the tipping floor. Four random number pairings between 0-20 (for the long dimension of the load i.e. length) and 0-10 (for the shorter dimension of the load i.e. width) shall be generated to identify the location of the samples on the load. Each sample shall weigh at least 50 lbs. and shall be collected by hand in a 60- to 90-gallon container. Next, materials shall be sorted by commodity type and the results shall be weighed. The Residue shall also be separated manually and weighed. The results of the five (5) daily samples shall then be averaged to produce a characterization that shall be used to establish the percentage Diversion and the amount of Residue for the City's Clean MRF routes. This characterization process shall be repeated twice annually to establish the next six-months' tonnage allocation (e.g. percent Diverted and percent that is Residue) to account for seasonal fluctuations that will be included in the tonnage reports described in Attachment K.

The recyclable commodities sampled during this process shall be paper, cardboard, newsprint, mixed paper, plastics (#s 1&2), mixed plastics, non-ferrous metals, tin, aluminum, Wood, Yard Trimmings, and other Recyclable materials as directed by the City. Exhibit N.2 includes an example of the characterization data collection sheet that shall be used during the characterization.

**Calculating Density on Service:** For purposes of determining the average densities of components Collected, and as a metric to evaluate collection efficiencies and Container capacity utilization, the Contractor shall perform the following calculation:

For each stream sampled, the net tonnage of the materials Collected in the sampled trucks shall be calculated by dividing by the total tons Collected of the Recyclable Materials component by the total on-service cubic yards Collected to calculate a density for each of the streams and their components included in the audit.

For example, if five (5) loads sampled weighed a total of 50 Tons and were Collected from 1,000 cubic yards on service, the average "material on service density" for this stream would be 100 lbs. per cubic yard. Cubic yards on service shall be calculated using actual route data (i.e. if one route sampled collected 100 3-yard bins, the yards on service for that route would be 300 cubic yards).

**Reporting:** Contractor shall submit a written report to the City semi-annually beginning July 2019. The report will summarize the results of the characterization study, including a summary of all five (5) days of characterization results; the measured weights for each commodity; the percent of each commodity found in each sample and in aggregate; a description and photographs of the types of Residue materials found during the characterization study; the average density on-service for the materials sampled (i.e. load weights divided by yards collected); and any other data requested by the City. Upon approval by the City, the results of the characterization study shall be applied to the Tons delivered to the Clean MRF and Tons of Residue delivered to the Landfill from the Clean MRF in subsequent monthly reports and shall be in effect until the results of the next characterization study are approved by the City.

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

**1b. Characterization Protocol for Yard Trimmings and/or Food Scraps Delivered to Processing Facilities**

The following protocol shall be used to conduct characterizations at the Processing Facilities where the following material components are processed:

- Residential stream - curbside Yard Trimmings component
- Residential stream - curbside co-collected Yard Trimmings and Food Scraps component (if directed by City)
- Residential stream - curbside source-separated Food Scraps component (if directed by City)
- Commercial stream - Co-collected Food Scraps and Yard Trimmings component (if directed by City)
- Commercial stream – Source separated Food Scraps component
- Commercial stream - Yard Trimmings component
- Multi-Family stream - Co-collected Food Scraps and Yard Trimmings component (if directed by City)
- Multi-Family stream – Source separated Food Scraps component (if directed by City)
- Multi-Family stream - Yard Trimmings component

If separate Processing Facilities are utilized for Food Scraps and Yard Trimmings, then separate characterization studies shall be conducted at each facility using the following protocol.

**Timing:** Characterization studies shall be conducted two (2) times each calendar year for each of the above-listed streams and components beginning July 2019 and December 2019. The timing for when the waste characterizations are conducted shall be staggered so that after two (2) years, one (1) characterization shall have taken place during each calendar quarter. For example, for contract year 2 (January 1 – December 31, 2020), the Contractor shall conduct one characterization study of each stream from each sector in March 2020 (Calendar Quarter 1) and October 2020 (Calendar Quarter 4). In Contract Year 3 (January 1 – December 31, 2021), the Contractor shall conduct one characterization of each stream from each sector in July 2021 (Calendar Quarter 3) and December 2020 (Calendar Quarter 4). Please see Exhibit N.1. for an example schedule of characterization studies that will be conducted over the course of the contract.

**Methodology:** For each characterization study, loads shall be sampled only from the specified stream (sector of origin). For example, a load sampled from Commercial Food Scraps route(s) shall not contain any Multi-Family Food Scraps.

Each characterization shall be done by hand (i.e. a manual sort not a mechanized sort) and total load weights shall be established for each load sampled. A five (5) day

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

sampling for each component from each stream shall be conducted to account for changes in the material stream over a week's time.

A total of four (4) samples per load shall be manually sorted separately for each day. Materials shall be collected using a grid method and shall be hand collected. The grid method assigns an imaginary XY axis over the load after it is dumped on the tipping floor. Four (4) random number pairings between 0-20 (for the long dimension of the load i.e. length) and 0-10 (for the shorter dimension of the load i.e. width) shall be generated to identify the location of the samples on the load. Each sample shall weigh at least 50 lbs. and shall be collected by hand in a 60- to 90-gallon container. Next, materials shall be sorted into two categories by recoverability (below) and shall be weighed:

Processing Facility Category 1 – Materials Accepted at the Processing Facility:  
Materials acceptable by the Processing Facility  
Processing Facility Category 2 - Contamination: Materials that are considered  
Contamination and that are not accepted by the Processing Facility

The Category 2 non-accepted materials shall also be separated manually and weighed. Each non-recoverable material type shall be carefully photo-documented and included in the Contractor's report to the City. These daily samples shall then be averaged to produce a characterization that shall be used to establish the percentage Diversion and the percentage of Residue the City's Food Scrap and Yard Trimmings routes. This characterization process shall be repeated twice annually to establish the next 6-month's allocation to capture seasonal fluctuations. In the event of a significant rain event, characterizations of Yard Trimmings shall be delayed until dry conditions have returned for a one (1) week period.

Category 1 acceptable materials are dependent on the stream sampled but may include: Food Scraps, Food Soiled Paper, Yard Trimmings, prunings, etc. Category 2 non-acceptable materials types depend on the stream sampled and which Diversion programs are being provided by the Contractor, but may include: MSW, Recyclable Materials, glass, plastics, etc. Exhibit N-3 includes an example of the characterization data collection sheet that shall be used during these characterization studies.

**Calculating Density on Service:** For purposes of determining the average densities of components Collected, and as a metric to evaluate Collection efficiencies and Container capacity utilization, the Contractor shall perform the following calculation:

For each stream sampled, the net tonnage of the materials Collected in the sampled trucks shall be calculated by dividing by the total tons Collected of the Food Scraps component by the total on-service cubic yards Collected to calculate a density for each of the streams and their components included in the audit.

For example, if five (5) loads sampled weighed a total of 50 Tons and were Collected from 1,000 cubic yards on service, the average "material on service

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

density" for this stream would be 100 lbs. per cubic yard. Cubic yards on service shall be calculated using actual route data (i.e. if one route sampled collected 100 3-yard bins, the yards on service for that route would be 300 cubic yards).

**Reporting:** Contractor shall submit a written report to the City semi-annually beginning September 2019. The report will summarize the results of the characterization study, including a summary of all five (5) days of characterization results; the measured weights for each commodity or category; the percent of each commodity/category found in each sample and in aggregate; a description and photographs of the types of Residue materials found during the characterization study; the average density on-service for the materials sampled (i.e. load weights divided by yards serviced); and any other data requested by the City. Upon approval by the City, the results of the characterization study shall be applied to the Tons delivered to the Food Scrap and Yard Trimmings Processing Facility(ies) and Tons of Residue delivered to the Landfill from Food Scraps and Yard Trimmings Processing Facility(ies) in subsequent monthly reports and shall be in effect until the results of the next characterization study are approved by the City.

#### **1c. Characterization Protocol for MSW Delivered to Disposal Site**

The following protocol will be used to conduct waste characterization studies at the City-designated Disposal Site for the MSW component of the following streams:

- Residential stream - Curbside MSW component
- Commercial stream – MSW component
- Multi-Family stream – MSW component

**Timing:** Waste characterizations shall be conducted one (1) time each calendar year for each of the above-listed MSW streams with the first waste characterizations taking place beginning June 2019. The timing for when the waste characterizations are conducted shall be staggered so that after four (4) years, one (1) waste characterization will have taken place during each calendar quarter. Please see Exhibit N-1 for an example schedule of characterization studies that will be conducted over the course of the contract.

**Sample Selection Methodology – Residential Curbside MSW:** During the first six months of the Term of the Agreement, Contractor shall work with the City to identify five (5) geographic areas within the City where Residential routes are similar in terms of levels of Contamination found in Residential MSW. Contractor shall sample a total of 400 individual Residential Containers allocating 80 samples within each of the five (5) identified geographic areas. Contractor shall collect only full Residential Containers using a box truck or flat-bed vehicle during the service day for that geographic area. Contractor shall immediately replace each full Residential Container that is Collected, with a clean Container of the identical size, type and color. Contractor shall notify Residents in each geographic area of the dates for the waste characterization study via postcard, door knob hanger, tags on MSW Carts, or other means such that Residents

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

are informed that their Cart will be taken by Contractor and replaced with an identical Cart on the day(s) the waste characterization study is conducted. The notice(s) shall include a telephone number, a web site address, and at least one (1) social media method for Residents to obtain additional information, ask questions and receive answers from Contractor prior to each waste characterization.

**Sample Selection Methodology – Commercial and Multi-family MSW:** For each characterization, loads shall be sampled only from the specified stream (sector of origin). For example, a load sampled from Commercial MSW route(s) shall not contain any Multi-family MSW.

**Methodology:** Each waste characterization shall be done by hand (i.e. a manual sort not a mechanized sort) and total load weights shall be established for each load sampled. The sampling period shall be five (5) consecutive days for MSW from each stream for account for changes in the stream's MSW over a week's time (e.g. one load of MSW from each targeted stream, sampled each day for five days).

A total of (four) 4 samples per load shall be manually sorted separately each day. Materials shall be collected using a grid method and shall be hand collected. The grid method assigns an imaginary XY axis over the load after it is dumped on the tipping floor. Four (4) random number pairings between 0-20 (for the long dimension of the load i.e. length) and 0-10 (for the shorter dimension of the load i.e. width) shall be generated to identify the location of the samples on the load. Each sample shall weigh at least 50 lbs. and shall be collected by hand in a 60- to 90-gallon container. Next, materials shall be sorted into the following four (4) categories by recoverability and weighed:

- Category 1: Food Scrap or Yard Trimming materials accepted in Contractor-provided Diversion programs
- Category 2: Recyclable Materials accepted in Contractor-provided Recycling program
- Category 3: MSW materials that are not accepted in any Contractor-provided Diversion program
- Category 4: HHW, E-waste, U-waste materials that should not be thrown into the trash

These daily samples shall then be averaged to produce a characterization that shall be used to establish the percentage of Contamination for the City's MSW routes. This characterization process shall be repeated once annually to assess progress towards attainment of meeting performance metrics including Contamination caps.

**Calculating Density on Service:** For purposes of determining the average densities of components Collected, and as a metric to evaluate Collection efficiencies and Container capacity utilization, the Contractor shall perform the following calculation:

For each stream sampled, the net tonnage of the materials Collected in the sampled trucks shall be calculated by dividing by the total tons Collected of the

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

MSW component by the total on-service cubic yards Collected to calculate a density for each of the streams and their components included in the audit.

For example, if five (5) loads sampled weighed a total of 50 Tons and were Collected from 1,000 cubic yards on service, the average "material on service density" for this stream would be 100 lbs. per cubic yard. Cubic yards on service shall be calculated using actual route data (i.e. if one route sampled collected 100 3-yard bins, the yards on service for that route would be 300 cubic yards).

Exhibit N-4 includes an example of the waste characterization data collection sheet that shall be used during these waste characterization studies.

**Reporting:** Contractor shall submit a written report to the City annually beginning October 2019. The report will summarize the results of the characterization study, including a summary of all five (5) days of characterization results; the measured weights for each commodity or category; the percent of each commodity/category found in each sample and in aggregate; a description and photographs of the types of Residue materials found during the characterization study; the average on-service density for the materials sampled (i.e. load weights divided by yards serviced); and any other data requested by the City.

#### **1d. Characterization Methodology for C&D Processing Facilities**

Twice annually beginning July 2019 and December 2019, Contractor shall report facility-wide Diversion rates for all C&D Processing Facilities used by the Contractor. The Contractor shall provide facility-wide Diversion rate data and a written explanation, including calculations, of how the Diversion rate was calculated. The City may request source documentation supporting the facility-wide Diversion rate. Upon request by the City, the Contractor shall conduct a weight-based characterization study for materials Collected by Contractor in City and delivered to the Contractor's C&D Processing Facility over the course of a five (5) day period. The Contractor shall manually sort the contents of each of the C&D loads originating in the City by commodity types (including, at a minimum, Wood, concrete, asphalt, drywall/gypsum, bricks, metals, dirt, Yard Trimmings, and grubbing material) and weigh the separated commodities to calculate the Diversion rate.

**Reporting:** Contractor shall submit a written report to the City semi-annually beginning October 2019. The report shall summarize the results of the characterization study, including a roll-up of all five (5) days of characterization results; the measured weights for each commodity or category; the percent of each commodity/category found in each sample and in aggregate; a description and photographs of the types of Residue materials found during the characterization study; the average on-service density for the materials sampled (i.e. load weights divided by yards serviced); and any other data requested by the City. Upon approval by the City, the results of the characterization study shall be applied to the Tons delivered to the C&D Processing Facility and Tons of

**Attachment N**

**Processing Facility Characterizations and Onsite Field Container Contamination  
Audit Protocols**

Residue delivered to the Landfill in subsequent monthly reports and shall be in effect until the results of the next characterization study are approved by the City.

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

## **2. On-site Field Container Contamination Audits**

### **2a. Residential Curbside Field Contamination Audits**

The following methodology shall be used to conduct on-site field Contamination audits of the following Residential curbside programs:

- Single-Stream Recycling
- Yard Trimmings/Wood
- Source-Separated Food Scraps (if directed by City)
- Co-collected Yard Trimmings and Food Scraps (if directed by City)
- MSW

**Timing:** On-site field Contamination audits shall be conducted two (2) times each calendar year for each of above-listed programs. The timing for when the field Contamination audits are conducted shall be staggered so that after two (2) years, one (1) field Contamination audit shall have taken place during each calendar quarter with the first audit occurring June 2019. For example, for contract year 1 (1/1/2019 – 12/31/2019), the Contractor shall conduct one field Contamination audit of each stream in June 2019 (Calendar Quarter 2) and November 2019 (Calendar Quarter 4). In Contract Year 2 (1/1/2020 – 12/31/2020), the Contractor shall conduct one field Contamination audit of each stream in February 2020 (Calendar Quarter 1) and July 2020 (Calendar Quarter 3).

**Methodology:** Before the on-site field Contamination audits are conducted, the Contractor shall coordinate with the City to target specific Residential neighborhoods throughout the City. Each semi-annual on-site field Contamination audit shall target a minimum of two percent (2%) of the residences served by the Contractor in the City (approximately 250 accounts per audit) and shall take place over five (5) consecutive service days with each daily audit targeting a separate Residential route (e.g. approximately 50 accounts shall be audited per service day). The audits shall be conducted on all Containers placed at curbside by the resident for Collection (e.g. MSW, Recyclable Materials, and Yard Trimmings) before the Containers are Collected, in order to observe full Containers. Contractor shall open all bags encountered during the field audits. During the audits, the Contractor shall note all the following attributes on a City-approved data collection form (see Exhibit N-3 for an example of this form):

- Fullness of each of the Carts set out for Collection (percent full – by volume)
- Percentage, by volume, of observed Contamination in each of the Carts set out for Collection (i.e. MSW or Food Scraps in Containers for Recyclable Materials; Recyclable Materials, Food Scraps, and/or Yard Trimmings in MSW Container; Recyclable Materials or MSW in Yard Trimmings Container; Recyclable Materials and MSW in a Co-collected Yard Trimmings and Food Scraps Container)
- Participation of residents in co-collection program, if applicable (i.e. the presence of Food Scraps in Yard Trimmings/Food Scrap cart)

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

- Curbside placement rates (i.e. the absence of a Recyclable Materials or Yard Trimmings Container when an MSW Container is present at the curb)
- The presence of bagged materials in Recyclable Materials, Food Scrap and Yard Trimmings Containers
- Total weight of each Cart for at least 20% of those sampled (weigh using portable scale)

If there is observed Contamination in excess of ten percent (10%) in any Cart, the Contractor shall place a hang-tag on the Cart notifying the Customer of the Contamination incident and how to correct it. The City shall approve of the hang-tag before it is placed into use. The Contamination items and quantities shall be noted and photographed. The photo number and Contamination item(s) shall be noted in the field data collection sheet.

**Reporting:** Contractor shall submit a written report to the City semi-annually beginning in October 2019. The report will summarize the results of the monitoring program, the number of households monitored, the number of non-participants, Contamination incidents for each six-month period, the average fullness levels of each Residential component, the average weights of each component, the average observed Contamination levels for each component, specific Contaminants found in each component, photos supporting the findings, and an action plan to reduce Contamination if observed levels exceed ten percent (10%).

## **2b. Commercial/Multi-family In-Field Container Contamination Audits**

The following methodology shall be used to conduct on-site field Contamination audits of the following Commercial and Multi-Family programs:

- Single-Stream and Single-Material Recyclables
- Source separated Food Scraps
- Yard Trimmings
- Co-collected Yard Trimmings and Food Scraps (if directed by City)
- MSW

**Purpose:** To quantify the volume of Divertable materials (i.e. Recyclable Materials, Yard Trimmings and Food Scraps) in Commercial MSW Containers in order to measure the efficacy of Source-Separated Recycling and Food Scrap Collection programs; and the data gathered from the on-site field Container Contamination audits will help the City to determine the following:

- 1) If there are Divertable materials still being deposited in the MSW Bins/Carts after a Single Stream and/or Single Material Recycling program and a Food Scrap Collection program have been implemented.
- 2) The levels of Contamination in Single-Stream Recycling and Food Scrap Collection Bins as well as in MSW Bins/Carts.

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

- 3) The types, weights, volumes, and densities of materials being placed into the MSW Bin/Cart after a Single Stream and/or Single Material Recycling program and a Food Scrap Collection program have been implemented.
- 4) Identify specific Customers where additional outreach, education and training is needed.

**Timing:** On-site field Contamination audits shall be conducted on an on-going basis and incorporated into the Recycling Coordinators' daily site work so that annually all Commercial and Multi-Family Customers in the City will receive at least two (2) field Contamination audits of all of the above-listed components. Audits shall commence in January 2019 and continue throughout the Term.

**Methodology:** Using a field data sheet collaboratively developed and approved of by the City, Contractor shall note the following attributes for all Bins and/or Carts present at each Customer:

- Capacity utilization (i.e. Bin/Cart percent full by volume)
- Percentage, by volume, of Recyclable Materials and Food Scraps found in each Bin/Cart
- Percentage, by volume, of MSW found in the Single Stream Recyclables and/or Food Scrap and/or Yard Trimmings Bin/Cart(s)
- Percentage, by volume, of Divertable Food Scraps and of Recyclable Materials found in the MSW Bin/Cart (percentage of each material)
- Percent fullness of each Bin/Cart associated with the account
- Serial numbers or bar code numbers on the Bins/Carts
- Weight of a minimum of ten percent (10%) of the Food Scrap Carts audited
- Date of site visit
- Photo number(s)
- Discrepancies between field inventories and account service database (i.e. what equipment the Customer has compared to what that Customer is being billed for)
- Any other notable observations.

The on-site field Contamination audits shall be conducted as close as possible to the regular Collection day and time for the Bins/Carts in order to obtain an accurate assessment of the Bin/Cart contents at the time of routine Collection. All field observations shall be photo-documented and photo numbers tracked on the field data collection sheet.

**Reporting:** Contamination field audit data shall be tracked in a shared document, updated daily and accessible at any time by both the City and the Contractor, via a cloud-based server such as Dropbox or Box.net. This field Contamination audit data shall be incorporated into the account interaction tracking document (Red Green Tracking Spreadsheet) described in Attachment K. Twice annually, in March and in September, (beginning March 2019 and September 2019) the Contractor shall submit a

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

summary report with all year-to-date data aggregated and analyzed. Key metrics in the report shall include:

- Average Bin/Cart capacity utilization by stream and component
- Average Contamination percentage levels, by volume, by stream, by component and by Contamination types
- Material densities by stream and by component, accounting for capacity utilization
- Any disparities between field observations and service discrepancies
- Photos and descriptions of common Contaminants encountered
- If Contamination exceeds ten percent (10%) by component, an action plan to reduce Contamination
- Actions taken to reduce Contamination during the reporting period
- Other notable data

### **3. Third-Party Assessment of Performance Metrics For Earning First and/or Second Contract Extension**

In order to determine whether Contractor has earned the First and/or the Second Extension Opportunity described in Article 6 of the Agreement, the City will utilize the assessments described below.

#### **3.a. Assessment of Phase 1 Performance Metrics**

- 1. AB 341 Commercial and Multi-family Single Stream & Single Material Collection Program Implementation.**
  - a. The City or its representative will conduct site surveys of all AB 341 accounts as determined by City in its sole discretion. The site surveys will determine whether the programs are in place, whether the Customer is fully participating in the program, whether or not the program exceeds the maximum Contamination levels described in Attachment B, Section 3.3.6, and whether the Customer is in compliance with the requirements of AB 341. In order for a Customer's program to be found to be "fully implemented", Contractor must have completed all steps for program implementation listed in Section 3.3.6 of Attachment B to the satisfaction of City. In order to earn the first one-year extension, Contractor must have "fully implemented" an AB 341 program at all Customers required to have a program as set forth in PRC Section 42649 *et seq.* Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall not count against Contractor with regard to earning the First Extension Opportunity as described in Section 6.08A of the Agreement.
- 2. AB 1826 Food Scrap Program implementation**

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

- a. The City or its representative will conduct site surveys of all AB 1826 accounts, as determined by City in its sole discretion. The site surveys will determine whether the programs are in place, whether the Customer is fully participating in the program, whether or not the program exceeds the maximum Contamination levels described in Attachment B, Section 3.3.6, and whether the Customer is in compliance with the requirements of AB 1826. In order for a Customer's program to be found to be "fully implemented", Contractor must have completed all steps for program implementation listed in Section 3.3.6 of Attachment B to the satisfaction of City. In order to earn the first one-year extension, Contractor must have "fully implemented" an AB 1826 program at all Customers required to have a program as set forth in PRC Section 42649.8 *et seq.* Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall not count against Contractor with regard to earning the first one-year extension as described in Section 6.09 of the Agreement.

**Note:** In order to earn the first one-year extension, Contractor must have completed all the implementation steps contained in Section 3.3.6 of Attachment B. The City will be monitoring results of the characterizations and the audits to determine the levels of Contamination in Single Stream Recyclable Materials, Single Material Recyclables and Food Scraps. If Contractor fails to achieve the Contamination limits contained in Attachment B, Section 3.3.6, (xi) Contractor must be working with the business owners, managers and employees to re-train, troubleshoot and otherwise provide technical assistance to reduce the Contamination. Those efforts are required in order to earn the First Extension. However, failure to actually achieve the Contamination limits at 100% of all AB 341 and AB 1826 Customers is not required in order to earn the First Extension, and will not count against Contractor for purposes of earning the First Extension. Achievement of the Contamination limits is required in order for Contractor to earn the Second Extension (see Section 3.b.2 below).

### 3.b. Assessment of Phase 2 Performance Metrics

- 1. SB 1383 Multi-Family Food Scrap Collection Program implementation**
  - a. PRC Section 42652 *et seq.* requires Collection of Food Scraps, Yard Trimmings and Wood from all Multi-Family complexes on or before January 1, 2022. For purposes of the Second Extension Opportunity, Contractor will be evaluated on the Food Scrap Collection program at Multi-Family complexes and not the Yard Trimmings/Wood Collection program. [Note: Contractor's achievement of the Second Extension Opportunity metrics does not include Yard Trimmings and Wood as the handling and disposition of these materials will likely be done partially or completely by third party landscapers and gardeners, over whom Contractor has no control. In the event City directs implementation of a

**Attachment N**

**Processing Facility Characterizations and Onsite Field Container Contamination  
Audit Protocols**

Multi-Family co-collected Food Scrap and Yard Trimmings/Wood program, Contractor shall only be evaluated on Contractor's implementation of the Multi-Family Food Scrap Collection portion of the program and not implementation of the Yard Trimmings/Wood program. However, the Contamination caps described in Section 3.3.6 of Attachment B will still apply in order for a Food Scrap Collection program or a Food Scrap and Yard Trimmings/Wood co-collection program to be considered "fully implemented" at a Multi-Family complex. The Container Contamination caps are: ten percent (10%) Contamination in Single Stream Recyclable Materials Containers, ten percent (10%) in Food Scraps Containers or co-collected Food Scraps and Yard Trimmings/Wood Containers and twenty-percent (20%) in MSW Containers.] The City or its representative will conduct site surveys of all Multi-Family Customers as determined by City in its sole discretion. The site surveys will determine whether the Food Scrap Collection program (or co-collected Food Scrap and Yard Trimmings/Wood program) is in place, whether the Customer is fully participating in the program, and whether or not the program exceeds the maximum Contamination levels described in Attachment B, Section 3.3.6. In order for a Customer's program to be found to be "fully implemented", Contractor must have completed all steps for Food Scrap program implementation listed in Section 3.3.6 of Attachment B to the satisfaction of City. In order to earn the Second one-year extension, Contractor must have "fully implemented" a Multi-Family Food Scrap Collection program (or a co-collected Food Scraps and Yard Trimmings/Wood program) at all Multi-Family complexes in City. Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall not count against Contractor with regard to earning the Second Extension Opportunity as described in Section 6.08B of the Agreement.

**2. Achievement of Contamination Caps for Residential, Commercial and  
Business Establishments, Multi-Family, Gated Developments, HOA's and  
Mobile Home Parks**

- a. After the conclusion of the implementation period for earning the Second Extension Opportunity (December 31, 2024), using the protocols included in Subparts 1a, 1b and 1c of this Attachment N, the Contractor will conduct special weight-based characterization studies (in addition to the regular recurring characterizations) of the following materials streams and components to determine the level of Contamination and whether Contractor has met the Contamination caps required to earn the Second Extension Opportunity. The special characterization studies shall be conducted by Contractor during January 2025. The Contamination caps (maximum allowed Contamination) from Attachment B, Section 3.3.6 required to earn the Second Extension Opportunity are included below for each stream:

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

- i. Residential Stream (Including individual Cart service at Gated Developments, HOA's and Mobile Home Parks)
  1. For Curbside Single Stream Recyclable Materials component Second Extension Opportunity Contamination Maximum: 10%
  2. For Curbside MSW component Second Extension Opportunity Contamination Maximum: 20% (10% Recyclable Materials and 10% Food Scraps)
  3. For Curbside Food Scraps component (if directed by the City) Second Extension Opportunity Contamination Maximum: 10%
  4. OR For Curbside Co-collected Yard Trimmings and Food Scraps component Second Extension Opportunity Contamination Maximum: 10%
- ii. Multi-Family Stream (including Gated Developments, HOA's, and Mobile Home Parks with centralized Bin/Cart/Compactor service)
  1. Single-stream and Single-Material Recyclable Materials component Second Extension Opportunity Contamination Maximum: 10%
  2. MSW component Phase 2 Contamination Maximum: 20% (10% Recyclable Materials and 10% Food Scraps)
  3. Food Scraps component Second Extension Opportunity Contamination Maximum: 10%
  4. OR Co-collected Yard Trimmings and Food Scraps component (if directed by the City) Second Extension Opportunity Contamination Maximum: 10%
- iii. Commercial and Business Establishments Stream
  1. Single-Stream and Single-Material Recyclable Materials component Second Extension Opportunity Contamination Maximum: 10%
  2. MSW component Second Extension Opportunity Contamination Maximum: 20% (10% Recyclable Materials and 10% Food Scraps)
  3. Food Scraps component Second Extension Opportunity Contamination Maximum: 10%
  4. OR Co-collected Yard Trimmings and Food Scraps component (if directed by the City) Second Extension Opportunity Contamination Maximum: 10%

b. The City or its representative will be present for these characterization studies to verify that the Contractor has met the Contamination cap requirements for the Second Extension Opportunity. Contractor will submit the results of the January 2025 special characterizations to the City by February 14, 2025. City will notify Contractor of its decision about which Contamination caps have been achieved and which, if any, have not been met, on or before February 21, 2025.

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

c. If Contractor has failed to meet the any of the Contamination caps required to earn the Second Extension Opportunity the following process shall be followed. There are a total of nine (9) Contamination caps as listed above. For any component where the characterization study showed that the Contamination cap was exceeded, the Contractor may, at Contractor's sole expense, conduct one (1) additional characterization study for each of the failed components. All subsequent characterization studies for those component(s) exceeding the Contamination cap(s) must be completed on or before March 15, 2025 and the results submitted to City on or before March 25, 2025. Example: The Contractor completed its characterization of the Multi-Family stream, Food Scrap component, on January 15, 2025 and found a thirteen percent (13%) Contamination rate. The Contractor could conduct another characterization study of the Multi-Family stream, Food Scrap component on or before March 15, 2025 and submit the results on or before March 25, 2025.

**3. Continued Full Implementation of AB 341 and AB 1826 Programs**

a. In order to earn the Second Extension Opportunity, Contractor must have continued full implementation of all AB 341 and AB 1826 programs at one-hundred percent (100%) of Customers required to participate in said programs, as described in Article 6 and in this Attachment N above under the First Extension Opportunity.

i. Continued Full Implementation of AB 341 Recycling Programs.  
The City or its representative will conduct site surveys of all Customers required to participate in an AB 341 Single Stream and/or Single Material Recycling program as determined by City in its sole discretion. The site surveys will determine whether the programs are in place, whether the Customer is fully participating in the program, whether or not the program meets the maximum Contamination levels (caps) described in Attachment B, Section 3.3.6, and whether the Customer is in compliance with the requirements of AB 341. In order for a Customer's program to be found to be "fully implemented", Contractor must have completed all steps for program implementation listed in Section 3.3.6 of Attachment B to the satisfaction of City. In order to earn the Second Extension Opportunity, Contractor must have continued "full implementation" of an AB 341 program at all Customers required to have a program as set forth in PRC Section 42649 *et seq.* Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall not count against Contractor with regard to earning the Second Extension Opportunity as described in Section 6.08 of the Agreement.

ii. Continued Full Implementation of AB 1826 Food Scrap Programs.  
The City or its representative will conduct site surveys of all Customers required to participate in an AB 1826 Food Scrap program, as determined by City in its sole discretion. The site

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

surveys will determine whether the programs are in place, whether the Customer is fully participating in the program, whether or not the program meets the maximum Contamination levels (caps) described in Attachment B, Section 3.3.6, and whether the Customer is in compliance with the requirements of AB 1826. In order for a Customer's program to be found to be "fully implemented", Contractor must have completed all steps for program implementation listed in Section 3.3.6 of Attachment B to the satisfaction of City. In order to earn the Second Extension Opportunity, Contractor must have continued "full implementation" of an AB 1826 program at all Customers required to have a program as set forth in PRC Section 42649.8 *et seq.* Customers on the list of "Non-Compliant Customers Referred to City for Compliance Action Under Mandatory Ordinance" shall not count against Contractor with regard to earning the Second Extension Opportunity as described in Section 6.08 of the Agreement.

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**

**Exhibit N-1: Sample Schedule of Characterization Studies to be Conducted  
 During the Course of the Contract**

Contract Year→	YR 1	YR 2	YR 3	YR 4	YR 5	YR 6	YR 7	YR 8	YR 9	YR 10	YR 11	YR 12	
Calendar Years* →	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	
Stream, Component ↓													
RESIDENTIAL	SS/SM RECYC	6/19, 11/19	2/20, 7/20	6/21, 11/21	2/22, 7/22	6/23, 11/23	2/24, 7/24	6/25, 11/25	2/26, 7/26	6/27, 11/27	2/28, 7/28	6/29, 11/29	2/30, 7/30
	YT	7/19, 12/19	3/20, 10/20	7/21, 12/21	3/22, 10/22	7/23, 12/23	3/24, 10/24	7/25, 12/25	3/26, 10/26	7/27, 12/27	3/28, 10/28	7/29, 12/29	3/30, 10/30
	YT/FS♦	7/19, 12/19	3/20, 10/20	7/21, 12/21	3/22, 10/22	7/23, 12/23	3/24, 10/24	7/25, 12/25	3/26, 10/26	7/27, 12/27	3/28, 10/28	7/29, 12/29	3/30, 10/30
	MSW	6/19	9/20	12/21	2/22	6/23	9/24	12/25	2/26	6/27	9/28	6/29	9/30
COMMERCIAL	SS/SM RECYC	6/19, 11/19	2/20, 7/20	6/21, 11/21	2/22, 7/22	6/23, 11/23	2/24, 7/24	6/25, 11/25	2/26, 7/26	6/27, 11/27	2/28, 7/28	6/29, 11/29	2/30, 7/30
	FS	7/19, 12/19	3/20, 10/20	7/21, 12/21	3/22, 10/22	7/23, 12/23	3/24, 10/24	7/25, 12/25	3/26, 10/26	7/27, 12/27	3/28, 10/28	7/29, 12/29	3/30, 10/30
	YT	7/19, 12/19	3/20, 10/20	7/21, 12/21	3/22, 10/22	7/23, 12/23	3/24, 10/24	7/25, 12/25	3/26, 10/26	7/27, 12/27	3/28, 10/28	7/29, 12/29	3/30, 10/30
	FS/YT♦	7/19, 12/19	3/20, 10/20	7/21, 12/21	3/22, 10/22	7/23, 12/23	3/24, 10/24	7/25, 12/25	3/26, 10/26	7/27, 12/27	3/28, 10/28	7/29, 12/29	3/30, 10/30
	MSW	6/19	9/20	12/21	2/22	6/23	9/24	12/25	2/26	6/27	9/28	6/29	9/30

**Key**

SS = Source-Separated Recyclable Materials

SM = Single-Materials Recyclable Materials

YT = Yard Trimmings

YT/FS = Co-collected Yard Trimmings and Food Scraps

MSW = Municipal Solid Waste

\*For the purposes of this table, calendar years begin January 1 and end December 31

♦ Symbol indicates that these programs will be characterized if directed by the City

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**  
**Exhibit N-2: Characterization Form for Single-Stream/Single-Material Being**  
**Delivered to Clean MRF**

City				
Day				
Date				
Time				
Route				
Origin				
Truck Number				
Total Sample Weight				
Total Load Weight				
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	Total Weight	Container Weight	Net Weight (A-B=C)	Percentage
Aluminum				-
Tin				-
PET (#1)				-
HDPE (#2)				-
Mixed Plastic (3-7)				-
Glass				-
Newspaper				-
Mixed Paper				-
Cardboard				-
Metal				-
Textiles				-
Film Plastic				-
<b>Total Recyclables</b>	<b>-</b>			<b>-</b>
Residue				-
<b>Total</b>	<b>-</b>			<b>-</b>
<b>Load Diversion Percentage</b>				
Notes:				

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**  
**Exhibit N-3: Characterization Form for Food Scraps and Yard Trimmings/Wood**  
**Being Delivered to Processing Facility**

City				
Day				
Date				
Time				
Route				
Origin				
Truck Number				
Total Sample Weight				
Total Load Weight				
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	Total Weight	Container Weight	Net Weight (A-B=C)	Percentage
Category 1: Food Scraps				
Category 1: Yard Trimmings				
Category 1: Food Soiled Paper				
Total Category 1 Organics				
Category 2: MSW Items				-
Category 2: Recyclable Items				-
Total Category 2 Contamination				
<b>Total (Cat 1 + Cat 2)</b>				
<b>Load Diversion Percentage</b>				
<b>Notes / Notas:</b>				

**Attachment N**  
**Processing Facility Characterizations and Onsite Field Container Contamination**  
**Audit Protocols**  
**Exhibit N-4: Characterization Form for MSW**

City				
Day				
Date				
Time				
Route				
Origin				
Truck Number				
Total Sample Weight				
Total Load Weight				
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	Total Weight	Container Weight	Net Weight (A-B=C)	Percentage
Category 1: Food Scraps				
Category 1: Yard Trimmings				
Category 1: Food Soiled Paper				
Total Category 1 Organics				
Category 2: Recyclable Fibers				
Category 2: Recyclable Plastics				
Category 2: Recyclable Metals				
Category 2: Recyclable Glass				
Total Category 2 Recyclables				
Total Category 3 MSW				
<b>Total (Cat 1 + Cat 2 + Cat 3)</b>	-	-	-	-
<b>Load Recoverability Percentage</b>				-
<b>Notes:</b>				

ATTACHMENT O

---

Clean Materials Recovery Facility(ies)

CR&R Intermediate Processing Center (Western Ave Clean MRF)  
11291 Western Avenue  
Stanton, California 90680

ATTACHMENT P

---

Bioengineered Feedstock Facility

Waste Management CORe Facility  
Orange Transfer Station  
2050 N. Glassell Street  
Orange, California 92845

ATTACHMENT Q

---

Compost Facility(ies)

Facility #1:

Rancho Viejo Compost Facility  
31641 Ortega Highway  
San Juan Capistrano, California

Facility #2:

Lakeview  
18420 Bridge Street  
Lakeview, California

ATTACHMENT R

---

Anaerobic Digestion Facility

Perris Anaerobic Digestion Facility  
1706 Goetz Road  
Perris, California 92570

ATTACHMENT S

---

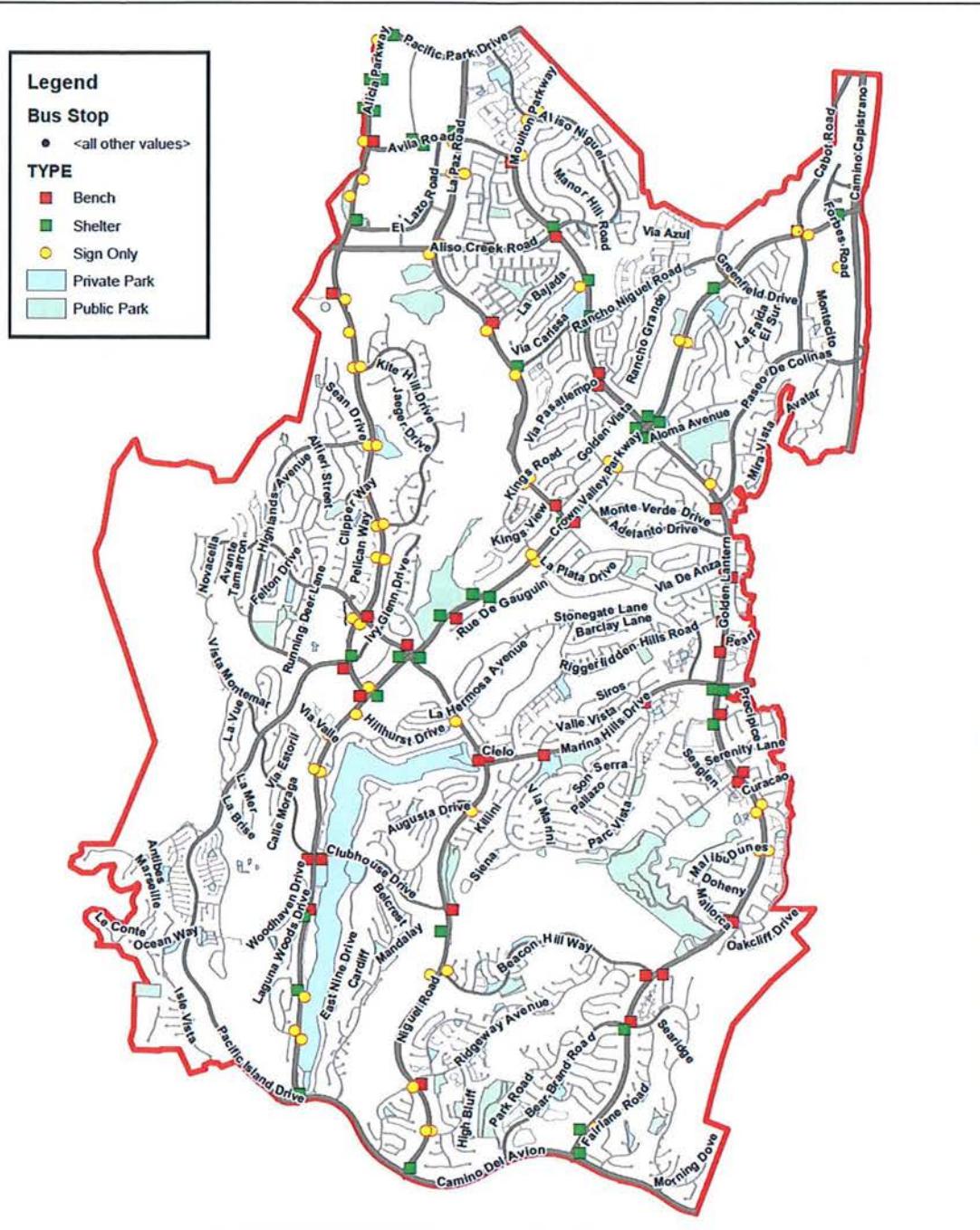
Construction and Demolition Debris Processing Facility(ies)

The Construction and Demolition Debris Collected by Contractor in City shall be processed at the following facility:

South County C&D Material Recovery Facility  
31643 Ortega Highway  
San Juan Capistrano, California 92675

ATTACHMENT T

## Map of Bus Stops



## City of Laguna Niguel Bus Stops



## ATTACHMENT U

---

### List of City Parks

Contractor shall provide Collection services at all City Parks which are numbered items #1 through #33 on page 2 of this Attachment U. Contractor shall provide services as described in Section 3.11.3 of Attachment B.

Note: The following City Facilities are listed in Attachment C, and may have City parks associated with them. For any parks associated with the following facilities, Contractor shall also provide the Collection services for parks described in Section 3.11.3 of Attachment B:

Location # 5 on Page 2 of this Attachment U:  
City Hall – 30111 Crown Valley Parkway

Location #30 on Page 2 of this Attachment U:  
Sea Country Center (Senior Center) – 24602 Aliso Creek Road

Location #7 on Page 2 of this Attachment U: Crown Valley Park  
Community Center will also be at this location (29751 Crown Valley Parkway)

## Facilities Map



#	Code	City Facilities	Baseball	Basketball	Soccer	Softball	Turf	Volleyball	Pickleball	BBQ	Bike trail	Picnic tables	Playground	Restrooms	Room Rentals
1	BHP	Beacon Hill Park 24472 Beacon Hill Way			Turf Area							2	1		
2	BBP	Bear Brand Park 22305 Bear Brand Park Rd.	2 Lighted		1 Lighted			Baseball Soccer		5		7	1	X	
3	CP	Chaparral Park 25191 Chaparral Park Rd.	2 Lighted	3 Full	1 Lighted	2 Jr./Sr. Adult Lighted	Soccer	2 Sand		4	1 DG & Asphalt	4	1	X	
4	CCP	Clipper Cove Park 29325 Clipper Way											Shelter 3	2	
5	CH	City Hall 30111 Crown Valley Pkwy.												X	Community Room (non-profits only)
6	CRP	Crown Royale Park 29457 La Paz Rd													
7	CVP	Crown Valley Park Pool/Spryground 29457 La Paz/Royal Pkwy.			2 (1 Lighted)	1 Lighted	Lower Soccer			3	1	30 2 Group	1 and Spray- ground	X	Multi-purpose Room, Pool/Spa
8	EL	B Loco Basketball Courts 23304 La Loco		4 Lighted											Port
9	HHP	Hidden Hills Park 27002 Springfield		1/2 Court	Turf Area					2		Shelter 6	1		
10	JP	Jamison Park 25078 Jamison Hills Rd.	3 Turf Back		1										X
11	LHP	La Hacienda Park 24462 La Hacienda Ave.										1	1		
12	LPSP	La Plaza Sports Park 28051 La Paz	2 Lighted		1 Lighted		Baseball Soccer							X	
13	LPP	La Plaza Park 25006 La Plaza Dr.			Turf Area							1	1		
14	UNSP	UN/Skate & Soccer Park 27745 Aliso Pkwy.		1 Full, Half Lighted	1 Lighted		Soccer							X	Birthday Party Packages
15	LSP	Lily Shuppell Park 28727 Drake Bay										1			
16	LP	Long View Park Old Ranch Road													
17	MHP	Marina Hills Park 24802 Marina Hills Dr.	1	1 Full 1 Half	2							2	1	X	
18	NHP	Niguel Heights Park 27804 Niguel Heights Blvd.										3	2		
19	NRP	Niguel Road Park 20083 Killin										1			
20	NWP	Niguel Woods Park 29083 White Otter Ln.			Turf Area								1		
21	OEP	Ocean Breeze Park 32311 Charles Rd.			1 Full								Shelter 4	2	
22	PVOP	Parc Vista Overlook Park 30618 Parc Vista Rd.													
23	PVP	Parc Vista Pkwy 30618 Parc Vista Rd.										1	1		
24	PWVP	Parc Vista View Park 31114 Parc Vista Rd.													
25	PP	Pooch Park 31575 Golden Lantern											Shelter 4	X	
26	RNP	Rancho Niguel Park 28333 Crown Valley Pkwy.	1 Lighted		1 Lighted	1 Turf & back-stop				1 DG	Shelter	1	X		
27	RV	Redondo View Node 25575 Redondo										2			
28	RVN	Ridge View Node 25326 Ridge											1		
29	RVP	Ridge View Park 29061 Ridgeview			Turf Area							3			
30	SCC	Sea Country Center 24602 Aliso Creek Rd.												X	Bathrooms, Courtyard, Classrooms
31	SP	Seminole Park 30802 Seminole Pl.			Turf Area		1						1		
32	VPP	Vista Plaza Park 29541 Vista Plaza													
33	YP	Yosemite Park 24481 Yosemite Rd.			Turf Area		1						1		
#	Code	County Parks													
34	AWC	Aliso Woods Canyon 28373 Aliso Parkway, LNU													
35	BP	El Nido Viejo													
36	LNRP	Laguna Niguel Regional Park 28241 La Paz Rd.							4 Lighted						
37	SVP	Sorrel Park 22739 Talavera Dr.													
	Code	Other Facilities													
A	ANHS	Aliso Niguel High School 28000 Wolverine Way, Aliso Viejo													
B	ATG	Arroyo Trabuco Golf Course 26772 Avery Pkwy, Mission Viejo													
C	CVES	Crown Valley Elementary 29292 Crown Valley Pkwy.	2 Lighted							8					
D	IP	Ice Palace 9 Journey, Aliso Viejo													
E	UNES	Laguna Niguel Elementary School 27922 Niguel Heights Blvd													
F	MVHS	Mission Viejo High School 25025 Chilcana Dr., Mission Viejo													
G	NHMS	Niguel Hills Middle School 29070 Paseo De La Escuela													
H	OT	On Target 27692 Camino Capistrano	2 Lighted							8					
I	PAS	Premier Aquatic Services 36 Argonaut #130 Aliso Viejo													
J	RDS	Reagan's Dance Studio 27324 Camino Capistrano #207													
K	SLC	Sylvan Learning Center 27881 La Paz Rd. Suite E													
L	DHTC	Dana Hills Tennis Center 24931 Calle De Tennis, Dana Point													

PARKS & RECREATION OFFICE: (949) 425-5100 | RECREATION HOTLINE: (949) 362-4351

## ATTACHMENT Z

---

### Guaranty

THIS GUARANTY (the "Guaranty") is given as of the \_\_\_\_ day of \_\_\_\_\_, 2018, by XXX (hereafter "Guarantor"), to the CITY OF LAGUNA NIGUEL, a public agency (hereafter "the City").

THIS GUARANTY is made with reference to the following facts and circumstances:

A. CR&R is a Corporation organized under the laws of the State of California ("Contractor"). Guarantor is a \_\_\_\_\_.

B. The City contemplates entering into a "Contract for the Collection, Transportation, Processing and Diversion of Recyclable Materials, Food Scraps, Yard Trimmings, Wood, Construction and Demolition Debris and Other Materials and for the Collection, Transportation and Disposal of Municipal Solid Waste" ("Agreement") under which Contractor is to provide specified services to the City, its residents and businesses. A copy of this Agreement is attached hereto and incorporated herein by this reference.

C. It is a requirement of the Agreement, and a condition to the City's entering into the Agreement, that Guarantor guaranty Contractor's performance of the Agreement.

D. Guarantor is providing this Guaranty to induce the City to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. **Guaranty of the Agreement.** Guarantor hereby irrevocably and unconditionally guarantees to the City the complete and timely performance, satisfaction and observation by Contractor of each and every term and condition of the Agreement, which Contractor is required to perform, satisfy or observe. In the event that Contractor fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, satisfy or observe them in the place of the Contractor. Guarantor hereby guarantees payment to the City of any damages, costs or expenses, which might become recoverable by the City from Contractor due to its breach of the Agreement.

2. **Guarantor's Obligations Are Absolute.** The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Contractor under the Agreement, shall constitute a guarantee of payment and not of collection, and are not conditional upon the genuineness, validity, regularity or enforceability of the Agreement.

ATTACHMENT Z

---

Guaranty

3. **Waivers.** The Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (1) the insolvency, bankruptcy, reorganization or cessation of existence of the Contractor; (2) any amendment, modification or waiver of any provision of the Agreement; (3) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (4) any waiver, extension, release or modification with respect to any of the obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the City's rights or remedies against Contractor; or (5) any merger or consolidation of the Contractor with any other corporation, or any sale, lease or transfer of any or all the assets of the Contractor. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code Sections 2845, 2849 and 2850, including, without limitation, the right to require the City to (a) proceed against Contractor, (b) proceed against or exhaust any security or collateral the City may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the City may proceed against Guarantor for the obligations guaranteed herein without taking any action against Contractor or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the City may hold now or hereafter hold. Guarantor agrees that the City may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Contractor or any other guarantor or pledgor without impairing the City's rights and remedies in enforcing this Guarantee.

The Guarantor hereby waives and agrees to waive at any future time at the request of the City, to the extent now or then permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its obligations under, or to terminate, cancel, quit or surrender this Guaranty. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time, without notice to the Guarantor, the time for Contractor's performance of or compliance with any of its obligations under the Agreement is extended, or such performance or compliance is waived; (b) the Agreement is modified or amended in any respect; (c) any other indemnification with respect to Contractor's obligations under the Agreement or any security therefore is released or exchanged in whole or in part or otherwise dealt with; or (d) any assignment of the Agreement is effected which does not require the City's approval.

The Guarantor hereby expressly waives diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's

## ATTACHMENT Z

---

### Guaranty

obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the City as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Contractor prior to such avoidance or recovery, and (b) payment in full of any obligations then outstanding.

**4. Term.** This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed by Contractor, and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by the City of any performance bond or other collateral to assure the performance of Contractor's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by the City against Contractor arising out of the Agreement based on Contractor's failure to perform which has not been settled or discharged.

**5. No Waivers by City.** No delay on the part of the City in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligation of Guarantor or right of the City to take other or further action without notice or demand. No modification or waiver by City of any of the provisions of this Guaranty shall be effective unless it is in writing and signed by the City and by Guarantor, nor shall any waiver by City be effective except in the specific instance or matter for which it is given.

**6. Attorney's Fees.** In addition to the amounts guaranteed under this Guaranty, Guarantor agrees to pay actual attorney's fees and all other costs and expenses incurred by the City in enforcing this Guaranty, or in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties hereunder.

**7. Governing Law; Jurisdiction.** This Guaranty is and shall be deemed to be a contract entered into in and pursuant to the laws of the State of California and shall be governed and construed in accordance with the laws of California without regard to its conflicts of laws rules for all purposes, including, but not limited to, matters of construction, validity and performance. Guarantor agrees that any action brought by the City to enforce this Guaranty may be brought in any court of the State of California and Guarantor consents to personal jurisdiction over it by such courts. Guarantor appoints the following person as its agent for service of process in California:

XXXXXXX (Name)

XXXXXXX (Address, City, State, Zip)

## ATTACHMENT Z

## Guaranty

8. **Severability.** If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity shall have no effect upon the remaining portions of this Guaranty, which shall be severable and continue in full force and effect.

9. **Binding on Successors.** This Guaranty shall inure to the benefit of the City and its successors and shall be binding upon Guarantor and its successors, including transferee(s) of substantially all of its assets.

**10. Authority.** Guarantor represents and warrants that it has the corporate power and authority to give this Guaranty, that its execution of this Guaranty has been authorized by all necessary action under its Articles of Incorporation and By-Laws, and that the person(s) signing this Guaranty on its behalf has the authority to do so.

**11. Subordination.** Any claims Guarantor may have against Contractor are hereby subordinated to any and all claims of the City against Contractor until such time as the obligations of Contractor to the City are fully satisfied and discharged.

12. **Notices.** Notice shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To the City: City of Laguna Niguel  
Attention: City Manager  
30111 Crown Valley Parkway  
Laguna Niguel, California 92677

With a copy to the City Attorney at the same address.

To Guarantor: \_\_\_\_\_, (name and title)  
CR&R Incorporated

11292 Western Avenue  
Stanton, California 90680

The parties may change the address to which notice is to be sent by giving the other party notice of the change as provided in this Section.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the day and year first above written.

By:

Name: \_\_\_\_\_

ATTACHMENT Z

---

Guaranty

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT AA

---

### Minimum Required Duties of Two (2) Recycling Coordinators

**The Recycling Coordinator positions will provide waste reduction and recycling technical assistance to businesses and multi-family properties, support waste characterization projects, and perform quantitative analyses. They will have the experience to understand that successful diversion program implementation requires diplomacy, tact, and perseverance.**

Primary job responsibilities for each of the Recycling Coordinator positions include:

- Spend at least eighty percent (80%) of time in field work (out-of-office) providing outreach to commercial businesses, and/or performing waste or recycling audits, lid flipping and other work on-site at customer Premises or other local facilities.
- Independently schedule and conduct meetings with Authorized Customer Representatives at Commercial and Business Establishments to secure participation in increased recycling efforts, including Food Scrap Diversion.
- Coordinate and interface with other agencies, organizations, companies, City and City-designated consultants or other contractors regarding Food Scrap donation programs for human consumption of Food Scraps.
- Train business and multifamily tenants and representatives on how to implement diversion of recyclables and Food Scraps, and provide technical assistance in developing logistics and troubleshooting.
- Provide follow-up support to businesses and multi-family complexes, answer questions, and monitor and report diversion program results
- Identify opportunities for businesses to reduce wastes and better manage unwanted discards.
- Provide training, troubleshooting, education and answers to questions to Residential customers.
- Have a thorough understanding of AB 341, AB 1826, SB 1383 and all AB 939 requirements and how each relates to implementation of diversion programs.
- Assist with the writing, production, and overall execution of proposals, recycling plans for businesses and other Customers and reports.
- Conduct quantitative analyses, including development and use of spreadsheets and databases.
- Utilize MS Word, MS Excel, and MS PowerPoint to create and deliver professional and informative reports that satisfy Contract requirements and provide insight into implementation progress.
- Participate in City meetings to develop solutions that advance the City's diversion objectives.
- Perform related support duties as required and directed by City

