

**AGREEMENT FOR  
THE PROVISION OF  
COMMERCIAL AND RESIDENTIAL  
GARBAGE, RECYCLABLE MATERIALS,  
AND ORGANIC WASTE  
COLLECTION SERVICES**

**Executed By and Between**

**CITY OF POMONA**

**and**

**ARAKELIAN ENTERPRISES, INC.**

**dba ATHENS SERVICES**

**Dated:  
November 21, 2022**

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## ATHENS SERVICES COLLECTION SERVICES AGREEMENT

This Agreement for the Provision of Commercial and Residential Garbage, Recyclable Materials and Organics Collection Services ("**Agreement**") is entered into this 21st Day of November 2022 by and between the CITY OF POMONA, a charter City in the State of California ("**City**"), and Arakelian Enterprises, Inc. dba Athens Services ("**Contractor**"), on the terms and conditions set forth herein. City and Contractor may be referred to herein individually as a "**Party**" or collectively as the "**Parties**".

### RECITALS

A. Article XI, § 7 of the California Constitution authorizes cities to protect public health and safety by taking measures in furtherance of their authority over police and sanitary matters; and

B. The Legislature of the State of California, by enactment of the California Integrated Solid Waste Management Act of 1989, ("**AB 939**" or the "**Act**") (codified at Public Resources Code §§ 40000 *et seq.*) established a "**Solid Waste**" (as defined herein) management process which requires cities and other local jurisdictions to implement plans for source reduction, reuse and recycling as integrated waste management practices for Solid Waste attributed to sources within their respective jurisdictions; and

C. The Act provides that aspects of Solid Waste handling of local concern include but are not limited to frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location and extent of providing solid waste services; and

D. The Act confers discretion on cities to provide for the delivery of refuse services to their residents by the City itself providing the services or by the City conferring the authority to do so on private profit-making entities, and when cities confer the authority to provide refuse services on private profit-making entities, cities are authorized to do so by means which include the award of a nonexclusive, partially exclusive or wholly exclusive franchise, agreement, license or otherwise; and

E. City's Municipal Code implements Article XI, § 7 of the California Constitution and the Act within the City of Pomona and protects public health and safety by authorizing the City Council to provide Residential Garbage, Recyclable Materials and Organics Collection Services itself or to award one or more franchises, permits or licenses to provide that service; and

F. Under Section 62-586 of the City's Municipal Code, no person or solid waste enterprise, other than the city, shall engage in the collection, carrying, conveyance or transportation of any solid waste or recyclable material from or at any location within the city limits without the expressed written consent of the city council by means of a franchise granted by the city council. Article XIII, § 1301 of the City's Charter allows for City Council to grant a franchise to any person or organization, whether operating under an existing franchise or not, and may set the terms and conditions of any such grant, including the compensation to be paid to the City; and

G. The City issued a Request for Proposals, RFP No. 2021-37, on December 16, 2021 soliciting proposals from companies qualified to provide Residential and Commercial Garbage, Recyclable Materials and Organics Waste Collection Services; and

H. The City Council during its regular meeting of November 21, 2022 approved the award of a franchise agreement for the provision of Commercial and Residential Garbage, Recyclable Materials and Organics Waste Collection Services, in a defined "Service Area" (as defined herein), with Contractor because the City Council determined, in the exercise of its legislative discretion, that Contractor would provide high quality services to "Service Recipients" (as defined herein); and

I. City and Contractor are mindful of the provisions of the laws governing the safe collection, transport, recycling, and disposal of residential Solid Waste, including AB 939, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601 *et seq.*; the Electronic Waste Recycling Act of 2003 (SB 20, Sher, Chapter 526, Statutes of 2003; SB 50, Sher, Chapter 863, Statutes of 2004; AB 575, Wolke, Chapter 59, Statutes of 2011), laws governing Universal Waste, including, but not limited to, Universal Waste Electronics Devices ("UWED"), non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries [burglar alarm and emergency light batteries] alkaline batteries, carbon-zinc batteries and any other batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, mercury-containing switches; and

J. City and Contractor desire to leave no doubts as to their respective roles and to make it clear that by entering into this Agreement, City is not thereby becoming a "generator" or an "arranger" as those terms are used in the context of CERCLA § 107(a)(3) and that it is Contractor, an independent entity, not City, which will arrange to collect Solid Waste from residential and commercial "Service Units" (all as defined herein) within a defined Service Area of the City of Pomona, transport for recycling and disposal, and dispose of Solid Wastes which may contain small amounts of household products with the characteristics of hazardous wastes, collect and compost "Organic Waste" (as defined herein) and collect and recycle "Recyclable Materials" (as defined herein) from SFD Service Units in the City of Pomona; and

K. There are no places within the City limits of the City of Pomona where landfills are located, or which are suitable for the siting of a landfill and therefore Solid Waste must be exported from the City; and

L. City and Contractor agree that it is City, which will select the landfill or transformation facility destination of the non-recyclable Solid Waste which Contractor will arrange to collect, that City has not, and by this Agreement does not, instruct Contractor on its collection methods, nor supervise Contractor in the collection of waste and nothing in this Agreement or other action of the City shall be construed to give rise to any inference that the City has any title, ownership, or right of possession of such Solid Waste; and

M. Contractor represents and warrants to City that Contractor has the experience and qualifications to conduct recycling and waste diversion programs, to provide City with information sufficient to meet the City's reporting requirements to the California Department of Resource Recycling and Recovery ("CalRecycle"), or any successor agency or department and other agencies under the Act, to meet City's other requirements under the Act, to arrange with persons in charge of day-to-day activities of Service Units in the City of Pomona for the collection, safe transport, and disposal of Solid Wastes which may contain small amounts of household products with the characteristics of "Hazardous Waste" (as defined herein), in a safe manner which shall minimize the adverse effects of collection vehicles on air quality and traffic, and that Contractor has the ability to indemnify City in accordance with this Agreement; and

**N.** The City Council of the City of Pomona determines and finds pursuant to California Public Resources Code § 40059(a)(1) that the public interest, health, safety and well-being, including the minimization of adverse impacts on air quality and traffic from excessive numbers of collection vehicles, the implementation of measures consistent with the City's Source Reduction and Recycling Component, and in an effort to reduce the City's potential CERCLA liability, would be served if Contractor were to be awarded an exclusive franchise for collection, recycling, diversion and disposal of Solid Waste from Service Units in the City of Pomona.

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## Table of Contents

ARTICLE 1. DEFINITIONS .....	6
ARTICLE 2. TERM OF AGREEMENT AND CONSIDERATIONS .....	15
ARTICLE 3. SERVICES PROVIDED BY CONTRACTOR .....	19
ARTICLE 4. SERVICE RECIPIENT BILLING, CHARGES, AND RATES .....	25
ARTICLE 5. DIVERSION REQUIREMENTS .....	28
ARTICLE 6. SERVICE UNITS .....	31
ARTICLE 7. SFD COLLECTION SERVICES .....	31
ARTICLE 8. COMMERCIAL .....	36
ARTICLE 9. MULTI- FAMILY DWELLING SERVICE WITH INDIVIDUAL CARTS (MFD-I) .....	43
ARTICLE 10. MULTI-FAMILY DWELLING WITH CENTRALIZED BIN SERVICE (MFD-C) .....	43
ARTICLE 11. MIXED USE DWELLING SERVICE (MXD) .....	44
ARTICLE 12. CITY SERVICES .....	45
ARTICLE 13. ADDITIONAL SERVICES .....	46
ARTICLE 14. COLLECTION ROUTES .....	48
ARTICLE 15. MINIMUM PERFORMANCE STANDARDS .....	48
ARTICLE 16. COLLECTION EQUIPMENT .....	50
ARTICLE 17. CONTRACTOR'S OFFICE .....	53
ARTICLE 18. CONTRACTOR SUPPORT SERVICES .....	53
ARTICLE 19. EMERGENCY SERVICE .....	58
ARTICLE 20. RECORD KEEPING AND REPORTING REQUIREMENTS .....	58
ARTICLE 21. NONDISCRIMINATION .....	62
ARTICLE 22. SERVICE INQUIRIES AND COMPLAINTS .....	62
ARTICLE 23. QUALITY OF PERFORMANCE OF CONTRACTOR .....	63
ARTICLE 24. PERFORMANCE BOND .....	65
ARTICLE 25. INSURANCE .....	65
ARTICLE 26. HOLD HARMLESS AND INDEMNIFICATION .....	67
ARTICLE 27. DEFAULT OF AGREEMENT .....	69
ARTICLE 28. MODIFICATIONS TO THE AGREEMENT .....	71
ARTICLE 29. LEGAL REPRESENTATION .....	72
ARTICLE 30. CONFLICT OF INTEREST .....	72
ARTICLE 31. HIRING DISPLACED CITY EMPLOYEES; APPRENTICESHIP; CONTRACTOR'S PERSONNEL .....	73
ARTICLE 32. EXEMPT WASTE .....	74
ARTICLE 33. INDEPENDENT CONTRACTOR .....	74
ARTICLE 34. LAWS TO GOVERN .....	74
ARTICLE 35. CONSENT TO JURISDICTION .....	74

ARTICLE 36. ASSIGNMENT..... 74

ARTICLE 37. COMPLIANCE WITH LAWS ..... 75

ARTICLE 38. PERMITS AND LICENSES..... 75

ARTICLE 39. OWNERSHIP OF WRITTEN MATERIALS..... 75

ARTICLE 40. WAIVER ..... 75

ARTICLE 41. PROHIBITION AGAINST GIFTS ..... 76

ARTICLE 42. POINT OF CONTACT ..... 76

ARTICLE 43. NOTICES..... 76

ARTICLE 44. TRANSITION TO NEXT CONTRACTOR ..... 76

ARTICLE 45. CONTRACTOR’S RECORDS ..... 77

ARTICLE 46. ENTIRE AGREEMENT ..... 78

ARTICLE 47. SEVERABILITY ..... 78

ARTICLE 48. RIGHT TO REQUIRE PERFORMANCE ..... 78

ARTICLE 49. ALL PRIOR AGREEMENTS SUPERSEDED..... 78

ARTICLE 50. HEADINGS..... 78

ARTICLE 51. EXHIBITS ..... 78

ARTICLE 52. EFFECTIVE DATE..... 78

Exhibits

EXHIBIT 1 MAXIMUM SERVICE RATES ..... 80

EXHIBIT 2 CITY SPONSORED EVENTS ..... 92

EXHIBIT 3 CITY SERVICE UNITS ..... 93

EXHIBIT 4 CART AND BIN SPECIFICATIONS..... 95

EXHIBIT 5 APPROVED SUBCONTRACTORS ..... 96

EXHIBIT 6 SUSTAINABILITY AND COMPLIANCE PLAN ..... 97

EXHIBIT 7 STREET SWEEPING ..... 98

EXHIBIT 8 ADMINISTRATIVE CHARGES ..... 107

EXHIBIT 9 CONTRACTOR COMMUNITY COMPOSTING STATEMENT ..... 109

## OPERATIVE PROVISIONS

Now, therefore, in consideration of the mutual promises, agreements and consideration contained in this Agreement, City and Contractor agree as follows:

### ARTICLE 1. Definitions

For the purpose of this Agreement, the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The meaning of terms or words not defined in this Article will be as commonly understood in the solid waste collection services industry when the common understanding is uncertain.

1.01 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial solid waste recycling program.

1.02 AB 901. State of California Assembly Bill No. 901 approved October 15, 2015, modifying requirements for Solid Waste reporting and adding enforcement requirements.

1.03 AB 939. State of California Assembly Bill No. 939 approved September 29, 1989, enacting the California Integrated Solid Waste Management Act of 1989, codified in part at Public Resources Code §§ 40000 and following, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

1.04 AB 1594. State of California Assembly Bill No. 1594 approved September 28, 2014. AB 1594 provides that the use of green waste material as Alternative Daily Cover does not constitute diversion through recycling and would be considered disposal.

1.05 AB 1669. "AB 1669" means State of California Assembly Bill No. 1669 approved September 30, 2016, which amends California Labor Code Sections 1070 through 1076 with respect to the hiring of displaced employees under service contracts for the collection and transportation of solid waste.

1.06 AB 1826. "AB 1826" means State of California Assembly Bill No. 1826 approved September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert from the landfill organic waste from businesses. Each business meeting specific organic waste or solid waste generation thresholds phased in from April 1, 2016, to January 1, 2020, is required to arrange for organic waste recycling services.

1.07 AB 3036. "AB 3036" means State of California Assembly Bill No. 3036 approved September 27, 2018. AB 3036 prohibits a County, City, District, or local government agency from subjecting the hauling of certain byproducts from the processing of food or beverages to an exclusive franchise, contract, license, or permit.

1.08 Act. Act means the Integrated Solid Waste Management Act of 1989 (AB 939), as amended (California Public Resources Code section 40000 *et. seq.*).

1.09 Agreement. This written document and all amendments, between City and Contractor, governing the provision of services hereunder.

1.10 Agreement Administrator. The City Manager, or his or her designee, designated to administer and monitor the provisions of this Agreement.



1.11 Agreement Service Year. Agreement Service Year means each twelve (12) month period from July 1st to June 30th during the term of this Agreement.

1.12 Annual Diversion Report. The annual report submitted by Contractor to the City describing the previous Calendar Year's diversion activities, diversion percentages and associated calculations and the description of the diversion activity planned for the upcoming year, if applicable.

1.13 Appendix. 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.

1.14 Applicable Law. All Federal, State, county, and local laws, regulations, rules, orders, judgments, decrees, rulings, permits, approvals, or other requirement of any governmental entity or regulatory or quasi-regulatory authority having jurisdiction over an aspect of the Collection Services, including judicial interpretations thereof, that are in force on the Effective Date including without limitation AB 341, AB 901, AB 939, AB 1594, AB 1669, AB 1826, AB 3036, SB 1016 and SB 1383, and as may be enacted, repealed and readopted, issued, or amended thereafter, until termination or expiration of this Agreement. For purposes of this Agreement any department, agency, body, or instrumentality of the State of California of competent jurisdiction to promulgate or enforce regulations, rules, orders, directives or similar requirements applicable to the collection, management, diversion and disposal of Solid Waste shall be referred to collectively as "CalRecycle."

1.15 Best Management Practice. Best Management Practice means the collection of written activities, practices, policies, and procedures prepared and proposed by the Contractor, and then approved by the Agreement Administrator, to prevent or reduce, to the maximum extent that is technologically and economically feasible, the discharge of pollutants to the storm drain system which might be generated from any site in the City.

1.16 Bins. A metal or plastic container, with a capacity of one (1) cubic yard up to and including six (6) cubic yards, designed, or intended to be mechanically dumped into a loader packer type truck, that is approved for such purpose by City. Bins may also include Compactors that are owned by commercial Service Units by which the Commercial Collection Service occurs. The specifications for Contractor-provided Bins are set forth in **Exhibit 4**.

1.17 Biohazardous or Biomedical Waste. Any waste which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are waste resulting from the operation of medical clinics, hospitals, and other facilities processing wastes which may consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.

1.18 Brown Goods. Electronic equipment such as stereos, televisions, computers, VCR's, and other similar items collected from SFD Service Units.

1.19 Business. All retail, professional, wholesale, and industrial facilities, and other commercial enterprises offering goods or services to the public.

1.20 Business Days. Any Monday through Friday, excluding any holidays as defined in Section 3.07 [Holiday Service].

1.21 Calendar Year. Each twelve (12) month period from January 1st to December 31st.

1.22 California Code of Regulations (CCR). The State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR, Division 7, Chapter 12" refers to Title 14, Division 7, Chapter 12 of the California Code of Regulations).

1.23 Cans. A plastic receptacle provided by the Contractor to the Service Recipient of the size, shape, and color as required by law or regulation, or if no such requirement has been established by law or regulation, then as approved by City, with a rated capacity of at least thirty-two (32) and not more than ninety-six (96) gallons (three thirty-two (32) gallon Cans) serviced by manual collection, that is approved by the Agreement Administrator for use by Service Recipients for Collection Services under this Agreement. The specifications for Service Recipient-provided Cans are set forth in **Exhibit 4**.

1.24 Carts. A heavy plastic receptacle of the size, shape, and color as required by law or regulation, or if no such requirement has been established by law or regulation, then as approved by City, with a rated capacity of at least thirty-two (32) and not more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels, that is approved by the Agreement Administrator for use by Service Recipients for Collection Services under this Agreement. The specifications for Contractor-provided Carts are set forth in **Exhibit 4**.

1.25 CEQA. CEQA means the California Environmental Quality Act, codified at Cal. Pub. Res. Code 21000 et seq. as amended or superseded, and the regulations promulgated thereunder and as set forth in the California Code of Regulations.

1.26 CERCLA. The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.27 Change in Law. Change in Laws means any of the following events or conditions which has a material effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), on the provision of Collection Services, or on the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, management operation or maintenance of the operating assets or providing the franchise service, or other matters to which Applicable Law applies:

(1) the enactment, adoption, promulgation, issuance, modification, or written change of or in Applicable Law, including, but not limited to, new or increased fees and charges imposed by the State of California or the U.S. Federal government directly related to the collection, handling, processing, recycling or disposal of Solid Waste, or the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after the effective date of any Applicable Law;

(2) the order or judgment of any governmental body, on or after November 21, 2022, 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 City or of the Contractor, 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, suspension, termination, interruption or imposition of a new or more stringent condition in connection with the issuance, renewal or failure of issuance or renewal on or after the effective 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, of 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 City or of the Contractor, whichever is asserting the occurrence of a Change of Law; provided, however, that the contesting in good faith or 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.

1.28 City. The City of Pomona, California.



1.29 City Collection Service. City Solid Waste Collection Service, City Organic Waste Collection Service, and City Recyclable Materials Service.

1.30 City Manager or Agreement Administrator. City's City Manager shall administer, implement and enforce, this Agreement on behalf of City and shall act as City's "Agreement Administrator" where designated in this Agreement. "City Manager" means the City Manager of the City of Pomona, or his or her designated representative, or any employee of the City who succeeds to the duties and responsibilities of the City Manager.

1.31 Code. Code means the City of Pomona Municipal Code.

1.32 Collection. The process whereby commercial and residential Solid Waste is removed and transported to a Materials Recovery Facility, Disposal Facility, Organic Waste Processing Facility or Materials Recycling Facility as provided herein.

1.33 Collection Container. A Bin, Cart, Can, Roll-Off Container or other receptacle that is approved by the Agreement Administrator for use by Service Recipients for Collection Services under this Agreement.

1.34 Collection Services. SFD Collection Service, MFD Collection Service, Commercial Collection Service, City Collection Service, and Construction and Demolition Debris and Temporary Collection Service.

1.35 Commercial Collection Service. Commercial Collection Service specifically Commercial Garbage Collection Service, Commercial Organic Waste Collection Service, and Commercial Recycling Collection Service, as further defined below. Commercial Collection Service shall also include Collection from MFD Service Units and City Service Units.

- A. Commercial Garbage Collection Service. The Collection of Commercial Garbage by Contractor, from Commercial Service Units in the Service Area and the delivery of that Commercial Garbage to a Disposal Facility.
- B. Commercial Organic Waste Collection Service. The Collection of Organic Waste, by Contractor, from Commercial Service Units in the Service Area, the delivery of those Organic Waste materials to an Organic Waste Processing Facility and the processing and marketing of those Organic Waste materials, and the disposal of all commercial Organic Waste Processing Residue.
- C. Commercial Recycling Collection Service. The Collection of Recyclable Materials, by Contractor, from Commercial Service Units in the Service Area, the delivery of those Recyclable Materials to a Materials Recycling Facility and the processing and marketing of those Recyclable Materials, and the disposal of all Commercial Recyclable Materials Processing Residue.

1.36 Community Composting. Any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 C.C.R. Section 17855(a)(4). Community Composting sites must be approved by the City.

1.37 Compactor. Any Bin or Roll-Off Container which has a compaction mechanism, whether stationary or mobile.

1.38 Contractor. Athens Services. The entity that has obtained from the City this Agreement to provide Collection Services.

1.39 Contractor Representative. The person, or designee, designated by the Contractor to manage the provisions of this Agreement.

1.40 Consumer Price Index (CPI). The Consumer Price Index for Trash and Garbage Collection (CUUR0000SEHGO2) U.S. City Average (not seasonally adjusted) as may be amended or renamed and replaced from time to time by the United States Bureau of Labor Statistics or an equivalent index approved by mutual agreement in the event said index is no longer published.

1.41 County. Los Angeles County, California.

1.42 Dispose or Disposal. The final disposition of Garbage and Residual Material collected.

1.43 Disposal Facility. The facility(ies) utilized by Contractor for the disposal, or processing as appropriate, of Garbage and other materials as appropriate and acceptable. City has a current agreement with the operator of the Grand Central Recycling and Transfer Station located at 1371 E. Ninth Street, Pomona, CA 91766 until 2024.

1.44 Diversion Requirement. Means the diversion of fifty percent (50%) or more of all Solid Waste generated within City through source reduction, recycling and composting activities as required by Public Resources Code section 41780(a)(2), as may be amended, repealed, and readopted or otherwise modified from time to time. Diversion Requirement shall also mean the comparison of the change in the City's per capita disposal rate with the equivalent per capita disposal rate determined pursuant to Applicable Law, together with such other measures and methodologies employed by CalRecycle from time to time to assess compliance with the Diversion Requirement.

1.45 Dwelling Unit. Any individual living unit in a single-family dwelling, condominium, or town home (SFD) utilized for residential living.

1.46 E-Waste. Electronic Waste or E-Waste means waste containing or consisting of electronic devices and components, such as computers, monitors, terminals, computer cards and components, computer peripheral devices, main frame computers, keyboards, mice, printers and scanners, mini-systems, power supply units, servers, connectors/cables, storage discs, consumer electronics, printed circuit boards, televisions, chips and components, cellular and other phones, telecommunications equipment, and fax machines and copiers, but not including Excluded Waste.

1.47 Effective Date. Effective date of this Agreement is July 1, 2023.

1.48 Exempt Waste. Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.49 Franchised Diversion. Franchised Diversion means the rate of diversion for which Contractor is responsible to achieve as defined and calculated to achieve in Article 5.

1.50 Garbage Collection Service. The Collection and disposal of Garbage from City Service Units, Commercial Service Units, MFD Service Units, and SFD Service Units.

1.51 Gross Receipts. For purpose of calculating the Franchise Fee, Gross Receipts shall mean revenue amounts received by Contractor for the provision of Collection Services, pursuant to this Agreement, calculated in accordance with Generally Accepted Accounting Principles (GAAP). The term Gross Receipts, for purposes of this Agreement, does not include any revenues generated from the sale of Recyclable Material, recovered Organic Waste products such as compost products or waste-derived energy, or other receipts from State and local government accounts

(e.g. grants, cash awards and rebates) resulting from the performance of this Agreement, and does not include any AB 939 Support Fees collected by Contractor on City's behalf and to be remitted to City as provided in this Agreement.

1.52 Household Hazardous Waste (HHW). Household products that can catch fire, react, or explode under certain circumstances, or that are corrosive or toxic as household hazardous waste. Products, such as paints, cleaners, oils, batteries, and pesticides can contain hazardous ingredients and require special care when you dispose of them.

1.53 Hazardous Waste. Any material which is defined as a "hazardous waste" under California or United States law, or any regulations promulgated pursuant to such law, as such law or regulations may be amended from time to time.

1.54 Materials Recycling Facility. Any facility designed, operated, and legally permitted for the purpose of receiving, sorting, processing, storing, or preparing mixed use or commingled Garbage and Recyclable Materials.

1.55 Materials Recovery and Transfer Facility (MRF). Athens' City of Industry Materials Recovery Facility.

1.56 Maximum Service Rate. The maximum amount that Contractor may charge Service Recipients for services as listed in **Exhibit 1**, and as may be adjusted in accordance with the provisions of this Agreement.

1.57 Multi Family Dwelling (MFD) Collection Service. MFD Garbage Collection Service, MFD Recycling Service, MFD Organic Waste Collection Service, and MFD Large Item Collection Service. MFD Collection Service specifically includes the following:

- A. MFD Garbage Collection Service. The Collection of residential Garbage, by Contractor, from MFD Service Units in the Service Area and the delivery of that residential Garbage to a Disposal Facility.
- B. MFD Large Item Collection Service. The periodic on-call Collection of Large Items, by Contractor, from MFD Service Units in the Service Area and the delivery of those Large Items to a Disposal Facility, Materials Recycling Facility or such other facility as may be appropriate under the terms of this Agreement. MFD Large Item Collection Service may include the Collection of Large Items through the use of Roll-Off Containers.
- C. MFD Organic Waste Collection Service. The Collection of Organic Waste, by Contractor, from MFD Service Units in the Service Area, the delivery of those Organic Waste materials to an Organic Waste Processing Facility and the processing and marketing of those Organic Waste materials, and the disposal of all MFD Organic Waste Processing Residue.
- D. MFD Recycling Service. The Collection of Recyclable Materials by the Contractor from MFD Service Units in the Service Area, the delivery of those Recyclable Materials to a Materials Recycling Facility and the processing and marketing of those Recyclable Materials, and the disposal of all MFD Recyclable Materials Processing Residue.

1.58 Multi Family Dwelling (MFD) Unit. Of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-family Dwelling Units do not include hotels, motels, or other transient occupancy facilities, which are considered commercial businesses.

1.59 Mixed Use Dwelling. A building or structure which contains at least one (1) Commercial Service Unit and at least one (1) Dwelling Unit and utilizes a common Garbage Bin or Garbage Cart for the accumulation and Collection of Commercial Solid Waste.

1.60 Non-Collection Notice. A form developed and used by Contractor, as approved by City, to notify Service Recipients of the reason for non-collection of materials set out by the Service Recipient for Collection by Contractor pursuant to this Agreement.

1.61 Organic Waste Collection Service. The collection, processing and marketing of Organic Waste from Service Units (in the Service Area) and the disposal of all Organic Waste Processing Residual.

1.62 Organic Waste Processing Facility. The designated facility designed, operated, and legally permitted for the purpose of receiving, and processing Food Waste, Green Waste, Large Green Waste, and Other Organics.

1.63 Organic Waste Processing Residual. Materials Collected pursuant to this Agreement, including both Organic Waste, and Contaminants, that are delivered to the Organic Waste Processing Facility but are Residual as defined in Section 1.66.

1.64 Overage. Overage means excess Garbage, Organic Waste and Recyclable Materials (i) placed inside a Container that prevents the lid on the Container from being completely closed (i.e., lid remains open greater 45-degrees) or (ii) that could potentially result in excess materials spilling/dislodging during collection activity by Contractor's vehicles or require cleanup of the area around the Container.

1.65 Rebuilt Vehicle. For purposes of this Agreement, "rebuilt" means, at a minimum, replacement of worn parts and reconditioning or replacement of hydraulic systems, transmissions, differentials, electrical systems, engines, and brake systems. In addition, the rebuilt vehicle must be repainted, and its tires must have at least eighty-five percent (85%) of tread remaining.

1.66 Recyclable Materials Collection Service. The collection, processing, and marketing of Recyclable Material from Service Units (in the Service Area) and the disposal of all Recyclable Materials Processing Residual.

1.67 Residual or Residuals. Residual or Residuals means Garbage that is not diverted from landfill disposal after it has been delivered to a MRF, an Organic Waste Processing Facility or a facility that processes Recyclable Materials for diversion from landfill disposal. For determining the amount of Residuals in Recyclable Materials, Contractor shall conduct a waste characterization study of inbound Recyclable Materials as necessary for City and/or Contractor to comply with requests, directives, or orders from CalRecycle or as may otherwise be required under the Applicable Laws. Contractor shall be responsible for, and shall pay, any fines, penalties, or other charges imposed on City by CalRecycle to the extent caused or materially contributed to by Contractor's failure to provide the aforementioned characterization study(ies), the underlying data, or for failing to take such reasonable actions necessary to produce the relevant data.

1.68 Roll-Off Container. A metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility.

1.69 SB 1016. State of California Senate Bill 1016, approved September 16, 2008 adopted a per capita disposal based accounting system for diversion reporting in meeting the mandated 50 percent diversion requirement as set by AB 939. SB 1016 also changed the reporting and review process so that jurisdictions meeting the 50 percent diversion requirement would be subject to CalRecycle (formally referred to as the CIWMB) review every four years, while those jurisdictions not meeting the 50 percent diversion requirement would continue to be reviewed by CalRecycle every two years.

1.70 SB 1383. State of California Senate Bill 1383, approved September 19, 2016 mandates a fifty percent (50%) reduction in disposal of Organic Materials from the 2014 levels by 2020 and seventy-five percent (75%) by 2025. According to CalRecycle's 2014 Waste Characterization Study, approximately 20 million tons of organics were disposed in 2014. For the SB 1383 mandates, this translates to a requirement to limit disposal of organics to roughly 10 million tons by

January 1, 2020. A seventy-five percent (75%) reduction from the 2014 level requires California to limit disposal to roughly five (5) million tons of organics annually on and after 2025. Further, SB 1383 requires CalRecycle's regulations to include requirements designed to improve the recovery of edible food that is currently landfilled by twenty percent (20%) by 2025.

1.71 Service Area. The city limits of the City of Pomona as those limits may be adjusted from time to time by annexation or similar process as allowed under Applicable Law.

1.72 Service Recipient. An individual, Business, or the City, receiving SFD, MFD, Commercial, Roll-Off, Temporary, or City Collection Services.

1.73 Service Unit. SFD Service Units, MFD Service Units, City Service Units, or Commercial Service Units. Service Unit specifically includes the following:

- A. City Service Unit. City Facility(ies) that utilize a Bin, Cart, or Roll-Off Container(s) for the accumulation and set-out of Solid Waste. City Service Units are listed in **Exhibit 3**, and as may be modified by written notice to Contractor by the City.
- B. Commercial Service Unit. Business Service Units, City Service Units and Mixed-Use Dwellings that utilize a Garbage Bin, Cart, Compactor, Roll-Off Container for the accumulation and set-out of Commercial Solid Waste. Commercial Service Unit also means "Commercial."
- C. Multi-Family Dwelling Service Unit (MFD). Five (5) or greater Dwelling Units in the Service Area sharing a Cart or Bin for the accumulation and set out of Commercial Solid Waste. MFD Service Unit also means "Commercial."
- D. SFD Service Unit. Any Single-Family Dwelling Unit (SFD) in the Service Area utilizing a Cart, or any combination of 1 – 4 Dwelling Units sharing Carts, for the accumulation and set out of Residential Solid Waste. SFD Service Unit also means "Residential."

1.74 SFD Collection Service. SFD Garbage Collection Service, SFD Recycling Service, SFD Organic Waste Collection Service, SFD Large Item Collection Service, and the Collection of SFD Used Oil. SFD Collection Service specifically includes the following:

- A. SFD Garbage Collection Service. The Collection of Residential Garbage, by Contractor, from SFD Service Units in the Service Area and the delivery of that Residential Garbage to a Disposal Facility.
- B. SFD Organic Waste Collection Service. The Collection of Organic Waste, by Contractor, from SFD Service Units in the Service Area, the delivery of those Organic Waste materials to an Organic Waste Processing Facility and the processing and marketing of those Organic Waste materials, and the disposal of all SFD Organic Waste Processing Residual.
- C. SFD Recycling Service. The Collection of Recyclable Materials by the Contractor from SFD Service Units in the Service Area, the delivery of those Recyclable Materials to a Materials Recycling Facility and the processing and marketing of those Recyclable Materials, and the disposal of all SFD Recyclable Materials Processing Residual.
- D. SFD Large Item Collection Service. The periodic on-call Collection of Large Items, by Contractor, from SFD Service Units in the Service Area and the delivery of those Large Items to a Disposal Facility, Materials Recycling Facility or such other facility as may be appropriate under the terms of



this Agreement. SFD Large Item Collection Service does not include the Collection of Large Items through the use of Roll-Off Containers, which is a commercial service.

1.75     Sharps. Medical devices that have acute rigid corners, edges, or protuberances capable of cutting or piercing, including but not limited to hypodermic needles, hypodermic needles with syringes, needles with attached tubing, or acupuncture needles.

1.76     Sludge. The accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.

1.77     Solid Waste. The materials described in Public Resources Code section 40191, including Garbage, Recyclable Materials, Organic Waste, and Large Items, as defined below. Solid Waste does not include Exempt Waste. Solid Waste specifically includes the following:

- A.     Construction and Demolition Waste. Solid Waste consisting of building materials, packaging and rubble resulting from construction, remodeling, repair, and demolition operations on pavement, residential, commercial or industrial premises, buildings, and other structures, and land clearing operations.
- B.     Food Waste. Food scraps and trimmings and other putrescible waste that results from food production, preparation, storage, consumption, or handling. Food Waste includes but is not limited to meat, fish and dairy waste, fruit and vegetable waste, grain waste, and compostable food contaminated paper products. Food Waste does not include Exempt Waste.
- C.     Garbage. All putrescible waste which generally includes but is not limited to kitchen and table food waste, animal, vegetative, food or any organic waste that is attendant with, or results from the storage, preparation, cooking or handling of food materials attributed to normal activities of a Service Unit. Garbage must be generated by and at the Service Unit wherein the Garbage is collected. Garbage does not include those items defined as Exempt Waste.
- D.     Green Waste. Any vegetative matter resulting from normal yard and landscaping maintenance that is not more than five (5) feet in its longest dimension or six (6) inches in diameter or weighs more than fifty (50) pounds. Green Waste includes plant debris, such as grass clippings, leaves, pruning, weeds, branches, brush, Holiday trees, and other forms of organic waste and must be generated by and at the SFD Service Unit where the Green Waste is collected. Green Waste does not include items defined as Exempt Waste.
- E.     Large Green Waste. Oversized Green Waste such as tree trunks and branches with a diameter of not less than six (6) inches and not more than two (2) feet and a length of not more than five (5) feet in its longest dimension, which are attributed to the normal activities of an SFD Service Unit. Large Green Waste must be generated by and at the SFD Service Unit where the Large Green Waste is collected and is Collected by means of Large Item Collection.
- F.     Large Items or Bulky Waste. Those materials including furniture; carpets; mattresses; E-Waste, White Goods; Brown Goods; clothing; Large Green Waste which are attributed to the normal activities of an SFD Service Unit. Large Items must be generated by and at the SFD Service Unit wherein the Large Items are Collected. Large Items do not include items defined as Exempt Waste.

- G. Organic Waste. Food Waste, Green Waste, and Other Organics, either separately or commingled with each other, that has been separated at the source of generation from Garbage and Recyclable Materials.
- H. Other Organics. Other Organics includes food-soiled paper and paper products, compostable food wares and compostable food packaging, stable materials, manure, and natural fiber textiles, and other compostable materials as may be required by the City or CalRecycle.
- I. Recyclable Materials. Those materials which are capable of being recycled using available processes and markets and which would otherwise be processed or disposed of as Residential Garbage or Commercial Garbage. These materials will be as defined by City. Recyclable Materials currently being Collected include: newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); steel including "tin" cans and small scrap (not exceeding forty (40) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; mixed plastics such as empty plastic containers and empty bottles including containers made of HDPE, LDPE, PET, PVC, or PP; or textiles. City and Contractor agree to meet from time to time as needed to discuss additions or deletions from the list of Recyclable Materials. Contractor may request removal of Recyclable Materials due to market limitations, which request will be decided by the Agreement Administrator.
- J. White Goods. Inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar household appliances.

1.78 Temporary Collection Service. Service provided to collect, remove, and process and/or dispose Solid Waste and/or Construction and Demolition debris on a temporary basis.

1.79 Used Oil. Any oil that has been refined from crude oil or has been synthetically produced, and is no longer useful to the Service Recipient because of extended storage, spillage or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with physical or chemical impurities. Used Oil must be generated by an SFD or MFD Service Recipient. Used Oils does not include diesel oil, cooking oils or grease, mineral oil, transmission fluid, gasoline, hydraulic fluid, brake fluid or antifreeze.

1.80 Used Oil Filter. Any oil filter that is no longer useful to the Service Recipient because of extended storage, spillage, or contamination with non-hazardous impurities such as dirt or water; or has been used and as a result of such use has been contaminated with physical or chemical impurities. Used Oil Filters must be generated by SFD or MFD Service Recipients.

1.81 Work Day. Any day, Monday through Friday, that is not a holiday as set forth in Section 3.07 [Holiday Services] of this Agreement except Work Day shall also include Saturday with respect to Articles 8, 10, and 11.

## **ARTICLE 2. Term of Agreement and Considerations**

2.01 Franchise Award. To the extent permitted by law, Contractor shall defend and hold harmless the City and its officers, employees, and agents from and against any claim, action, proceeding in a court of competent jurisdiction its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning the award of the Agreement awarded to Contractor with counsel selected by Contractor in consultation with City. City shall promptly notify the Contractor of any claim, action, or proceeding concerning the Agreement to which it seeks

Contractor to defend and hold harmless and Contractor reserves the right to control all decisions relating to the defense of such claim, action, or proceeding arising therefrom. City shall cooperate fully in the defense of the matter. City reserves the right, at its own option and expense, to engage its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. Further, Contractor understands and acknowledges that the award of this Agreement and related decisions may be subject to review and repeal by the City's citizens through a referendum or similar petition. In the event of the foregoing, City and Contractor shall meet and confer to determine if the City will hold an election and to discuss an appropriate sharing of costs for the administration of such an election. No later than thirty (30) days prior to any such meeting, the City shall transmit to Contractor an accounting of costs expected to be incurred by City in the administration of an election hereunder.

2.02 Term. Subject to the provisions of this Agreement related to Termination and extension, the term of this Agreement will be for a ten (10) year period beginning midnight on the Effective Date and terminating at 11:59 p.m. ten years thereafter ("Term").

2.03 Optional Extension of Term. City may, in its sole discretion, grant Contractor two additional five (5) year extensions of the Term, if and only if the following preconditions are satisfied; (1) Contractor is not then in default of any material term or condition of the Agreement nor has been designated a "habitual violator" as provided in Article 23; and (2) Contractor has timely paid City all required fees associated with Agreement; and (3) Contractor must request the Optional Extension of Term by July 1, 2032 in order to be eligible for the first extension and by July 1, 2037 for the second extension. Notwithstanding the foregoing, in the event five (5) or more members of the City Council vote to approve the execution of this Agreement, the reference to "in its sole discretion" herein shall be deemed deleted.

2.04 Performance Review prior to Optional Extension of Term. If Contractor requests a term extension as described in Section 2.02 above, then, at City's sole option, a billing audit and performance review may be conducted with respect to that extension as described in Section 15.02, and Contractor must pay the cost of the billing audit and performance review subject to the maximum cost specified in such Article. Regardless of the outcome of this billing audit and performance review, City will have no obligation to extend the term of the Agreement.

2.05 Limitation on Scope of Agreement. The Agreement shall be exclusive within its Service Area, except as to the categories of Solid Waste listed in this Section.

- A. Recyclable Materials source separated from Solid Waste by the Service Recipient and for which Service Recipient sells or is otherwise compensated by other persons in a manner resulting in a net payment to the Service Recipient;
- B. Solid Waste, including Recyclable Materials and Organic Waste which is removed from any Premises by the Service Recipient and which is transported personally by the Service Recipient of such Premises or by his or her full time employees to a processing or disposal Facility;
- C. Recyclable Materials and Organic Waste which are source separated at any Premises by the Service Recipient and donated without any net payment by the Service Recipient;
- D. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, California Public Resources Code Section 14500 et seq;
- E. Green Waste removed from a Premises by a gardening, landscaping, or tree trimming company utilizing its own equipment and employees as an incidental part of a total service offered by the company rather than as a hauling service;



- F. Construction and demolition waste that is incidentally removed by a duly licensed construction or demolition company or as part of a total service offered by said licensed company or by the City, where the licensed company utilizes its own equipment and employees;
- G. Animal waste and remains from slaughterhouse or butcher shops for use as tallow;
- H. By-products of sewage treatment, including sludge, ash, grit, and screenings;
- I. Hazardous Waste and radioactive waste, regardless of its source;
- J. The casual or emergency Collection, removal, disposal, or diversion of Solid Waste by the City through the City officers or employees in the normal course of their employment.

2.06 Other Provisions. The City may, at the expiration of the Term, renegotiate the terms and conditions of the Agreement with the Contractor, including the negotiation of a payment to City, for an Extended Term and / or request proposals from qualified Contractors to provide Collection Services. City retains the right to both negotiate with Contractor while concurrently conducting a request for proposal process.

2.07 Consideration for Franchise. In consideration for City's grant of the exclusive franchise, for negotiation of this Agreement, and for retention of the longstanding relationship with City, Contractor shall make when due the payments described in this Article, and as may otherwise be set forth in this Agreement, to City. All of Contractor's payments to City, whether described in this Article or otherwise in the Agreement, are general funds of the City subject to characterization, appropriation, and expenditures at the sole discretion of the City Council.

2.07.1 Franchise Fee. Contractor shall pay to the City a "Franchise Fee." The Franchise Fee will be a percentage of Contractor's Gross Receipts submitted to City each month under the terms of this Agreement. The Franchise Fee percentage for SFD Collection Services shall be **Ten Percent (10.00%) of Gross Receipts** unless otherwise adjusted by the City. The Franchise Fee percentage for Commercial Collection Services (including MFD Collection Service) and/or Temporary Collection Services shall be **Fifteen Percent (15.00%) of Gross Receipts** unless otherwise adjusted by the City. For purposes of the Franchise Fee, Roll-Off Containers shall be calculated based upon the respective line of business (residential or commercial) in which they are used. In the event that the City adjusts the Franchise Fee percentage, the Maximum Service Rates will also be adjusted simultaneously and commensurately, to incorporate any such changes in the Franchise Fee percentage. The Contractor shall remit this fee to the City according to Section 2.06.13. This fee is included in the Maximum Service Rates in Exhibit 1 and is not to be charged in addition to the approved Maximum Service Rates.

2.07.2 AB 939 / SB 1383 Support Fee. The Contractor shall pay an "AB 939 / SB 1383 Support Fee" to the City for the City's costs to provide AB 939 / SB 1383 support services. The AB 939 / SB 1383 Support Fee will be a lump sum dollar evenly spread out over each month of the fiscal year submitted monthly to City under the terms of this Agreement. The AB 939 / SB 1383 Support Fee shall be **Two Hundred and Fifty Thousand Dollars (\$250,000)**, adjusted annually by the CPI Adjustment methodology set forth in Section 4.08, unless otherwise adjusted by the City. In the event that the City adjusts the AB 939 / SB 1383 Support Fee, the Maximum Service Rates will also be adjusted simultaneously and commensurately, to incorporate any such changes in the AB 939 / SB 1383 Support Fee. The Contractor shall remit this Fee to City in accordance with Section 2.06.13. This fee is included in the Maximum Service Rates in Exhibit 1 and is not to be charged in addition to the approved Maximum Service Rates.

2.07.3 Administrative Fee. The Contractor shall pay an Administrative Fee to the City for the City's administrative costs of this Agreement. The Administrative Fee will be a lump sum dollar evenly spread out over each month of the fiscal year submitted to City on a monthly basis under the terms of this Agreement. The Administrative Fee shall be **Three Hundred and Fifty Thousand Dollars (\$350,000)**, adjusted annually by the CPI Adjustment methodology

set forth in Section 4.08, unless otherwise adjusted by the City. In the event that the City adjusts the Administrative Fee, the Maximum Service Rates will also be adjusted simultaneously and commensurately, to incorporate any such changes in the Administrative Fee. The Contractor shall remit this surcharge to City in accordance with Section 2.06.13. This fee is included in the Maximum Service Rates in Exhibit 1 and is not to be charged in addition to the approved Maximum Service Rates.

2.07.4 Vehicle Impact Fee. The Contractor shall pay a Vehicle Impact Fee to the City to offset the impact the collection vehicles have on the City's streets. The Vehicle Impact Fee will be a lump sum dollar evenly spread out over each month of the fiscal year submitted to City on a monthly basis beginning upon the Effective Date. The Vehicle Impact Fee shall be **Seven Hundred and Fifty Thousand Dollars (\$750,000)**, adjusted annually by the CPI Adjustment methodology set forth in Section 4.08, unless otherwise adjusted by the City. In the event that the City adjusts the Vehicle Impact Fee, the Maximum Service Rates will also be adjusted simultaneously and commensurately, to incorporate any such changes in the Vehicle Impact Fee. The Contractor shall remit this surcharge to City in accordance with Section 2.06.13. This fee is included in the Maximum Service Rates in Exhibit 1 and is not to be charged in addition to the approved Maximum Service Rates.

2.07.5 Edible Food Waste Recovery Fee. The Contractor shall pay an Edible Food Waste Recovery Fee to the City to assist in the funding the SB 1383 required edible food waste recovery program. The Edible Food Waste Recovery Fee will be a lump sum dollar evenly spread out over each month of the fiscal year submitted to City on a monthly basis under the terms of this Agreement. The Edible Food Waste Recovery Fee shall be **One Hundred and Fifty Thousand Dollars (\$150,000)**, adjusted annually by the CPI Adjustment methodology set forth in Section 4.08, unless otherwise adjusted by the City. In the event that the City adjusts the Edible Food Waste Recovery Fee, the Maximum Service Rates will also be adjusted simultaneously and commensurately, to incorporate any such changes in an Edible Food Waste Recovery Fee. The Contractor shall remit this surcharge to City in accordance with Section 2.06.13. This fee is included in the Maximum Service Rates in Exhibit 1 and is not to be charged in addition to the approved Service Rates.

2.07.6 Outsourcing Payment to City. Contractor shall pay to City an Outsourcing Payment for the acquisition of City Solid Waste operations. The Outsourcing Payment shall be paid annually to the City by Contractor throughout the duration of the Agreement beginning at an amount of **One Million One Hundred Thousand Dollars (\$1,100,000)** and adjusted annually by the CPI by the CPI Adjustment methodology set forth in Section 4.08, unless otherwise adjusted by the City. The First Outsourcing Payment is due within thirty (30) days of the beginning upon the Effective Date. Thereafter, the annual Outsourcing Payments will be due on October 1<sup>st</sup> of each year. The Contractor shall remit this surcharge to City in accordance with Section 2.06.13.

2.07.7 Reimbursement for the Cost of this Procurement Process. Contractor shall reimburse the City for the cost of this procurement of **Three Hundred Thousand Dollars (\$300,000)**. This one-time payment is due within thirty (30) days of the Effective Date.

2.07.8 Acquisition of City Rolling Stock. Contractor shall reimburse the City the acquisition of the City's collection vehicles and collection carts, and any spare parts in an amount of **One Million Two Hundred Fifty Thousand Dollars (\$1,250,000)**. This one-time payment is due on or before the Effective Date Contractor and City will cooperatively work for legal transfer and titling of the City's collection vehicles and collection carts to be effective no later than thirty (30) days after the Effective Date or a date mutually agreed on.

2.07.9 Street Sweeping Signage Payment. The Street Sweeping Signage Payment shall be **Eight Hundred Thousand Dollars (\$800,000)**. This one-time payment is due within thirty (30) days of the Effective Date.

2.07.10 Annual Rate Adjustment. Contractor shall reimburse the City for the Rate Adjustment process. The Contractor must pay to the City **Fifteen Thousand Dollars (\$15,000)** per year, annually adjusted by the CPI by the CPI Adjustment methodology set forth in Section 4.08.

2.07.11 Performance Review. The Contractor is responsible for paying the cost to conduct Performance Reviews as set forth in Section 15.02 of this Agreement.

2.07.12 Other Fees. The City may set other or modify the fees and payments in this Section 2.07, as it deems necessary. The amount, time, and method of payment and adjustment process shall be set in a manner similar to that for the other fees described in this section. In addition, City may elect to credit any fees or payments against the Maximum Service Rates to reduce the rates with written notice to Contractor.

2.07.13 Time and Method of Payment. Contractor shall remit the Franchise Fee, AB 939 / SB 1383 Support Fee, Administrative Fee, Vehicle Impact Fee, Edible Food Waste Recovery Fee, and any Other Fee payments on or before the thirtieth (30) day following the end of each month for franchise tons collected through the end of the previous month, during the term of this Agreement. If the payment is not paid on or before the thirtieth (30) day following the end of the month, the Contractor shall pay to the City a service charge, not as interest, in an amount equal to ten percent (10%) of the amount owed for that month. The Contractor shall pay an additional ten percent (10%) service charge on any unpaid balance for each additional thirty (30) day period that the payment remains unpaid. Late payment charges will not be included in any revenue requirement. The Contractor agrees that the service charges in this Section 2.06.14 reasonably reflect the cost to the City to process any delinquency calculations and notices, and to monitor the Contractor's services, all in an effort to collect the delinquent payment that, together with all other remedies afforded the City in this Agreement.

2.08 Other Contractor Payments.

2.08.1.1 Housing. Contractor shall provide to City on an annual basis beginning on the Effective Date, a One Hundred Thousand Dollar (\$100,000) donation to be used towards housing efforts in City.

2.08.1.2 School Grants. Contractor shall submit to City on an annual basis beginning on the Effective Date, a Fifty Thousand Dollar (\$50,000) donation to be used for children's programming.

2.08.1.3 Student Scholarship(s). Contractor shall provide to five (5) students annually beginning on the Effective Date, a Two Thousand Dollar (\$2,000) scholarship to qualified undergraduates majoring in the field of environmental studies. Details on the parameters for qualifications of nominees will be developed and implemented by Contractor.

### **ARTICLE 3. Services Provided by Contractor**

3.01 Grant of Exclusive Agreement. City hereby grants to Contractor, on the terms and conditions set forth herein, the exclusive franchise, right and privilege to collect, remove, and dispose of, in a lawful manner, Solid Waste accumulating in the Service Area, as may be adjusted from time to time by approved annexations, that are required to be accumulated and offered for collection to the Contractor in accordance with the City's Municipal Code, for the Term of and within the scope set forth in this Agreement. The grant shall be subject to any exclusion provided by law, including continuation rights under the Public Resources Code.

3.02 Recyclable Materials, Organic Waste, and Large Item Disposal by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from and not mixed with other Solid Waste; and (2) the seller/donor may not pay the buyer/donee any consideration for collecting, processing, or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection

Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

3.03      Exclusions to Exclusivity.

3.03.1      Specialized Recyclable Materials. If Contractor is unable or unwilling to collect and process for diversion specialized materials, including, but not limited to, organics, metals, construction and demolition debris, laboratory waste, pallets and others, and which a third party is able to re-use or recycle, Service Recipients shall have the right to engage the third-party recycler to collect and recycle those source-separated Recyclable Materials provided that the diversion is verified by the City and the third party obtains a City recycling permit.

3.03.2      Recyclable Materials Sold by Commercial Generator. If the waste generator at a Commercial Service Unit has source separated Recyclable Material, the generator is entitled to sell that Recyclable Material or be otherwise compensated in a manner resulting in a net positive payment to the generator, when such collector is permitted as appropriate under the City Municipal Code.

3.03.3      Byproducts of Food and Beverage Processing. Under AB 3036 (2018), certain byproducts from the processing of food or beverages from agricultural or industrial sources, provided they are source-separated and used as animal feed, are exempted from this Exclusive Franchise Agreement. Entities requesting exemption must apply to the City and be any of the following: registered pursuant to Section 110460 of the Health and Safety Code, or be exempted from registration pursuant to Section 110480 of the Health and Safety Code, or be a beer manufacturer as defined in Section 23012 of the Business and Professions Code, or a distilled spirits manufacturer, as defined in Section 23015 of the Business and Professions Code.

3.03.4      Community Composting. Organic Waste separated at any premises by the waste generator and donated to a Community Composting site. Contractor will collaborate with individuals engaged in Community Composting in accordance with Exhibit 9. City will require individuals engaged in Community Composting to report the tonnage of Solid Waste diverted through composting activities. City and Contractor agree such information is necessary for City and Contractor to determine compliance with the diversion requirements set forth in Article 5.

3.03.5      Gardening or Landscape Services. Green Waste removed from a premises by a gardening, landscaping, or tree trimming company as an incidental part of a total service offered by that company rather than as a hauling service.

3.03.6      City Assistance in Franchise Enforcement. The City shall reasonably assist Contractor in the enforcement of Contractor's exclusive franchise. Such assistance will include, but is not limited to: sending cease and desist letters at Contractor's request to Service Recipients and third parties engaged in violating or infringing on Contractor's exclusive franchise; taking code enforcement action against Service Recipients who continue to hire unauthorized third parties to haul away the Service Recipient's Solid Waste; and joining with Contractor in any legal actions seeking injunctive relief against authorized third party haulers.

3.04      Responsibility for Service Billing and Collection. Contractor is responsible for the billing and collection of payments for Collection Services within the Service Area.

3.05      Service Standards. Contractor must perform all Collection Services under this Agreement in a thorough and professional manner.

3.06      Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Contractor's obligations under this Agreement. Contractor must at all times have sufficient backup equipment and labor to fulfill Contractor's obligations under this Agreement. No



compensation for Contractor's services or for Contractor's supply of labor, equipment, tools, facilities, or supervision will be provided or paid to Contractor by City or by any Service Recipient except as expressly provided by this Agreement.

3.07 Holiday Service. The City observes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day as legal holidays. Contractor is not required to provide Collection Services or maintain office hours on the designated holidays. In any week in which one of these holidays falls on a Work Day, Collection Services for the holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday Collection Services being performed on Saturday.

3.08 Inspections. The City has the right to inspect Contractor's facilities or Collection vehicles and their contents at any reasonable time while operating inside or outside the City.

3.09 Commingling of Materials. Contractor must not at any time commingle any materials collected pursuant to this Agreement with any other material collected by Contractor from other waste streams outside the City without first providing the City Administrator with a written request and supporting justification of the need to commingle the materials, at least thirty (30) days prior to the proposed comingling. City Administrator may approve the request if, in the reasonable exercise of his or her judgement, he or she determines the supporting justification to be adequate. If comingling is approved and takes place, Contractor agrees to indemnify, defend and hold City harmless from any claims, demands, fines, or penalties arising from Contractor's comingling.

3.10 Recyclable Materials and Organic Waste Contamination. Contractor must offer the Service Recipients the correct combination of Cart Container sizes and collection frequency that matches their unique service needs to reduce contamination of Recyclable Materials and Organic Waste. To obtain state mandated diversion requirements, Contractor is only required to collect Organic Waste if it has been separated by the Service Recipient from Garbage and Recyclable Materials. Contractor shall not mix or commingle Recyclable Materials and Organic Waste.

As part of Contractor's Support Services under Article 18, Contractor agrees to provide outreach and support to Service Recipients. Additionally, Contractor's route collection personnel will report to Contractor's supervisors if they observe potential contamination problems, and/or insufficient collection capacity. For purposes of determining if Organic Waste is deemed to be contaminated, if, by visual or digital inspection, Organic Waste is commingled with five percent (5%) by volume of Garbage or Recyclable Materials (provided however, that if CalRecycle requires use of a different percentage by volume threshold, then Contractor will utilize that threshold), then Organic Waste will be deemed to be contaminated and Contractor may take the following steps:

3.10.1 SFD Service Recipients. The following provisions will apply to all SFD Service Recipients and MFD Service Recipients utilizing Carts.

3.10.1.1 First and Second Occurrence. For the first and second occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor must collect the contaminated container (as Garbage) and must affix a Contamination Violation Notice to the contaminated container which contains instructions on the proper procedures for sorting Organic Waste, and must notify the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag), that for the third and subsequent incidents of excess contamination, the Service Recipient may be charged a contamination fee for the contaminated container, and for the fifth or subsequent occurrence of contamination, Contractor may increase the Cart size, or require an additional Cart. Contractor's representative must also contact the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Organic Waste. Contractor must also provide digital/visual documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems.

3.10.1.2 Third and Fourth Occurrence. For the third and fourth occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor will provide a Contamination Violation Notice that contains instructions on the proper procedures for setting out Organic Waste, and Contractor must collect the contaminated Container (as Garbage) and may charge the Service Recipient a contamination fee as set forth in **Exhibit 1**. For any contamination fee charge being assessed, Contractor must provide digital/visual documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems.

3.10.1.3 Fifth and Subsequent Occurrence. For the fifth or subsequent occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor must collect the contaminated Container (as Garbage) and must charge the Service Recipient a contamination fee as set forth in **Exhibit 1**. Contractor must continue providing the Organic Waste Collection Services. Contractor must provide (or have provided) digital documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems and written Notices of contamination as described above. Contractor must notify City within five (5) Business Days if Contractor increases in the Cart size or requires an additional Cart for excessive contamination or imposes a contamination surcharge to the account for a period of six months or until the Service Recipient has demonstrated no contamination for a period of three consecutive months. City will consult with Contractor and consider, and pursue as applicable, appropriate legal remedies against offending Service Recipients in order to secure discontinuance of the contamination. All City costs of such action shall be recoverable from the offending Service Recipients.

3.10.2 Commercial and MFD Service Recipients. The following provisions will apply to all Commercial and MFD Service Recipients utilizing Bins or Roll-Off Containers.

3.10.2.1 First Occurrence. For the first occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor must collect the contaminated container (as Solid Waste) and must affix a Contamination Violation Notice to the contaminated container which contains instructions on the proper procedures for sorting Organic Waste, and must notify the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag), that for the second and subsequent incidents of contamination, the Service Recipient will be charged a contamination fee for the contaminated container, and for the fifth or subsequent occurrence of excess contamination, Contractor may increase the Cart or Bin size or collection frequency or impose a contamination surcharge on the account for a period of six months or until the Service Recipient has demonstrated no contamination for a period of three consecutive months. Contractor's representative must also contact the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Organic Waste. Contractor must also provide digital/visual documentation to the Service Recipient that clearly documents the Service Recipient's contamination problem.

3.10.2.2 Second, Third, and Fourth Occurrence. For the second, third, and fourth occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor will provide a Contamination Violation Notice that contains instructions on the proper procedures for setting out Organic Waste, and Contractor must collect the contaminated Container (as Garbage) and will charge the Service Recipient a contamination fee as set forth in **Exhibit 1**. For any contamination fee charge being assessed, Contractor must provide digital/visual documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems.

3.10.2.3 Fifth and Subsequent Occurrence. For the fifth and subsequent occurrence within any one Calendar Year of contamination for a particular container (i.e., Organic Waste), Contractor must collect the contaminated Container (as Garbage) and must charge the Service Recipient a contamination fee as set forth in **Exhibit 1**. Contractor must continue providing the Organic Waste Collection Services. Contractor must provide (or have provided) digital documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems and written Notices of contamination as described above. Contractor must notify City within five (5) Business Days if Contractor increases in the Cart or Bin or size or collection frequency for excessive contamination or imposes the

contamination surcharge to the account. City will consider, and pursue as applicable, appropriate legal remedies against offending Service Recipients in order to secure discontinuance of the contamination. All City costs of such action shall be recoverable from the offending Service Recipients.

3.10.3 Tracking Occurrences of Contamination. Each Contamination occurrence identified under Sections 3.10.1 and 3.10.2 shall be tracked annually per Calendar Year, and resets at the start of each Calendar Year. Where contamination is occurring, and occurrences are consecutive and unremedied their count shall continue across Calendar Years until remedy occurs. In this case, once the Service Recipient has demonstrated no contamination for a period of three consecutive months the tracking calendar will reset.

3.10.4 Disputes Over Excess Contamination Charges. If Service Recipient disputes a contamination charge (which must be within 30 days of them being assessed), Contractor shall temporarily halt any contamination charge and/or increased Maximum Service Rate resulting from increasing the Cart size or collection frequency, and Contractor may request a ruling by the City Manager to resolve the dispute. A request by Contractor to the City Manager to rule on any such dispute must be filed within ten (10) Business Days of Contractor's halting of contamination charge, or increased Maximum Rate, and must include written documentation and digital/visual evidence of ongoing overall problems. The City Manager may request a meeting (in person or phone) with both the Service Recipient and Contractor to resolve the dispute. Following such a meeting, the City Manager will rule on the dispute within ten (10) Business Days, and the City Manager's decision on resolving the dispute between and Service Recipient will be final. If the City Manager rules in favor of the Service Recipient, Contractor will credit the disputed contamination charges or increased Maximum Service Rate. If the City Manager rules in favor of Contractor, Contractor may charge Service Recipient the prior halted contamination charge and/or increased Maximum Service Rate resulting from increasing the Cart size or collection frequency and may follow the steps in Section 4.05 for collection of delinquent accounts. City Manager may appoint or designate any City employee or independent Contractor to undertake any assessment or to make any ruling required under this section. The City Manager may, at his or her discretion, delegate or assign the City Manager's review and decision authority under this section to a City employee, City consultant, City attorney, or other designee.

3.11 Container Overage and Correction Procedures. In the event that a Service Recipient is found to habitually overflow their Collection Container(s), i.e., lid will not close, Contractor may take the steps as listed below to correct Service Recipients' on-going overflow of material.

Service Recipients receiving Residential, Commercial or MFD services will be notified of Collection overages. The process for Service Recipient overages, is as follows:

3.11.1 Overage and Correction Procedures.

3.11.1.1 Contractor shall provide the Service Recipients the correct combination of Collection Containers and collection frequency that matches each Service Recipient's unique service needs to enable clean, efficient, and cost-effective collection of Solid Waste, Recyclable Materials, and Organic Waste. City and Contractor agree that overflow of Solid Waste that is not properly in the Service Recipient's Solid Waste Collection Containers may negatively impact public health and safety. Contractor has also agreed to conduct recycling audits and provide outreach and support to Service Recipient accounts receiving the correct service level. However, in the event that Service Recipients are found to habitually overflow their Solid Waste Collection Containers, Contractor may take the steps as listed below to correct Service Recipient's on-going overflow of Solid Waste.

3.11.1.2 Prior Arrangements for Collection. If the Service Recipient has made prior arrangements with Contractor for collection of Solid Waste Overages, Contractor must collect such overages as arranged, and may charge the Service Recipient the Solid Waste Overage fee (prior arrangement) rate set forth in Exhibit 1.

3.11.1.3 No Prior Arrangements. If the Service Recipient has not made prior arrangements with Contractor for collection of Solid Waste Overage, Contractor may : (i) collect such Solid Waste Overage at no additional charge as a courtesy; (ii) not collect the Solid Waste Overage and leave a Non-Collection Notice explaining the reason for non-collection of the Solid Waste Overage; or (iii) collect the Solid Waste Overage (up to two lifts) and charge the Service Recipient the Solid Waste Overage fee (no prior arrangement) rate set forth in Exhibit 1 as provided below, or increase the capacity or frequency of collection of the existing Collection Container(s) to match documented service needs as provided below. In managing Solid Waste Overages, the following apply:

3.11.2 Each Occurrence. Contractor must provide a written notice on the Container and may provide a copy of the notice via e-mail, U.S. mail, or in person (which may be by Non-Collection Notice) to the Service Recipient with the date, description and photograph of the Solid Waste Overage. Contractor may collect the Solid Waste Overage and may charge the Service Recipient a Solid Waste Overage fee as set forth in **Exhibit 1**, and increase the capacity, or collection frequency of the Collection Container to match documented service needs. At least ten (10) Business Days prior to increasing the Collection Container size, or frequency of Collection, Contractor's representative must also contact the Service Recipient by phone, U.S. mail, e-mail or in person (which may be by Non-Collection Notice) to ensure that Service Recipient has the appropriate level of service. Contractor must document overage issue in Waste Reporting System and notify City within ten (10) Business Days of any changes in Service Recipient's Collection Container size or collection frequency. The increased capacity or collection frequency will remain in effect until Contractor determines that it is no longer needed to prevent overages, which may be longer than the one Calendar Year stated above. Such determination will be in Contractor's sole but reasonable discretion and will be subject to the dispute resolution procedure set forth below. City will consider, and pursue as applicable, appropriate legal remedies against offending Service Recipients in order to secure discontinuance of the overages.

3.11.3 Tracking Occurrences of Solid Waste Overage. After twelve (12) months have passed from the last applicable Solid Waste Overage occurrence, the next Solid Waste Overage occurrence will be deemed a first Solid Waste Overage occurrence.

3.11.4 Disputes Over Container Overflow Charges. If Service Recipient disputes a Solid Waste Overage charge or container size or collection frequency change within 30 days of the disputed action, Contractor must temporarily halt Solid Waste Overage charge and/or increased Maximum Service Rate resulting from increasing the Collection Container size or collection frequency, and Contractor may request a ruling by the City Manager to resolve the dispute. During the pendency of any request, Contractor may restore Container size or number, or collection frequency, to the prior levels. A request by Contractor to the City Manager to rule on any such dispute must be filed within ten (10) Business Days of Contractor's halting of Solid Waste Overage charge, or increased Maximum Rate, and must include written documentation and digital/visual evidence of ongoing overall problems. The City Manager may request a meeting (in person or phone) with both the Service Recipient and Contractor to resolve the dispute. Following such a meeting, the City Manager will rule on the dispute within ten (10) Business Days, and the City Manager's decision on resolving the dispute between and Service Recipient will be final. If the City Manager rules in favor of the Service Recipient, Contractor must credit the disputed charge or increased Maximum Service Rate. If the City Manager rules in favor of Contractor, Contractor may charge Service Recipient the prior halted Solid Waste Overage charge and/or increased Maximum Service Rate resulting from increasing the Solid Waste Collection Container size or collection frequency and may follow the steps in Article 4.04 for collection of delinquent accounts.

3.12 Ownership of Materials. Except as provided otherwise under Applicable Law, title to Solid Waste will pass to Contractor at such time as said materials are placed in Contractor's Collection vehicle

3.13 Spillage and Litter. Contractor may not litter premises in the process of providing Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise



all reasonable care and diligence in providing Collection Services so as to prevent spilling or dropping of Solid Waste and must immediately, at the time of occurrence, clean up such spilled or dropped Solid Waste.

3.13.1 Except as provided in Section 8.02.3, Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

3.13.2 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment repair must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in a waste reporting system and notify City's stormwater compliance coordinator within two (2) hours of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the City's stormwater compliance coordinator to be compliant with the City's stormwater permit.

3.13.3 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City. If City deems necessary, Contractor must engage third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of City, City has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

3.13.4 To facilitate such cleanup, Contractor's vehicles must at all times carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

3.14 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by applicable laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

## **ARTICLE 4. Service Recipient Billing, Charges, and Rates**

4.01 Collection Services. Contractor is responsible for determining service rates, subject to the City's regulatory approval, and the billing and collection of payments for all services provided to Service Recipients. Contractor's service rates charged to Service Recipients cannot exceed the service rates established in **Exhibit 1**, which may be adjusted under this Agreement.

4.02 Partial Month Service. If, during a month, a Service Unit is added to or deleted from Contractor's Service Area, Contractor's billing to the Service Recipient will be pro-rated based on the weekly service rate (i.e., the service rate established in **Exhibit 1** divided by four (4) times the number of actual weeks in the month that service was provided to the Service Unit).

4.03 Payment to City. Contractor to provide to the City subscription information and Gross Receipts for all Service Recipients provided with Collection Service for the previous month by the 15<sup>th</sup> of each month. Contractor to pay to the City the City Fees associated with the aforementioned subscription data and Gross Receipts by the end of the month.

4.04 Production of Invoices. The Contractor shall bill Service Recipients for services provided under this Agreement. The Contractor shall not charge any amount in excess of the approved Maximum Service Rates for any services required or permitted to be performed by the terms of this Agreement. Contractor shall prepare, mail, or electronically transmit, and collect bills (or shall issue written receipts for cash payments) for services provided by Contractor under this Agreement. All SFD Service Recipients will be billed once every two months, in advance of service. MFD and Commercial Service Recipients with bin or cart service will be billed once each month, in advance of service. All Service Recipient

invoices are due and payable within 30 days of the invoice date. Billing shall not be permitted more than 15 days prior to the initiation of Collection Service period. Bills shall not be subject to late notification or charges until 30 days following the closing day of the service period. If made by mail, billings shall be placed in an envelope and shall include a return envelope for each billing period. Contractor shall include e-mail address on all billing notices and shall accept payment by check, credit card, or ACH debit. Contractor shall establish a bill payment location within the City to allow for residents to pay their bill in person, with such location subject to City approval. The bill payment location is to be staffed to allow for person-to-person interaction between bill payer and bill payee and is to be operated at least between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Billings shall include sufficient space on the statement to accommodate up to 20 typed characters as specified by the City. City shall have the right to revise the billing format, provided that reasonable notice is given. Where it has been determined that a Service Recipient has overpaid for service for any reason, Contractor must provide the Service Recipient a credit of no more than two (2) years against future invoices or a refund (where the account is closing or as selected by the Service Recipient), and where the refund amount exceeds the lesser of the regular invoicing amount or \$200 within thirty (30) days of such determination.

4.05 Delinquent SFD Service Accounts. In consideration for Contractor's agreement to not discontinue Collection Service from delinquent SFD Service Unit, City agrees to assist Contractor with placing and collecting qualifying delinquencies on the tax roll in accordance with Applicable Law, Contractor shall, by May 1<sup>st</sup> of each year or at such other time as City and Contractor shall agree upon, notify City in writing as to whether it will seek to have City place and collect qualifying delinquencies on the tax roll. Contractor shall be responsible for timely preparing, at no cost to City, all required information, reports, notices, and materials including without limitation, the report(s) required by Applicable Law, the notices required by Applicable Law, and paying for any publication costs. In addition, should City's City Attorney or special counsel, determine that placement of eligible delinquencies on the tax roll also required City to comply with the requirements of Proposition 218 and implementing legislation and court decisions, then Contractor shall timely prepare, at no cost to City, all required information, report, notices and materials necessary to comply with Proposition 218. City agrees that it shall within sixty (60) days after the Effective Date of this Agreement adopt the necessary ordinance authorizing collection of eligible delinquent SFD Service Recipients on the tax roll, and to hold all hearings, timely published all notices, and to timely make all filings, required under the above sections, provided Contractor has timely provided the required information, reports, notices and materials to City. For the purposes of this section, a "qualifying delinquency" is an SFD Service Recipients that is at least sixty (60) days in arrears and for which Contractor has provided at least one written notice delivered to the service recipient by mail or other reasonable means.

4.05.1 Report of Delinquencies. In addition to, and to facilitate the foregoing, but not in lieu of any requirement stated above, Contractor shall report to the Agreement Administrator, on a monthly basis, all Service Recipients who have received Collection Service and whose account is over ninety (90) days past due. The City shall assist Contractor in placing delinquent accounts on the Los Angeles County property tax roll and shall pay Contractor money collected from payment of the delinquent, less the City's cost to administer the tax roll lien process.

4.06 Termination of Service. Upon notification of termination of service from the City or the Service Recipient due to occupants vacating premises, Contractor is responsible for the immediate collection of Carts upon final Collection, within one business day, to ensure Carts do not disappear or are not taken for use by other Service Recipients. Contractor is responsible for replacing Carts lost due to Contractor's delay in retrieval. The City will turn off water to Service Recipients approximately 60 days after the service Recipient has stopped paying the utility bill. After the water service is discontinued, City will notify the Contractor to collect the Carts. Contractor may then discontinue Solid Waste Collection service.

4.07 Initial Maximum Service Rates. The rates for the first rate year, beginning July 1, 2023 and ending June 30, 2024, shall not exceed those set forth in **Exhibit 1**. Unless and until the rate set forth on **Exhibit 1** are adjusted, the Contractor will provide the services required by this Agreement at the rate authorized by **Exhibit 1**.

4.08 Adjustments to Maximum Service Rates using Consumer Price Index (CPI). Beginning on July 1, 2024, and annually thereafter, Contractor shall, subject to compliance with all provisions of this Section and Sections 4.09-4.11 and 4.13, receive an annual adjustment to the Maximum Service Rates as set forth in Exhibit 1 to this Agreement.

4.08.1 Annual CPI Calculation. The Maximum Service Rate adjustment shall be calculated using the percentage change in the CPI between the prior preceding 12-month period ending December 31, and the preceding 12-month period ending December 31. Therefore, the first annual CPI adjustment (effective July 1, 2024) will be based on the percentage change between the CPI for the base year, January 1, 2022 through December 31, 2022 (the prior preceding 12-month period), and the CPI for the period of January 1, 2023 through December 31, 2023 (the preceding 12-month period).

4.08.1.1 CPI Financial Information. On or before March 15, 2024, and annually thereafter on March 15 during the Term of this Agreement, Contractor shall deliver to City financial information, including calculated CPI and adjusted rates in accordance with Section 4.08.1. Such financial information shall be in the format as may be mutually agreed on between the City and Contractor. Contractor's failure to provide the financial information shall not preclude the City from applying the CPI using the prior year's financial data, or pro forma data if no prior year financial data is available. If Contractor fails to submit the financial information required by March 15, the City at its sole and reasonable discretion, may consider a late request for the annual CPI rate adjustment provided that Contractor's late request does not delay the City's ability to adjust customer rates billed by City the subsequent January 1st.

4.08.2 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. All CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

4.09 City Approval of Maximum Service Rates. On or before May 1, 2024, and annually thereafter during the term of this Agreement, the City Representative shall notify Contractor of the CPI adjustments to the affected Maximum Service Rates to take place on the subsequent July 1st. City shall take action on any changes in the Maximum Service Rates in accordance with the City's Municipal Code. The City may elect to subject any change in the Maximum Service Rates to a majority protest proceeding under Proposition 218.

4.10 Contractor Payment for CPI review. Contractor shall be responsible for paying the cost of reviewing or correcting the annual CPI adjustment if the City determines that Contractor has made substantial errors and has not properly submitted or correctly calculated the CPI adjustment.

4.11 Annual Rate Cap and Floor on Maximum Service Rates. In any year that the calculation of the CPI exceeds five percent (5.00%) the total adjustment for that year will equal five percent (5.00%) and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year. In any year that the calculation of the CPI fails to eclipse three percent (3.00%) the total adjustment for that year will equal three percent (3.00%) and no rollover amount will be added to or subtracted from the rate adjustment percentage in the following year, or any subsequent year.

4.12 Extraordinary Adjustment to Maximum Service Rates.

4.12.1 If a Change in Law occurs after November 21, 2022, then City and Contractor shall negotiate in good faith a reasonable and appropriate adjustment to Maximum Service Rates sufficient to offset Contractor's increased allowable costs of operation or reduced gross billings resulting from the Change in Law. As an exception to the preceding

sentence, Contractor shall not be entitled to an adjustment in Maximum Service Rates with respect to the first 0.5% of annual revenue in increased costs or decreased revenues incurred by Contractor resulting from the Change in Law.

4.12.2 Subject to procedures under Applicable Law, the Parties may negotiate and agree on the amount of any Maximum Service Rate adjustment pursuant to this Section 4.12. Contractor shall bear the burden of justifying to City any adjustment due to a Change in Law and shall bear its own costs of preparing its request for an adjustment and supporting documentation. City may request from Contractor such further information as it reasonably deems necessary to fully evaluate Contractor's request and make its determination whether Contractor has satisfied its burden, which determination shall not be unreasonably withheld. City shall notify Contractor of its determination within ninety (90) calendar days of receipt of the written request and all other additional information reasonably requested by City. Any such change will be implemented on the following July 1st, or within any other time frame agreed upon between City and Contractor. The adjustment in Maximum Service Rates shall be approved by the City Council and memorialized in a written amendment to this Agreement prior to becoming effective.

4.13 Performance Standards for Adjustments to Rates. To be eligible for a CPI adjustment under Section 4.08 or an extraordinary adjustment under Section 4.12, Contractor must cure any material default under Article 23 of this Agreement for which City has provided notice to Contractor.

4.13.1 Procedures in Event of Invalidation of Rate Adjustment. In the event that City is unable by operation of Applicable Law, including Proposition 218, to approve or implement a rate increase under this Article 4, or some or all of the Maximum Service Rates are disallowed by operation of Applicable Law, Contractor will have the right, within thirty (30) days after notice of any such inability to approve or invalidation of an approved rate increase, to request, in writing, that City negotiate in good faith regarding reductions in programs, services, or fees to compensate for any negative impact from the unapproved or invalidated rate increase. If City fails to commence negotiations in good faith or negotiations are not completed within forty-five (45) days following the date of receipt of Contractor's request, either party may terminate this Agreement no earlier than one hundred eighty (180) days after written notice to the other.

## **ARTICLE 5. Diversion Requirements**

5.01 Minimum Diversion Requirements. City requires Contractor to achieve minimum annual franchised diversion rate and a CalRecycle diversion standards as described in Sections 5.02 and 5.03 below. Contractor must provide documentation to City within forty-five (45) days of the end of each Calendar Year stating and supporting that Calendar Year's diversion rates as set forth in the reporting requirements in Article 20.

5.01.1 On or about January 1, 2024, and not more often than once every two (2) years, Contractor may request a waiver or revision of Franchised Diversion requirements. The parties agree to meet and confer, and negotiate in good faith regarding adjustments to the minimum diversion requirement based on waste characterization data provided by Agreement, trends in source reduction, the availability of permitted facilities that are capable of processing material to achieve the required levels of diversion, the availability of commercially viable markets for Recyclable Materials or Organic Waste, transportation constraints, embargoes, the impact of scavenging, the number and extent of exempt Organic Waste Service Recipients pursuant to Section 3.04.3 (AB 3606), increasing producer responsibility requirements, restrictions on single-use plastics, and the passage of any other legislation that significantly impacts the waste stream mix. City may not unreasonably withhold approval of the waiver or revision provided that Contractor has presented sufficient documentation for its request and the waiver does not result in the City's non-compliance with State diversion mandates.

5.01.2 If City fails to comply with CalRecycle diversion standards due to Contractor's failure to implement the diversion and public education programs provided for in this Agreement, Contractor is subject to an Administrative Charge as specified in **Exhibit 8** and Contractor must submit a corrective action plan to assist City to comply with Public Resources Code section 41780 and other Applicable Laws by March 15th following the year the diversion requirements were not met. Contractor's corrective action plan is subject to approval by the Agreement Administrator, and to be approved,



must constitute a good faith corrective action plan to allow City to comply with Public Resources Code section 41780 and other Applicable Laws. Implementation of the corrective action plan will be at Contractor's sole cost and expense. If Contractor fails to submit or implement a corrective action plan acceptable to the City, Contractor may be subject to both an Administrative Charge and an Administrative Penalty as specified in **Exhibit 8**.

5.01.3 If Contractor fails to achieve a minimum annual Franchised Diversion rate as described in Section 5.03, Contractor is subject to an Administrative Charge specified in **Exhibit 8** and must submit a corrective action plan by March 15<sup>th</sup> following the year the diversion requirements were not met. Contractor's corrective action plan is subject to approval by the Agreement Administrator, and to be approved, must constitute a good faith corrective action plan to meet the Franchised Diversion Rate. Implementation of the corrective action plan will be at Contractor's sole cost and expense. If Contractor fails to submit or implement a corrective action plan acceptable to the City, Contractor may be subject to both an Administrative Charge and an Administrative Penalty as specified in **Exhibit 8**. Provided that Contractor has implemented all required Contractor diversion and public education programs required under this Agreement and has submitted and implemented a corrective action plan acceptable to the City, Contractor's failure to meet the Franchised Division requirements shall not constitute an event of default under this Agreement.

5.01.4 If Contractor fails to meet its Franchised Diversion requirements or if City fails to comply with CalRecycle diversion standards, and Contractor has implemented all required Contractor diversion programs, the City may direct Contractor to modify its programs or implement new diversion programs. Any such modification of Contractor's existing diversion programs or addition of new diversion programs done at the City's request would be in accordance with Section 28.01.

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

## 5.02 Diversion Rate Calculation.

5.02.1 Franchised Diversion Rate Calculation. For purposes of determining whether Contractor has met its Franchised Diversion requirements under this Agreement, City and Contractor agree the annual Franchised Diversion rate will be calculated using the following formula: *"the tons of materials Collected by Contractor from Collection Services in City that are delivered to a Materials Recovery Facility, Organic Waste Processing Facility, or any other processing facility approved by City, or that are otherwise handled in a manner that counts as diversion under applicable CalRecycle regulations, divided by the total tons of materials Collected in the City by Contractor from the provision of Collection Services in each Calendar Year."*

5.02.2 CalRecycle Diversion Requirement Calculation. For purpose of determining whether Contractor has met its CalRecycle diversion requirements under this Agreement, City and Contractor agree the CalRecycle diversion requirement rate will be calculated using the following formula: *"Disposal Rate = City's Pounds Per Person Per Day generated disposal divided by two times CalRecycle's Target disposal rate for the City (Pounds Per Person Per Day). CalRecycle's Diversion Rate = 1 – Disposal Rate."*

5.03 Contractor's Diversion Requirements. For purposes of Article 5, Contractor's Franchised Diversion requirements are:

5.03.1 For Calendar Years 2024 and 2025, the minimum annual Franchised Diversion Rate requirement will be forty percent (40%) and CalRecycle Diversion standards will be fifty-five percent (55%).

5.03.2 For Calendar Years 2026 and 2027, the minimum annual Franchised Diversion Rate requirement will be fifty percent (50%) and CalRecycle Diversion standards will be sixty-five percent (65%).

5.03.3 For Calendar Years 2028 and 2029, the minimum annual Franchised Diversion rate requirement will be fifty-five percent (55%) and CalRecycle Diversion standards will be seventy percent (70%).

5.03.4 For Calendar Years 2030, and for each Calendar Year thereafter during the term of this Agreement, the minimum annual Franchised Diversion rate requirement will be sixty percent (60%) and CalRecycle Diversion standards will be seventy-five percent (75%).

5.04 Warranties and Representations. Contractor warrants that it is aware of and familiar with City's waste stream, and that with respect to Contractor's performance of its obligations under this agreement has the ability to and will provide sufficient programs and services designed to ensure City will meet or exceed the diversion requirements as set forth in this Article 5, as well as the diversion requirements of the Applicable Laws (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) (including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation), and that it will do so without imposing any costs or fees other than those set forth on **Exhibit 1**, except as provided in Section 28.01.1.

5.05 Mutual Cooperation. City and Contractor will reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383 and other Applicable Laws, and to meet Contractor's obligations under this Article 5. In this regard, City's obligations include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting diversion goals, or other exceptions from the terms of Applicable Laws, and to agree to authorize such changes to Contractor's Recycling, Organic Waste, or Solid Waste programs as may be reasonably requested by Contractor in order to achieve the minimum requirements of this Article 5.

5.06 Guarantee. Contractor shall implement the diversion programs expressly set forth in this Agreement such that: (i) the diversion programs will at all times be in compliance with the requirements of the Applicable Laws applicable to them including specifically AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and (ii) City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in this Article 5 and the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments thereto (subject to Section 28.01.1). In this regard Contractor agrees that it will, in addition to any other Agreement requirement, at its sole cost and expense and to the extent permitted by law:

5.06.1 Assist City in responding to inquiries from CalRecycle or any other regulatory agency;

5.06.2 Assist City in preparing for, and participating in, CalRecycle's biannual review of City's SRRE pursuant to Public Resources Code section 41825;

5.06.3 Assist City in applying for any extension, including under Public Resources Code section 41820, if so directed by City;

5.06.4 Assist City in any hearing conducted by CalRecycle, or any other regulatory agency, relating to City's compliance with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383;

5.06.5 Assist City with the development of and implement a public awareness and education program that is consistent with City's SRRE and Household Hazardous Waste Element, as well as any related requirements of the Applicable Laws;

5.06.6 Provide City with Recycling, source reduction, and other technical assistance as may be needed to comply with the Applicable Laws including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383; and

5.06.7 Be responsible for and pay any fees, penalties, or other costs imposed against City by CalRecycle, and indemnify and hold harmless City from and against any fines, penalties, or other liabilities, levied against it for violation of the diversion requirements, set forth in the Applicable Laws, including AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, or for violation of any other provision of the Applicable Laws, arising from or in any way related to Contractor's failure to performance of its obligations under this Agreement.

## ARTICLE 6. Service Units

6.01 Service Units. Service Units include all the following categories of premises which are in the Service Area as of the Effective Date and all such premises which may be added to the Service Area by means of annexation, new construction, or as otherwise set forth in this Agreement during term of this Agreement:

6.01.1 SFD Service Units. Services are specified in Article 7 below.

6.01.2 Commercial Service Units. Services are specified in Article 8 below.

6.01.3 MFD Service Units. Where individual units within an MFD are each served by Carts, services are defined under Section 9 (MFD-I Service) below. Where the MFD complex is served by centralized Collection Containers, service is defined under Section 10 (MFD-C Service) below.

6.01.4 Mixed-Use Dwelling Units (MXD) are described in Article 11 below.

6.01.5 City Service Units. Services are specified in Article 12 below.

6.01.6 Any question as to whether a premise falls within one of these categories will be determined by the Agreement Administrator and the determination of the Agreement Administrator will be final.

6.02 Service Unit Changes. City and Contractor acknowledge that during the term of this Agreement it may be necessary or desirable to add or delete Service Units for which Contractor will provide Service.

6.02.1 Additions and Deletions. Contractor must provide services described in this Agreement to new Service Units in Contractor's Service Area within five (5) Work Days of receipt of notice from City or the new Service Unit to begin such Service.

6.03 Annexation. If during term of the Agreement, additional territory within or adjacent to the Contractor's Service Area is acquired by City through annexation, subject to the requirements of Public Resources Code section 49520, Contractor agrees to provide Collection Services in such annexed area in accordance with the provisions and service rates set forth in this Agreement. Such Collection Services must begin within five (5) Work Days of receipt of written notice from City. Contractor may not begin Collection Service without written authorization from City.

6.04 Route Map Update. Contractor must revise the Service Unit route maps to show the addition of Service Units added due to annexation and must provide such revised maps to the Agreement Administrator as requested.

## ARTICLE 7. SFD Collection Services

7.01 SFD Collection Services. The SFD Services are governed by the following terms and conditions:

7.01.1 Conditions of Service. Contractor must provide SFD Collection Service to all SFD Service Units in the Service Area whose SFD Solid Waste is properly containerized in Garbage Carts, Recyclable Materials are properly containerized in Recycling Carts, except as set forth in Section 7.07; Organic Wastes are properly containerized in Organic Waste Carts, except as set forth in Sections 7.08, where the Garbage, Recyclable Materials, and Organic Waste carts have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and Service Recipient, that will provide safe and efficient accessibility to Contractor's Collection crew and vehicle. The standard level for an SFD Service Unit shall be approximately

one (1) 96-gallon Garbage Cart, one (1) 96-gallon Recyclable Materials Cart, and one (1) 96-gallon Organic Waste Cart. Optional 32- or 64-gallon Carts shall be provided at the Service Recipient's request.

7.02      On-Premises Service. Notwithstanding any term or definition set forth in this Agreement, Contractor must provide on-premises Collection of SFD Garbage, Recyclable Materials, and Organic Waste to an SFD Service Unit as follows:

7.02.1      At no additional cost to the SFD Service Unit:

7.02.1.1      SFD Service Units where all adult Service Recipients residing therein have disabilities that prevent them from setting their Garbage, Recyclable Materials or Organic Waste Cart at the curb for Collection, and if a request for on-premises service has been made.

7.02.1.2      SFD Service Units where topography, steep driveways, below grade dwellings, or limited access to public streets that prevents the SFD Service Recipient from setting their Garbage, Recyclable Materials or Organic Waste Cart at the curb for Collection, as determined by the City and agreed by the Contractor, and if a request for on-premises service has been made.

7.02.2      SFD Service Units inaccessible by standard 3 or 4 axle collection vehicles as determined by the Contractor and agreed by the City at an additional cost to the SFD Service Unit:

7.02.2.1      Contractor must offer "push services" and "stinger/scout truck services" to SFD Service Recipients other than those listed above on a subscription basis upon request for the Service Rate set forth in **Exhibit 1**. Push services include, but are not limited to, dismounting from the Collection vehicle, moving the Collection Containers from their storage location for Collection and returning the Collection Containers back to their storage location. Stinger/scout truck services provide for the retrieval of Collection Containers from locations with accessibility constraints that make Containers difficult or impossible to access using regular trash collection trucks.

7.02.3      Collection Day. Contractor must provide on-premises Collection Service on the same Work Day that curbside Collection would otherwise be provided to the SFD Service Unit.

7.03      Frequency and Scheduling of Service. Except as set forth in Sections 7.04 and 7.05, SFD Collection Service must be provided one (1) time per week on a scheduled route basis. SFD Collection Service must be scheduled so that all Service Units receive Solid Waste Collection Service, Recycling Collection Service, and Organic Waste Collection Service on the same Work Day.

7.04      Hour and Days of Collection. SFD Collection Service must be provided, commencing no earlier than 6:00 a.m. and terminating no later than 7:00 p.m., Monday through Friday, except for Holidays in accordance with Section 3.07. The hours, day, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the Agreement Administrator.

7.05      Manner of Collection. Recyclable Materials Contractor must provide Collection Service with as little disturbance as possible and must leave any Garbage, Recycling or Organic Waste Cart in an upright position at the same point it was Collected without obstructing alleys, roadways, driveways, sidewalks, or mailboxes.

7.05.1      Contractor's employees providing Collection Service must follow the regular walk for pedestrians while on private property and may not trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings.



7.05.2 Replacement of Carts. Contractor's employees must take care to prevent damage to Carts by unnecessary rough treatment. However, any Cart damaged by the Contractor must be replaced by Contractor, at Contractor's expense, within five (5) Work Days at no cost or inconvenience to the Service Recipient.

7.05.2.1 Upon notification to Contractor by City or a Service Recipient that the Service Recipient's Cart(s) has been stolen or damaged beyond repair through no fault of Contractor, Contractor must deliver a replacement Cart(s) to such Service Recipient within five (5) Work Days. Contractor must maintain records documenting all Cart replacements occurring and report through the Waste Reporting System monthly.

7.05.2.2 Each Service Recipient is entitled to the replacement of one (1) lost, destroyed, or stolen Cart every ten (10) years during the life of this Agreement at no cost to the Service Recipient. Except in the case of a Cart that must be replaced because of damage caused by Contractor or in the case where Contractor elects to replace a Cart rather than repair it on-site, Contractor will be compensated for the cost of those replacements in excess of one (1) per type of Cart per Service Recipient during the term of the Agreement, in accordance with the "Cart Exchange" Service Rate set forth in **Exhibit 1**, or as may be adjusted by the City from time to time as provided under this Agreement.

7.05.2.3 Contractor understands and agrees that this provision is intended to be applied on a per Cart type, individual Service Recipient basis and accordingly each Service Recipient could receive up to three (3) replacement Carts, one (1) of each type, every ten (10) years during the term of the contract.

7.05.2.4 All Collection Containers provided by Contractor shall comply with the CalRecycle container color requirements in accordance with 14 C.C.R. section 18984.7. Contractor shall begin to replace Collection Containers on Effective Date and complete such replacement by June 30, 2025. If any color container requirements are adopted after November 21, 2022 that results in Contractor being required to replace Collection Containers before they have been fully depreciated, Contractor will be eligible for additional compensation in accordance with Section 4.12.

7.05.3 Repair of Garbage, Recycling and Organic Waste Carts. Contractor is responsible for the repair of Carts, including but not be limited to, hinged lids, wheels and axles. Within five (5) Work Days of notification by the City or a Service Recipient of the need for such repairs, Contractor must repair the Cart or if necessary, remove the Cart for repairs and deliver a replacement Cart to the Service Recipient.

7.05.4 Cart Exchange. Upon notification to Contractor by City or a Service Recipient that a change in the size of a Cart is requested, Contractor must deliver such Cart to such Service Recipient within five (5) Work Days. Each SFD Service Unit is eligible to receive one (1) free Cart exchange per Calendar Year during the term of this Agreement for moving to a larger Cart size. Each SFD Service Unit is eligible to receive unlimited Cart exchanges per Calendar Year during the term of this Agreement for moving to a smaller Cart size. Accordingly, Contractor will be compensated only for the cost of those exchanges in excess of one (1) per Calendar Year for those Service Units receiving larger Cart sizes, in accordance with the "Cart Exchange" service rate as set forth in **Exhibit 1** or as may be adjusted this Agreement.

7.05.5 Additional Cart Request. Upon notification to the Contractor by City or a Service Recipient that additional Carts for Garbage, Recyclable Materials, or Organic Waste are requested, Contractor shall deliver such Carts to such Service Recipient within five (5) Work Days, at the rate set forth in **Exhibit 1**.

7.05.6 Ownership of Carts. Ownership of Carts is vested in the Contractor.

7.06 SFD Garbage Collection Service. This service is governed by the following terms and conditions:

7.06.1 Non-Collection. Contractor is not required to Collect any SFD Garbage that is not placed in a Garbage Cart. In the event of non-collection, Contractor will follow the steps set forth in Section 3.13.

7.06.2 Disposal Facility. Except as set forth below, all Residential Garbage Collected as a result of performing SFD Collection Services must be transported to, and disposed of, at the Disposal Facility. In the event the Disposal Facility is closed on a Work Day, Contractor must transport and dispose of the Residential Garbage at another legally permitted disposal facility. Failure to comply with this provision will result in the levy of an administrative charge as specified in this Agreement and may result in the Contractor being in default under this Agreement.

7.07 SFD Recyclable Materials Service. This service is governed by the following terms and conditions:

7.07.1 Overages. Corrugated cardboard that will not fit inside the Recycling Cart may be placed beside the Recyclable Materials Cart if flattened during the three-week period beginning December 26<sup>th</sup> each year during the term of this Agreement.

7.07.2 Recycling - Improper Procedure. The Contractor is not required to Collect Recyclable Materials if the Service Recipient does not segregate the Recyclable Materials from Garbage or Organic Waste. Furthermore, Contractor is not required to Collect Recyclable Materials that are contaminated through commingling with Solid Waste or Organic Waste. To address contamination, Contractor must follow the steps set forth in Section 3.10.

7.07.3 Materials Recycling Facility. Except as provided in Section 3.10, all Recyclable Materials Collected as a result of performing Recyclable Materials Collection Services must be delivered to the Materials Recycling Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 8 and may result in Contractor being in default under this Agreement.

7.07.4 Move In/Out Collection Service. Within three (3) months of opening a new account, at no additional charge, each SFD Service Recipient may request that Contractor provide one on-call Move-In/Out Recyclable Material Collection Service for recyclable packaging materials such as flattened cardboard boxes, and bundled newspaper and packaging foam. This will be offered as a one-time service for each new account. This service shall only include Recyclable Materials, and in the event that the Service Recipient includes Garbage in the materials set out for Collection by Contractor, this service shall be counted as one of the SFD Service Recipient's free annual Large Item Collections as set forth in Section 7.09.

7.07.5 Recycling - Changes to Services. Should changes in Applicable Law arise that necessitate any additions or deletions to the services described in this Section 7.07, including the type of items included as Recyclable Materials, the parties will negotiate any necessary cost changes and will enter into an Agreement amendment covering such modifications to the services to be performed and the compensation to be paid in accordance with Section 28.01.1 before undertaking any changes or revisions to such services.

7.08 SFD Organic Waste Collection Service. This service is governed by the following terms and conditions:

7.08.1 Organic Waste Processing Services. Contractor must ensure that all Organic Waste Collected pursuant to this Agreement is diverted from the landfill in accordance with AB 939, AB 1826, AB 1594, SB 1016 and SB 1383, and any subsequent or other Applicable Law. Contractor must ensure that the Organic Waste Collected pursuant to this Agreement is not disposed of in a landfill, except for residue resulting from processing. If the Organic Waste Processing Facility accepts bagged organic waste (where bags are biodegradable or otherwise), then Contractor is obligated to accept bagged Organic Waste.

7.08.2 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been agreed upon by the City. All expenses related to Organic Waste processing and marketing will be the sole responsibility of Contractor. City has the right to designate the Organic Waste Processing Facility

7.08.3 Holiday Tree Collection. Contractor must Collect Holiday Trees set out at the curb for Collection during the four-week period of December 26<sup>th</sup> through the third Friday in January each year during the term of this Agreement. Contractor must deliver the Collected Holiday Trees to an appropriate facility for processing. This annual service will be provided at no additional charge to the Service Recipient. Contractor is not required to divert Holiday Trees with tinsel, flocking, or ornaments.

7.08.4 Non-Collection. Contractor is not required to Collect Organic Waste if the Service Recipient does not segregate the Organic Waste from Solid Waste or Recyclable Materials. Furthermore, Contractor is not required to Collect Organic Wastes that are contaminated through commingling with Solid Waste or Recyclable Materials. Contractor will address contamination in accordance with Section 3.10.

7.08.5 Home Compost Bins. Contractor shall store, promote, and distribute a maximum of 500 home compost bins per Calendar Year to be used by Service Recipients to compost Organic Waste. City is responsible for the purchase of home compost bins delivered to Contractor's place of storage.

7.09 SFD Large Item Collection Service. This service is governed by the following terms and conditions:

7.09.1 Conditions of Service. Contractor must provide Large Item Collection Service to all SFD Service Units in the Service Area whose Large Items have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by Contractor and Service Recipient, that will provide safe and efficient accessibility to Contractor's Collection crew and vehicle. Up to six (6) times per Calendar Year each Service Recipient is entitled to receive large item disposal amounting to a total of three (3) cubic yards per collection at no additional cost and expense. For subsequent collection in any Calendar Year, the Contractor shall receive compensation from the Service Recipient at the rate for such service as set in **Exhibit 1**.

7.09.2 Frequency of Service. Large Item Collection Service will be provided on the next regular Collection day if the request is received at least two (2) Work Days in advance of the next regular Collection day. The Service Recipient may not intentionally commingle residential Large Items with other SFD Solid Waste.

7.09.3 Large Items Containing Freon. In the event Contractor Collects Large Items that contain Freon, Contractor must handle such Large Items in a manner such that the Large Items are not subject to regulation as hazardous waste under applicable State and Federal laws or regulations.

7.09.4 Maximum Reuse and Recycling. Contractor must dispose of Large Items collected from Service Units pursuant to this Agreement in accordance with the following hierarchy:

7.09.4.1 Reuse as is (where energy efficiency is not compromised)

7.09.4.2 Recycle

7.09.4.3 Disposal

7.09.5 Disposal of Large Items. Contractor may not landfill such Large Items unless the Large Items cannot be reused or recycled.

7.09.6 City Direction of Large Items. City reserves the right to direct Contractor to take specific types of Large Items Collected pursuant to this Section to designated sites not more than twenty (20) miles from City Hall for the purpose of reuse or recycling at no cost. Contractor has no obligation to dispose of the Large Item residue remaining at the directed site or sites after scavengers and recyclers have removed reusable or recyclable Large Items.

## ARTICLE 8. Commercial

8.01 Commercial Conditions of Service. Except as set forth below, Contractor must provide Commercial Collection Services to all Commercial Service Units in the Service Area, including MFD-C and MXD Service Units and City Service Units. This service is governed by the following terms and conditions:

8.01.1 Provision of Service. Contractor must provide Commercial Solid Waste Collection Service, Commercial Recycling Service and Commercial Organic Waste Collection Service to all Commercial Service Units in the Service Area whose Garbage, Recyclable Materials, and Organics Waste are properly containerized in Collection Containers as appropriate where the Collection Containers are accessible as set forth in Section 8.01.4. Contractor must offer Garbage, Recyclable Materials, and Organic Waste Carts in 32, 64, and 96-gallon sizes. Contractor must offer Solid Waste and Recyclable Materials Bins in 1, 2, 3, 4, and 6-cubic yard sizes (stab only, no wheels or maneuvering required for 6 cubic yard sized Bins) and 1, 1.5, 2, 3 and 4-cubic yard sizes for Organic Waste Bins. Contractor must offer Roll-off Containers in 10, 20, 30, and 40-cubic yard sizes, and Compactors. The size of the container and the frequency (above the minimum) of collection will be determined between the Service Recipient and Contractor. However, the size and frequency must be sufficient to provide that no Garbage, Recyclable Materials, or Organic Waste need be placed outside the Collection Container. The base Solid Waste Collection Service will include Commercial Recyclable Materials Service as described in Section 8.03.2 below, and Commercial Organic Waste Collection Service as described in Section 8.04.5 below.

8.01.2 Bundled Service. For the Commercial Solid Waste Collection Service, the City wishes to utilize Garbage Bins as requested by the Commercial Service Recipient and including at no additional cost the equivalent volume of one (1) 64-gallon Organic Waste Cart per unit and one (1) 96-gallon Recyclable Materials Cart per unit (one or two carts) as part of the base bundled Commercial Collection Service. The actual configuration of Recyclable Materials and Organic Waste Cart and/or Bin sizes shall be based on the total equivalent volume and configured in a manner determined by the Service Recipient in consultation with the Contractor (with the option to upsize to a 32-, 64- or 96-gallon Cart, as appropriate). Additional services may be requested by the Commercial Service Recipient. To be exempted from Commercial Recyclable Materials Service or Commercial Organic Waste Collection Service, Service Recipient must apply for exemption to the Contractor. All such exemption applications must be reported in a waste reporting system and approved by the City.

8.01.3 Hours of Collection. Commercial Collection Service must be provided, commencing no earlier than 6:00 a.m., and terminating no later than 7:00 p.m., Monday through Saturday, except for Holidays. There will be no Commercial Collection Service on Sundays. The hours, day, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the Agreement Administrator.

8.01.4 Accessibility. Contractor must Collect all Collection Containers that are readily accessible to Contractor's crew and vehicles and not blocked. However, Contractor must provide "push services" and "stinger/scout truck services" as necessary upon request during the provision of Commercial Collection Services for the Service Rate set forth in Exhibit 1. Push services include, but are not limited to, dismounting from the Collection Vehicle, moving the Collection Containers from their storage location for Collection and returning the Collection Containers back to their storage location. Stinger/scout truck services provide for the retrieval of Collection Containers from locations with accessibility constraints that make Containers difficult or impossible to access using regular trash collection trucks.

8.01.5 Manner of Collection. Contractor must provide Commercial Collection Service with as little disturbance as possible and must leave any Collection Container at the same point it originally located without obstructing alleys, roadways, driveways, sidewalks, or mailboxes.

8.01.5.1 Purchase and Distribution of Collection Containers for New Commercial Service Units. Contractor must also distribute newly painted Collection Containers as specified in Exhibit 4 to new Commercial and



MFD/MXD Service Units that are added to Contractor's Service Area during the term of this Agreement. The size and mix of the Collection containers will be in accordance with the service agreement obtained by Contractor as set forth in this Agreement and the distribution must be completed within five (5) Work Days of receipt of the request for service.

8.01.6 Replacement of Collection Containers. Contractor's employees must avoid damage to Collection Containers by unnecessary rough treatment. Any Collection Container damaged by the Contractor must be replaced by Contractor, at Contractor's expense, within five (5) Work Days at no cost or inconvenience to the Service Recipient.

8.01.6.1 Each Commercial Service Unit is entitled to the replacement of one (1) lost, destroyed, or stolen Garbage, Recycling, and Organic Collection Container during the initial term of this Agreement at no cost to the Service Unit. Accordingly, Contractor will be compensated for the cost of those replacements in excess of one (1) Garbage, Recycling, and Organic Collection Container per Commercial Service Unit during the initial term of the Agreement, in accordance with the "Collection Container Exchange" Service Rate, as appropriate, set forth in Exhibit 1. Contractor must deliver a replacement Collection Container to such Service Unit within five (5) Work Days.

8.01.7 Repair of Collection Containers. Contractor is responsible for repair of Collection Containers. Within five (5) Work Days of notification by City or a Service Recipient of the need for such repairs, Contractor must repair the Collection Container or if necessary, remove the Collection Container for repairs and deliver a replacement Collection Container to the Service Recipient. Collection Container repair also includes the removal of graffiti from the Collection Container.

8.01.8 Collection Container Exchange. Upon notification to Contractor by City or a Service Recipient that a change in their Collection Containers is required, Contractor must deliver such Collection Containers to such Service Recipient within five (5) Work Days. Each Commercial Service Unit is eligible to receive one (1) free Collection Container exchange per Calendar Year during the term of this Agreement. Contractor is allowed to charge the Service Unit for the cost of those exchanges in excess of one (1) Collection Container exchange per Calendar Year, in accordance with the appropriate "Collection Container Exchange" service rate set forth in Exhibit 1 as may be adjusted by City under this Agreement. Additional Collection Containers or different size Collection Containers are subject to the applicable Service Rate set forth in Exhibit 1.

8.01.9 Newly painted Bins and Roll-off Containers. All Collection Containers provided by Contractor shall comply with the CalRecycle container color requirements in accordance with 14 C.C.R. section 18984.7. Contractor shall begin to replace Collection Containers on the Effective Date, provided that containers in service prior to the Effective Date will be replaced by Contractor no later than prior to the end of the useful life of those containers or prior to January 1, 2036, whichever occurs first. Containers must be in good condition and comply with Collection Container specifications in Exhibit 4. If any changes to these specifications are adopted after the Effective Date that results in Contractor being required to replace Collection Containers before they have been fully depreciated, Contractor will be eligible for additional compensation in accordance with Section 28.01.1.

8.01.10 Ownership of Collection Containers. Ownership of Collection Containers distributed by Contractor is vested in Contractor.

8.01.11 Cleaning of Collection Containers. Once each Calendar Year, if requested by the Commercial Service Unit, Contractor must clean all Collection Containers at the Commercial Service Unit's premises or must replace the dirty Collection Containers with clean Collection Containers. Any Collection Container cleanings must be done in such a manner that results in no water entering the City's



storm drain system. This service must be provided at no charge to the Service Unit, so long as the service is not requested more than once per Calendar Year. In addition, regardless of whether or not this cleaning is requested by the Service Unit, Contractor will ensure that all Collection Containers are cleaned on an as-needed basis so as to maintain a clean appearance and proper function. Additional cleanings beyond once each Calendar Year will be subject to the Service Rate set forth in Exhibit 1.

8.02      Commercial Solid Waste Collection Service.

8.02.1      Conditions of Service. Contractor must provide Commercial Garbage Collection Service to all Commercial Service Units in the Service Area whose Solid Waste is properly containerized in Garbage Collection Containers, where the Garbage Collection Containers are accessible.

8.02.2      Size and Frequency of Service. This service must be provided as deemed necessary and determined between Contractor and the Commercial Service Unit, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Unit and Contractor as long as the minimum frequency requirement is met. The size of the container and the frequency (above the minimum) of Collection will be determined between the Commercial Service Unit and Contractor. However, size and frequency must be sufficient to provide that no Solid Waste need be placed outside the Collection Container. Contractor must provide containers as part of the Commercial Collection Maximum Service Rates set forth in Exhibit 1. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor.

8.02.3      Non-Collection. Contractor is not required to Collect any Commercial Solid Waste that is not placed in a Garbage Collection Container unless such Commercial Solid Waste is outside the Garbage Collection Container because of overflow. In the event of non-collection or overflow, Contractor must follow the steps as set forth in Section 3.11.

8.02.4      Disposal Facility. All Garbage collected as a result of performing Commercial Collection Services must be transported to, and disposed of, at the Disposal Facility. In the event the Disposal Facility is closed on a Work Day, Contractor must transport and dispose of Solid Waste at another legally permitted disposal facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 8 and may result in Contractor being in default under this Agreement. City has the right to designate Disposal Facility and agrees to adjust Maximum Service Rates to reflect City's exercise of flow control rights.

8.03      Commercial Recycling Service. This service is governed by the following terms and conditions:

8.03.1      Conditions of Service. Contractor must provide Commercial Recycling Service to all Commercial Service Units in the Service Area whose Recyclable Materials are properly containerized in Recycling Collection Containers except as set forth below, where the Recycling Collection Containers are accessible. The Maximum Service Rates for Contractor's Commercial Recycling Services are set forth in Exhibit 1.

8.03.2      Base Commercial Recycling Service. All Commercial Service Recipients subscribing to Commercial Collection Service must receive weekly collection of Recyclable Materials with

a minimum of at least one 96-gallon Recycling Cart (per individual unit if shared service is provided) at no additional cost as part of the base service) per Service Recipient and included in the bundled rate set forth in Exhibit 1. The actual configuration of Recyclable Materials Collection Container sizes to be provided will be based on the total equivalent volume and configured in a manner determined by the Service Recipient in consultation with Contractor.

8.03.3 Size and Frequency of Service. This service will be provided as deemed necessary and determined between Contractor and the Service Recipient, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Recipient and Contractor as long as the minimum frequency requirement is met. Service may be provided by Collection Container at the option of the Service Recipient. The size of the Collection Container and the frequency (above the minimum) of Collection will be determined between the Service Recipient and Contractor. However, size and frequency must be sufficient to provide that no Recyclable Materials need be placed outside the Collection Container. Contractor may charge for Commercial Recyclable Materials Services above the weekly trash volume equivalent and must provide Recycling Collection Containers as a part of the Bundled Service with rates set forth in Exhibit 1. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor.

8.03.4 Recycling - Improper Procedure. Contractor is not required to Collect Recyclable Materials if the Service Recipient does not segregate the Recyclable Materials from Commercial Solid Waste and Organic Waste. Furthermore, Contractor is not required to collect Recyclable Materials that are contaminated through commingling with Solid Waste or Organic Waste. To address contamination, Contractor must follow the steps as set forth in Section 3.10.

8.03.5 Materials Recovery Facility. All Recyclable Materials Collected as a result of performing Recyclable Materials Collection Services must be delivered to the Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 8 and may result in Contractor being in default under this Agreement. All expenses related to materials processing and marketing will be the sole responsibility of Contractor. City has the right to designate Materials Recovery Facility and agrees to adjust Maximum Service Rates to reflect City's exercise of flow control rights.

8.03.6 Recycling - Changes to Work. Should changes in law arise that necessitate any additions or deletions to the work described herein including the type of items included as Recyclable Materials, the parties will negotiate any necessary cost changes and will enter into an Agreement amendment covering such modifications to the work to be performed and the compensation to be paid in accordance with Section 28.01.1 before undertaking any changes or revisions to such work.

8.03.7 Compliance with AB 341. Contractor will develop and maintain its Commercial Recycling Service in a manner designed to assist City and the Service Recipients to achieve and maintain compliance with AB 341 and AB 1826. Contractor will notify Commercial Service Recipients of the requirements to comply with the laws on or before thirty (30) days after the Effective Date, and each January 1st thereafter. Contractor must provide the necessary volume of collection service to Commercial Service Units in order to be in full compliance with the law. In conjunction with the City's ordinance supporting full compliance with AB 341 and AB 1826 by Commercial Service Units (i.e., "generators"), Contractor will conduct in-person outreach to all non-participating commercial covered generators a minimum of once per Calendar Year. Failure to conduct such outreach will result in a penalty as specified in Exhibit 8.

8.03.8 Additional Recycling Collection Containers. Contractor must provide additional Recycling Collection Containers to Commercial Service Recipients above the minimum requirements within five (5) days of request and may charge for such additional capacity set forth in Exhibit 1 provided that additional Collection Containers are used by Service Recipients for the purposes of setting out additional Recyclable Materials for regular weekly Commercial Recycling Service.

8.04 Commercial Organic Waste Collection Service. This service is governed by the following terms and conditions:

8.04.1 Conditions of Service. Contractor must provide Commercial Organic Waste Collection Service to all non-exempt (Section 3.04.3; AB 3036) Commercial Service Units in the Service Area whose Organic Waste is properly containerized in Organic Collection containers, except as set forth below in Section 8.04.7, where the Organic Waste Collection Containers are accessible. Contractor will conduct a site visit with each non-exempt Service Recipient to determine the specific materials to be included the Service Recipient's Organic Waste Collection (i.e., Food Waste, Green Waste, combined Food and Green Waste). Contractor will charge for collection of Organic Waste within the bundled service rate specified in Exhibit 1. For Organic Waste collected in Collection Containers beyond the size specified in the bundled service rate, Contractor will charge at the rate set forth in Exhibit 1. Contractor agrees that not all Service Units will elect to receive Organic Waste Collection Service in Carts, and that Contractor will provide Organic Waste Collection Bins upon request and as necessary. Service Recipients may elect to add Green Waste only Collection Bins to their service at pricing included in Exhibit 1. Contractor will provide a sufficient number of Collection Containers and at a collection frequency to allow for any such Service Unit to utilize the collection of Organic Waste. Commercial Organic Waste Collection will occur Monday through Saturday upon request and as necessary. City shall provide Contractor a list of the names and addresses of Commercial Service Units that are approved by City for exemption from Organic Waste Collection.

8.04.2 Organic Waste Processing Services. Contractor must ensure that all Organic Waste Collected pursuant to this Agreement is diverted from the landfill in accordance with AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and any subsequent or other Applicable Law. Contractor must ensure that the Organic Waste Collected pursuant to this Agreement is not disposed of in a landfill, except for residue resulting from processing. If the organics processing facility accepts bagged organic waste, then Contractor is obligated to accept bagged Organic Waste.

8.04.3 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste transfer station, that has been agreed upon by the City. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 8 and may result in Contractor being in default under this Agreement. All expenses related to Organic Waste processing and marketing will be the sole responsibility of Contractor. City has the right to designate Organic Waste Processing Facility and agrees to adjust Maximum Service Rates to reflect City's exercise of flow control rights.

8.04.4 Organic Waste Collection Frequency. Contractor must comply with CalRecycle collection frequency requirements as they may apply during the term of this Agreement. If any such changes to collection frequency are adopted after Effective Date that result in Contractor being allowed to reduce the frequency of Garbage or Organic Waste Collection, or otherwise cause Contractor to reduce its collection costs as a result in a change in Garbage or Organic Waste collection frequency, Contractor must provide City with its estimate of reduced costs and shall make adjustments to the Maximum Service Rates.

8.04.5 Base Commercial Organic Waste Service. All Commercial Service Recipients subscribing to Commercial Garbage Collection Service must receive weekly collection of the equivalent volume of at least one (1) 32-gallon Organic Waste Cart per Service Recipient included in the Bundled Service rate. The actual configuration of Organic Waste Collection Container sizes to be provided will be based on the total equivalent volume and configured in a manner determined by the Service Recipient in consultation with Contractor. Contractor may charge for Commercial Organic Waste Collection as set forth in Exhibit 1 for Commercial Organic Waste Service greater than the base 32-gallon Organic Waste Cart.

8.04.6 Size and Frequency of Service. This service will be provided as deemed necessary and determined between Contractor and the Service Recipient, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Recipient and Contractor as long as the minimum frequency requirement is met. Service may be provided by Bin or Cart at the option of the Service Recipient. The size of the container and the frequency (above the minimum) of Collection will be determined between the customer and Contractor. However, size and frequency must be sufficient to provide that no Organic Waste needs be placed outside the Collection Container. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor.

8.04.7 Organic Waste - Improper Procedure. Contractor is not required to Collect Organic Waste if the Service Recipient does not separate the Organic Waste from Solid Waste and Recyclable Materials. Furthermore, Contractor is not required to collect Organic Waste that is contaminated through commingling with Solid Waste or Recyclable Materials. To address contamination, Contractor must follow the steps set forth in Section 3.10.

8.04.8 Organic Waste Processing Facility. Subject to Section 8.04.3, all Organic Waste Collected as a result of performing Organic Waste Collection Services must be delivered to the Organic Waste Processing Facility. Failure to comply with this provision will result in the levy of an administrative charge as specified in this Agreement and may result in Contractor being in default under this Agreement.

8.04.9 Organic Waste - Changes to Services. Should changes in law arise that necessitate any additions or deletions to the services described in this Section 8.04 including the type of items included as Organic Waste, the parties will negotiate any necessary cost changes and will enter into an Agreement amendment covering such modifications to the services to be performed and the compensation to be paid in accordance with Section 28.01.1 before undertaking any changes or revisions to such services.

8.04.10 Compliance with AB 1826 and SB 1383. Contractor will develop and maintain its Commercial Organic Waste Collection Service in a manner designed to assist City and Service Recipients to achieve and maintain compliance with AB 1826 and SB 1383. Contractor will notify non-exempt covered businesses of the requirements to comply with the law no later than thirty (30) days after the Effective Date and annually each January 1st thereafter. Contractor will offer to provide the volume of collection service that covered businesses require to be in compliance with the law. In conjunction with the City's ordinance supporting full compliance with AB 341, SB 1383 and AB 827 by Commercial Service Units (i.e., "generators"), Contractor will conduct in-person outreach to all non-participating non-exempt

commercial covered generators as specified in Section 18.02. Failure to conduct such outreach will result in a penalty as specified in Exhibit 8.

8.04.11 Additional Organic Waste Collection Containers. Contractor must provide additional Organic Waste Collection Containers to Service Recipients at the rates listed in Exhibit 1 provided that additional Collection Containers are used by Service Recipients for the proposes of setting out additional Organic Waste materials for regular weekly Organic Waste Collection Service.

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## **ARTICLE 9. Multi- Family Dwelling Service with Individual Carts (MFD-I)**

9.01 Conditions of Service. As in Section 7.01.

9.01.1 MFD-I Curb Service. As in 7.01.1

9.01.2 MFD-I Bundled Service. A weekly bundled MFD-I Solid Waste Collection Service system will be utilized with either one (1) 64-Gallon Garbage Cart (with the option to upsize to a 96-Gallon Garbage Cart), one (1) 32-Gallon Recyclable Materials Cart (with the option to upsize to a 64- or 96-Gallon Recyclable Materials), and one (1) 32-Gallon Organic Waste Cart (with the option to upsize to a 64- or 96-Gallon Organics Cart) as part of the base MFD-I Solid Waste Collection Service. Pricing for upsizing or downsizing Carts, and additional Carts, relative to the base Bundled Service are included in Exhibit 1. The actual configuration of Garbage, Recyclable Materials and Organic Waste Cart sizes shall be at the option of the Service Recipient. MFD-I complexes which lack storage space for an Organics Waste Cart at each individual site may substitute a 2-bin service (Garbage Cart and Recyclable Materials Cart) provided that the Facility's management subscribe to service of centralized Organic Waste Collection Containers.

9.01.3 MFD-I On-Premises Service. Refer to 7.02.

9.01.4 MFD-I Frequency and Scheduling of Service. Refer to 7.03.

9.01.5 MFD-I Manner of Collection. Refer to 7.05.

9.01.6 MFD-I Replacement of Carts. Refer to 7.05.2.

9.02 MFD-I Solid Waste Collection Service. Refer to 7.06.

9.03 MFD-I Recycling Service. Refer to 7.07.

9.04 MFD-I Organic Waste Collection Service. Refer to 7.08.

9.05 MFD-I Large Item Collection Service. Refer to 7.09.

## **ARTICLE 10. Multi-Family Dwelling with Centralized Bin Service (MFD-C)**

10.01 MFD-C Collection Service. As in Section 8.01.

10.02 MFD-C Solid Waste Collection Service. As in Section 8.02.

10.03 MFD-C Recycling Service. As in Section 8.03.

10.03.1 MFD-C Move In/Out Collection Service. Within three (3) months of opening a new account, at no additional charge, each MFD-C customer may request that Contractor provide one on-call Move-In/Out Recyclable Material Collection Service for recyclable packaging materials such as flattened cardboard boxes, and bundled newspaper and packaging foam. This will be offered as a one-time service for each new

account. This service shall only include Recyclable Materials, and in the event that the Service Recipient includes Garbage in the materials set out for Collection by Contractor, this service shall be counted as one of the MFD-C Service Recipient's free annual Large Item Collections as set forth in Section 10.05.

10.04      MFD-C Organic Waste Collection Service. As in Section 8.04

10.05      MFD-C Large Item Collection Services. This service is governed by the following terms and conditions:

10.05.1      Conditions of Service. Contractor shall provide Large Item Collection service to MFD-C Service Units (subject to permission from each MFD-C Service Unit owner or property manager), by providing such Collection one (1) time per quarter on a designated date, at a designated location within the MFD-C Service Unit. Contractor shall work with the owner or property manager of each MFD-C Service Unit to arrange for a monthly Large Item Collection date. On each such Collection date, Contractor shall Collect all Large Items placed for Collection at the designated location at no charge. MFD Large Item Collection service is up to one-half (0.5) cubic yards per individual MFD unit per collection.

10.05.2      Frequency of Service. Large Item Collection is available to MFD customers up to four (4) pick-ups per complex per year. Large Item Collection Large Item Collection Service will be provided on the next regular Collection day if the request is received at least two (2) Work Days in advance of the next regular Collection day. The Service Recipient may not intentionally commingle MFD-C Large Items with other MFD-C Waste.

10.05.3      Large Items Containing Freon. As set forth in Section 7.09.3.

10.05.4      Maximum Reuse and Recycling. As set forth in Section 7.09.4.

10.05.5      Disposal of Large Items. As set forth in Section 7.09.5.

10.05.6      City Direction of Large Items. As set forth in Section 7.09.6.

## **ARTICLE 11. Mixed Use Dwelling Service (MXD)**

11.01      MXD Collection Service. As in Section 10.01.

11.02      MXD Solid Waste Collection Service. As in Section 10.02.

11.03      MXD Recycling Service. As in Section 10.03.

11.03.1      MXD Move In/Out Collection Service. As in Section 10.03.1

11.04      MXD Organic Waste Collection Service. As in Section 10.04

11.05      MXD Large Item Collection Services. As in Section 10.05

## ARTICLE 12. City Services

12.01 City Collection Conditions of Service. City Collection Services shall be governed by the following terms and conditions:

12.01.1 Contractor shall provide Garbage, Recyclable Material, and Organic Waste Collection Services to all City Service Units (and where applicable, subject to the conditions in this section), where the Containers are not blocked and are accessible by Contractor's Collection Vehicles. The frequency of collection may be designated by the City, but not to exceed six (6) times per week per container. City may change the City Service Units receiving service, and the container volume and collection frequency provided to any City Service Unit. Contractor shall provide this service and charge the City in accordance with the Commercial Service Recipient Rates set forth in Exhibit 1.

12.01.2 Contractor shall receive written permission from the City before placing any Collection Containers on City owned property for service.

12.01.3 Contractor shall limit the number of trips and the path of travel for Collection Vehicles in City parking lots.

12.02 City Clean-Up Services.

12.02.1 City's Enforcement Clean-Up Services. Within one (1) Work Day of a request from the Agreement Administrator, Contractor shall provide Roll-off Containers to support City's "Enforcement Clean-Up Services" in the Service Area. City shall be responsible for loading or arranging for loading of each Roll-off Container. Contractor shall collect, transport and deliver City Enforcement Clean-Up Services Garbage, Recyclable Material, and Organic Waste to a Disposal Facility, the Materials Recovery Facility, or Organics Processing Facility, as appropriate given the characteristics of the load. Contractor shall deliver, and collect, transport and process the City's Enforcement Clean-Up Services waste from up to ten (10) Roll-off Containers each Agreement Service Year at no charge to the City. Contractor shall be entitled to charge the City for collected materials exceeding ten (10) collections per Agreement Service Year in accordance with the Service Recipient Rates as set forth in Exhibit 1.

12.02.2 City's Clean-Up and Removal of Downed Trees. Within four (4) hours of a request from the Agreement Administrator, Contractor shall provide Roll-off Containers to support City's clean-up and removal of downed trees that result from natural events (storms, high winds etc.) in the Service Area. City shall be responsible for loading or arranging for loading of each Roll-off Container. Contractor shall collect, transport, and deliver said Organic Waste to an Organics Processing Facility for recycling. Contractor shall deliver, and collect, transport and process organic material from up to ten (10) Roll-off Containers each Agreement Service Year at no charge to the City. Contractor shall be entitled to charge the City for Roll-Off Service exceeding ten containers per Agreement Service Year in accordance with the Service Recipient Rates as set forth in Exhibit 1.

12.02.3 Abandoned Waste/Illegal Dumping Reporting. When conducting service within the City, Contractor shall direct its Collection Vehicle drivers to report to Contractor sightings of illegal dumping of Waste by recording: (i) the addresses of any Service Area where Garbage, Recyclable Material, and/or Organics Waste is accumulating; and (ii) the address, or other location description at which Garbage, Recyclable Material, and/or Organics Waste has been dumped. Contractor shall report to the City sightings and the recorded address within three (3) Work Days.

12.02.4 Abandoned Waste/Illegal Dumping Clean-up. At City's direction, Contractor shall collect, transport and process dumped items from up to fifty (50) illegal dumping clean-up requests per year at no additional charge to City. Contractor shall be entitled to charge the City for requests in excess of fifty (50) collections per Agreement Service Year in accordance with the Service Recipient Rates as set forth in Exhibit 1.

12.03 City-Sponsored Events Service. Upon request by the City, Contractor shall provide Containers, Collection Services, and Street Sweeping Services at up to five (5) City-Sponsored Events annually, including but not limited to those specified in Exhibit 2, at no cost to the City.

12.04 Large Item Collection Service. Contractor shall collect Large Items, including E-Waste and Universal Waste, from City Services Units on an on-call basis on the same terms and conditions as are provided to SFD Service Units per Section 7.09 at rates specified in Exhibit 1.

## **ARTICLE 13. Additional Services**

13.01 Residential Household Hazardous Waste (HHW), Electronic Waste (E-Waste), and Used Oil Drop-Off Program. Annually, Contractor will provide a drop-off location within the City for the collection of HHW, E-Waste, Used Oil, and Used Oil Filters generated by SFD and MFD customers. The location of this drop-off location and hours open will be mutually agreed upon by the City and Contractor and coincide at the same location and time with a "Clean-Up Day" event specified in Section 13.02.

13.02 Clean-Up Days Events. Contractor shall provide SFD and MFD Service Recipients with four (4) "Clean-Up Day" events annually. Residents of the City are allowed to drop off Garbage, including Bulky Items, for disposal. The cost for this service is to be bundled in the SFD and MFD Solid Waste Collection Service rates. Each event shall occur on a Saturday between the hours of 8:00 a.m. and 12:00 p.m. at a location within a City district selected by the City and shall be limited to SFD and MFD customers within the City. The Agreement Administrator shall notify Contractor in writing or e-mail not less than eight (8) weeks prior to the date of the Clean-Up Days event. The services shall be provided in a manner that meets all needs of the Clean-Up Days event. Contractor shall provide staffing to support City management at all times during the Clean-Up Days Events.

13.02.1 Contractor shall prepare and distribute to SFD and MFD customers Clean-Up Days event notices no later than six (6) weeks prior to each event. At a minimum, the dates and hours of operation, locations of the collection sites, and acceptable materials for collection shall be included in the notices. Contractor may separately mail electronically transmit the notices, or provide the notices as billing inserts to each SFD and MFD customers. Contractor shall provide Spanish-translated notices upon request by the City. The costs of production, printing, mailing and all associated costs for the notices shall be borne by Contractor. Contractor shall also provide its information in digital format to the City.

13.02.2 Contractor shall require that each SFD and MFD customer turn in the notice to Contractor staff at the collection site as proof of City residency as a condition to collection.

13.02.3 On the first (1) Working Day following each Clean-Up Days event, Contractor shall remove and clean up any remaining materials left for collection.

13.03 Free Paper Shredding Events. Four (4) times per year, concurrent with Clean-Up Day Events specified in Section 13.02, at no additional cost to City or its residents, Contractor will conduct a free paper shredding event at the same location as the Clean-Up Day events. At each event, all City residents will be permitted to deliver

an unlimited amount of paper for shredding free of charge by Contractor. Contractor must arrange for all shredded paper generated by each event to be processed in such a manner so as to ensure the diversion of this material from landfilling.

13.04 Mulch or Compost Delivery. At no cost to the City, Contractor must provide City with up to 6,000 cubic yards of mulch or 3,000 cubic yards of compost materials (i.e., "Recovered Organic Materials"). Contractor must deliver mulch or compost materials at a time and location mutually agreeable between the City and Contractor. At Contractor's option, at no cost to the City, and upon prior notice to City, Contractor may elect to provide an additional 12,000 cubic yards of Recovered Organic Materials to Community Composting sites or locations requested by the City. Delivered mulch or compost can be in bulk form or bagged.

13.05 Edible Food Recovery Support. At no cost to the City, Contractor must provide support to the City's Edible Food Recovery program as required under SB 1383. Contractor support may include educating commercial edible food generators, and providing records of site visits, conducting education efforts, and listing food recovery organizations.

13.06 Construction and Demolition Debris and Temporary Collection Service. This service is governed by the following terms and conditions:

13.06.1 Conditions of Service. Upon request of a customer, Contractor must provide Construction and Demolition Debris and Temporary Collection Service on a temporary on-call basis.

13.06.2 Charges for Bin or Roll-off Containers must be in accordance with **Exhibit 1** of this Agreement.

13.06.3 Frequency of Service. Construction and Demolition Debris and Temporary Collection Service must be provided within seven (7) Work Days of receipt of the request.

13.06.4 Contractor must provide customers with Construction and Demolition Debris and Temporary Collection Service with as little disturbance as possible and without obstructing alleys, roadways, driveways, sidewalks, or mailboxes. Contractor may only place Roll-off Containers in strict adherence with City's right-of-way requirements and Municipal Code

13.07 Street Sweeping Services. Contractor shall perform street sweeping services as described in Exhibit 7. The designated parking areas for weekly street sweeping are listed in Exhibit 7.

13.08 Additional Outreach Programs and Services. Contractor will provide additional public outreach services and programs as requested by City at a price to be mutually agreed upon by written agreement between the Contractor and the Agreement Administrator. This agreement will ultimately take the form of a standard Contractor personal services agreement. In the event the Contractor and Agreement Administrator cannot reach a mutually agreed upon price for the requested service or program, City shall have the right to procure the service of other vendors or contractors to provide the requested public outreach services, and Contractor shall reimburse City for the reasonable costs incurred to obtain the public outreach services must provide support to the City's Edible Food Recovery program as required under SB 1383. Contractor support may include educating commercial edible food generators, and providing records of site visits, conducting education efforts, and listing food recovery organizations.



## ARTICLE 14. Collection Routes

14.01 Service Routes. Contractor must provide City with maps and/or route sheets precisely defining Collection routes, together with the days and the times at which Collection will regularly commence.

14.02 Service Route Changes. Contractor must submit to City, in writing, any proposed route change (including maps thereof) not less than forty-five (45) calendar days prior to the proposed date of implementation. Contractor may not implement any route changes without the prior review of the Agreement Administrator. If the change will change the Collection day for a Service Recipient, Contractor must notify those Service Recipients in writing of route changes not less than fifteen (15) days before the proposed date of implementation.

14.02.1 Collection Route Audits. City reserves the right to conduct audits of Contractor's Collection routes. Contractor must cooperate with City in connection therewith, including permitting City employees or agents, designated by the Agreement Administrator, to ride in the Collection vehicles in order to conduct the audits. Contractor has no responsibility or liability for the salary, wages, benefits, or worker compensation claims of any person designated by the Agreement Administrator to conduct such audits.

## ARTICLE 15. Minimum Performance Standards

15.01 Minimum Performance Standards. Contractor must meet or exceed the following annual minimum performance standards in each Calendar Year beginning on the Effective Date.

15.01.1 Performance Standards. Contractor must not have received assessment of Administrative Charges, as set forth in this Agreement more than \$50,001 in any one (1) Agreement Service Year.

15.01.2 Meet Diversion Requirement. Contractor must meet the requirements set forth in Article 5.

15.01.3 No Current Default. Contractor must not be currently in default of any material term of the Agreement.

15.02 Billing Audit and Performance Reviews.

15.02.1 Selection and Cost. City may conduct billing audit and performance reviews ("reviews") of Contractor's performance at any time, and with any degree of frequency as may be decided by City in its own discretion during the term of this Agreement, but in no case shall the City conduct more than one (1) billing audit and/or performance review in consecutive years. Notwithstanding the forgoing, City may conduct more than one (1) billing audit and/or performance review in consecutive years if Contractor is not in compliance with the material terms and conditions of this Agreement. The reviews will be performed by a qualified firm under Agreement to City. City will have the final responsibility for the selection of the firm but may seek and accept comments and recommendations from Contractor. Contractor is only required to share in the cost of these reviews as provided in Sections 15.02.1.1, 15.02.1.2, and 15.02.4 below; otherwise, City shall pay the full cost of the review.

15.02.1.1 Full Reviews During Initial Term; Cost Shared by Contractor. City may conduct three (3) full reviews during the first ten (10) years of this Agreement in years chosen at City's discretion. The purpose of these full reviews will be as described in Section 15.02.2 below. For each of these full reviews, Contractor will be responsible for fifty-percent (50%) of the reasonable cost.

15.02.1.2 Full Review Post-Initial Term; Cost Shared by Contractor. City may conduct a full review at Contractor's expense during each Term Extension period, following the ten (10) year period from the Effective Date. For each of these full reviews, Contractor will be responsible for fifty-percent (50%) of the reasonable cost.

15.02.2 Purpose. The reviews will be designed to verify that Service Recipient billing rates have been properly calculated and they correspond to the level of service received by the Service Recipient, verify that Franchise Fees, and other fees required under this Agreement have been properly calculated and paid to City, verify Contractor's compliance with the reporting requirements and performance standards of the Collection Service Agreement, and verify Contractor has taken the required actions to achieve compliance with the Diversion Requirement. City (or its designated consultant) may utilize a variety of methods in the execution of the performance review and billing audit, including analysis of relevant documents, on-site and field observations, and interviews. City (or its designated consultant) will review and document the items in the Agreement that require Contractor to meet specific performance standards, submit information or reports, perform additional services, or document operating procedures, that can be objectively evaluated. This information will be formatted in a "compliance checklist" with supporting documentation and findings tracked for each of the identified items. The review will specifically include a determination of Contractor's compliance with the Diversion Requirement as provided in Article 5, and the public outreach and education requirements of Article 18. City (or its designated consultant) may review the Service Recipient's service functions and structure utilized by Contractor. This may include Contractor's protocol for addressing Service Recipient's complaints and service interruption procedures. Complaint logs may be reviewed, along with procedures and systems for tracking and addressing complaints. On-site and field observations by City (or its designated consultant) may include, but are not necessarily limited to:

- 15.02.2.1 Interviews and discussions with Contractor's administrative and management personnel;
- 15.02.2.2 Review and observation of Contractor's Service Recipient service functions and structure;
- 15.02.2.3 Review of public education and outreach materials;
- 15.02.2.4 Interviews and discussions with Contractor's financial and accounting personnel;
- 15.02.2.5 Interviews with route dispatchers, field supervisors, and managers;
- 15.02.2.6 Interviews with route drivers;
- 15.02.2.7 Interviews with vehicle maintenance staff and observation of maintenance practices; and
- 15.02.2.8 Review of on-route collection services, including observation of driver performance and collection productivity and visual inspection of residential routes before and after collection to evaluate Can/Cart placement and cleanliness of streets.

15.02.3 Contractor's Cooperation. Contractor must cooperate fully with the review and provide all requested data, including operational data, financial data of the type described in Section 20.01, and other data reasonably requested by City within thirty (30) Work Days.

15.02.4 Additional Billing Audit and Performance Review. In the event that the Billing Audit and Performance Review concludes that Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, City may conduct an Additional Billing Audit and Performance Review to ensure that Contractor has cured any such area of non-compliance. Contractor will be responsible for one hundred percent (100%) of the reasonable cost of any such Additional Billing Audit and Performance Review, up to a maximum cost of **Eighty-Five Thousand Dollars (\$85,000)** starting on January 1, 2024 and each January 1st thereafter, the maximum cost for the review will be annually adjusted by CPI, utilizing the CPI Adjustment methodology set forth in Section 4.08.

15.03 City Requested Program Review. City reserves the right to require Contractor to periodically conduct reviews of the Collection Services programs, provided that such reviews are reasonable and can be accomplished at no additional cost to Contractor and without interfering with Contractor's operations. Such reviews could assess one or more of the following performance indicators: average volume of Recyclable Materials per setout per Service Recipient, average volume of Green Waste and/or Food Waste per setout per Service Recipients, participation level, contamination levels, etc. Prior to the program evaluation review, City and Contractor will meet and discuss the purpose of the review and agree on the method, scope, and data to be provided by Contractor.

15.04 Cooperation with Other Program Reviews. If City wants to collect program data, perform field work, conduct route audits to investigate Service Recipient participation levels and setout volumes and/or evaluate and monitor program results related to Garbage, Recyclable Materials and Organic Waste collected in City by Contractor, Contractor must cooperate with City or its agent(s) as reasonably requested by City, provided that such cooperation can be accomplished at no additional cost to Contractor and without interfering with Contractor's operations.

## ARTICLE 16. Collection Equipment

### 16.01 Equipment Specifications.

16.01.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and comply with all Applicable Laws and meet or exceed all applicable air quality standards, including all applicable provisions of South Coast Air Quality Management District Rule 1193. The vehicles must be designed and operated so as to prevent Collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to minimize Collected materials from leaking, blowing, or falling from the vehicles. All trucks and containers must be leak resistant and must be operated to minimize spillage of liquids during Collection or in transit.

16.01.2 Large Items. Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

16.01.3 Collection Vehicles. City shall permit Contractor to utilize all Collection Service vehicles in service in the City prior to the Effective Date. Contractor shall ensure all vehicles used by Contractor for Collection of Carts pursuant to this Agreement shall be new (Model year of 2022 or later) and meet applicable

clean air standards and vehicles used for Collection of Carts shall be fully-automated except where such service is not feasible because of topographic or other physical factors as approved by the Agreement Administrator. Contractor will expend commercially reasonable efforts to provide all new vehicles required hereunder by April 1, 2025, however, if such vehicles are not available for use in the City at the foregoing time, Contractor will continue to utilize Collection Service vehicles in service in the City prior to the Effective Date until such new vehicles are available for use. Contractor must replace each automated Collection vehicle it provides with new automated Collection vehicle on or before the expiration of the tenth (10<sup>th</sup>) year from manufacture date, and each other vehicle, with a new vehicle on or before the expiration of the twelfth (12<sup>th</sup>) year from manufacture date. Use of a non-compliant vehicle shall be considered a material breach of this Agreement. The Agreement Administrator may approve variances to this requirement as required by Contractor on a case-by-case basis and upon clear evidence that a vehicle remains in superior operational condition, is safe, has passed a vehicle inspection, its appearance is acceptable, and it is not in violation of any clean air standards or any Applicable Laws.

16.01.4 Collection Vehicle Size Limitations / Overweight Vehicle Charge. Contractor may not use any Collection vehicle in violation of weight limitations set forth in Applicable Law. Contractor must report all instances of overweight vehicles to City on a monthly basis as part of its monthly City Reports submittal described in Section 20.02.1.1. Contractor may be assessed administrative charges as set forth in Section 23.04 as a result of exceeding an overweight vehicle rate of ten percent (10%) in any month during the term of the Agreement. The overweight vehicle rate will be calculated as the total number of overweight collection vehicle instances during each month, divided by the total number of collection vehicle loads transported during the same corresponding month. Prior to collecting administrative charges for overweight vehicles, the City shall afford Contractor a reasonable opportunity to provide the Agreement Administrator documentation of the extraordinary circumstance that caused the overweight vehicles. Extraordinary circumstances in this particular case include, but may be limited to, heavy rains or high winds that caused excess Green Waste to be generated, rain to accumulate in open Collection Containers, or normal Collection routes to be delayed or shortened to extreme weather conditions. The Agreement Administrator shall have authority to consider Contractor's documentation and uphold and collect the assessed charge, to reduce the charge, or waive and dismiss the charge. The Agreement Administrator shall also have the authority to waive charges in advance of an anticipated, or in response to an actual, emergency event. The Agreement Administrator's decision shall be final.

16.01.5 Registration; Inspection. All vehicles used by Contractor in providing Collection Services under this Agreement, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law. Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide City a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 and following, as well as the biennial "BIT" inspections conducted by the California Highway Patrol.

16.01.6 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, and clearance lights. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

16.01.7 Vehicle Signage and Painting. Collection vehicles must be painted and numbered without repetition and must have Contractor's name, Contractor's Service Recipient service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and

the rear of each vehicle. No advertising is permitted other than the name of Contractor, its logo and registered service marks except promotional advertisement of the Recyclable Materials and Organic Waste programs. Contractor agrees to display City seal on collection vehicles and will submit design for City approval. Contractor must repaint all vehicles (including vehicles striping) during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator, but not less often than every forty-eight (48) months beginning on the Effective Date. In the event that City notifies Contractor of vehicles that warrant painting, Contractor shall repaint identified vehicles within sixty (60) days following notice from City.

16.02 Vehicle Certification. For each Collection vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to California Health and Safety Code (section 43000 et seq., and regulations promulgated thereunder and/or a safety compliance report issued pursuant to California Vehicle Code section 34500 et seq., and the regulations promulgated thereunder, as applicable to the vehicle). Contractor must maintain copies of such certificates and reports and must provide copies of such certificates and reports to the Agreement Administrator when received by Contractor. Contractor may not use any vehicle that does not pass such inspection.

16.02.1 Annual Heavy Duty Vehicle Inspection. Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must provide copies of the inspection report or verification the vehicle was inspected and passed to the Agreement Administrator. Contractor may not use any vehicle that does not pass such inspection.

16.03 Equipment Maintenance. Contractor must maintain Collection equipment in a clean condition and in good repair at all times. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to City. Contractor must wash all Collection vehicles at least once per week.

16.04 Maintenance Log. Contractor must maintain a maintenance log for all Collection vehicles. The log must at all times be accessible to City by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle's Contractor assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

16.05 Equipment Inventory. On or before the Effective Date, and each January 1st through the Term of this Agreement, Contractor must provide to City an inventory of Collection vehicles and major equipment used by Contractor for Collection or transportation and performance of services under this Agreement. The inventory must indicate each Collection vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator, either by fax or e-mail, an updated inventory each Calendar Year to the City or more often at the request of the Agreement Administrator. Each vehicle inventory must also include the tare weight of each vehicle. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection vehicles meet the requirements of this Agreement.

16.06 Reserve Equipment. Contractor must have available to it, at all times, reserve Collection equipment which is SCAQMD compliant, and which can be put into service and operation within one (1) hour of any service interruption. Such reserve equipment must correspond in size and capacity to the equipment used by the Contractor to perform the Agreement duties.



## ARTICLE 17. Contractor's Office

17.01 Contractor's Office. Contractor must maintain an office where complaints can be received. Such office must be equipped with sufficient telephones that all Collection Service related calls received during normal business hours are answered by an employee within five (5) rings, and must have responsible persons in charge during Collection hours and must be open during such normal business hours, 8:00 a.m. to 5:00 p.m. on Monday through Friday. Contractor must provide either a local or toll-free telephone number, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. Calls received after normal business hours must be addressed the next Work Day morning.

Contractor shall keep records of all Service Recipient's calls for at least three (3) years, collected on a Calendar Year cycle. The Contractor must include the type of call (Complaint, compliment, Other), a summary of the call the time and date of the call, and if a complaint was made, the resolution to the complaint. A record of each month's calls will be reported as part of the quarterly report, as part of Section 20.03.2.5 of this Agreement. A record of each year's calls, as defined in Section 20.04.2.7, will be reported as a part of the annual report, required in Section 20.04.2. These records will also be made available to the City upon request, as pursuant to Section 20.01.1.1.

17.01.1 Emergency Contact. Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside of the required office hours.

17.01.2 Multilingual/TDD Service. Contractor must at all times maintain the capability of responding to telephone calls in English and such other languages as City may direct. Contractor must at all times maintain the capability or responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

17.01.3 Service Recipient Calls. During office hours, Contractor must maintain a telephone answering system capable of accepting at least fifteen (15) incoming calls at one time. Contractor must record all calls including any inquiries, service requests and complaints into a Service Recipient service log.

17.01.3.1 All incoming calls will be answered within five (5) rings. Any call "on-hold" in excess of one and one-half (1.5) minutes must have the option to remain "on-hold" or request a "call-back" from a Service Recipient service Agreement Administrator. Contractor's Service Recipient service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 6:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to noon the next Work Day. Contractor must make a minimum of three (3) attempts within twenty-four hours of the receipt of the call. If Contractor is unable to reach the Service Recipient on the next Work Day, Contractor must send a postcard to the Service Recipient on the second Work Day after the call was received, indicating that the Contractor has attempted to return the call.

## ARTICLE 18. Contractor Support Services

18.01 Sustainability/Compliance Representative. Contractor will hire staff, including at least one dedicated full-time Sustainability/Compliance Representative, to conduct site visits and provide outreach and education in support of meeting Franchised and CalRecycle Diversion requirements and to meet State mandates associated with AB 939, AB 341, AB 1826, AB 827, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation. The Sustainability/Compliance Representative shall be available as needed to meet

with the City and conduct site visits to implement Recycling and Organics programs in the Service Area at least four days a week throughout the year.

18.02 Sustainability and Compliance Plan. Contractor, at its own expense, must prepare, submit and implement an annual (Calendar Year) Sustainability and Compliance Plan ("Plan"), which will guide Contractor's staffs' work efforts. This Plan will include measures to meet diversion targets, increase diversion, and increase participation of Service Recipients in recycling and organics diversion programs, and should target certain Recyclable Materials or "problem" areas, including recycling and organics sorting and contamination, within Contractor's Service Area where improvements can be maximized. Planned outreach and education services, and outreach materials should be included as part of the Plan and updated annually. Targets of outreach should be based on local trends and recycling patterns from data obtained by both the City and Contractor. Contractor will maintain current and state-of-the-art public outreach and education services throughout the term of this Agreement by providing outreach materials to Service Recipients electronically (via email and social media). Contractor must submit the first year draft Plan to the City within thirty (30) days after the Effective Date. City will review and provide revisions to draft Plan within thirty (30) days of receipt. Contractor must revise and submit the final Plan to City no later than fifteen (15) days thereafter. Future draft plans must be submitted by January 1, 2024 and January 1st of each year thereafter for the term of the Agreement and the final plan by July 1, 2024 and July 1st each year thereafter for the term of the Agreement. Contractor's Plan is provided in Exhibit 6. Contractor will be required to expend at least seventy-five thousand dollars (\$75,000) per year (as adjusted annually by the CPI adjustment methodology specified in Section 4.08), for the development of the Plan and its implementation, which may include the annual subscription cost for the City's Waste Reporting System but may not include personnel costs associated with the Sustainability/Compliance Representative. The Sustainability and Compliance Plan must include the following: Sustainability Representative. The Contractor will collaborate with City staff to make available reasonable use of one or more Contractor representatives to assist City in meeting requirements of the California Integrated Waste Management Act (IWMA) of 1989. On an annual basis, Contractor will make an individual available as needed to implement, in cooperation with the City, Recycling programs in the Service Area on an average of approximately two days a week.

18.02.1 City-Specific Website. Contractor shall maintain a City-specific website that fully explains the Contractor's services and rates, the diversion options available, and allows Service Recipients to submit service changes, inquiries, complaints, or queries. The website must describe and promote the use of the available Recyclable Materials and Organic Waste services. Contractor's local website must provide information specific to the City's programs. Contractor will ensure that information provided on the website is maintained and up to date. Content will include proper container set out, educational materials, newsletters, and program descriptions

18.02.2 Recycling Resources. Contractor shall maintain accurate list of Recyclable Materials on its website and promote proper recycling to all Service Recipients. Contractor shall consult, collaborate, and coordinate its recycling outreach and educational materials and activities with the City and incorporate the City's input on the Contractor's recycling resources and programs.

18.02.3 School Education and Outreach. Contractor shall develop and utilize a program to educate on proper recycling that offers tools to assist with proper recycling for all ages. Educational information should include brochures, school resources such as recycling curriculums, kid's activity flyers, posters, myth busters, and recycling art activities. Contractor shall develop and distribute educational material and conduct onsite outreach annually to all school campuses in the franchise area, including those in the Pomona Unified School

District, private schools, and Universities. Materials must be approved by City before distribution. Examples include recyclable materials list, recycling tips, battery and bulb education, food waste collection and donation, and HHW education. Educational material shall be distributed to campuses by mail and/or in person on or before September 30th annually, and site visits must be completed by November 30th.

18.02.4 MOR Compliance Notices. Contractor shall send Mandatory Organics Recycling (MOR) compliance notices quarterly to all eligible Commercial entities and MFDs/MXD's that do not subscribe to organics collection service with the Contractor, and/or do not provide an alternate method for diverting organic waste, in conformance with SB 1383 and AB 1826. These notices shall also notify businesses of requirements under AB 827. Contractor shall mail notifications quarterly on or before the last day of the month following the end of the quarter.

18.02.5 MCR Compliance Notices. Contractor shall send Mandatory Commercial Recycling (MCR) compliance notices quarterly to all eligible Commercial entities and MFD's that do not subscribe to recycling collection service with the Contractor, and/or do not provide an alternate method for diverting recyclable materials, in conformance with AB 341. These notices shall also notify businesses of requirements under AB 827. Contractor shall mail notifications quarterly on or before the last day of the month following the end of the quarter.

18.02.6 MOR Site Visits. Contractor shall conduct site visits to all eligible Commercial entities and MFDs/MXD's once per year for the first three years and thereafter every other year for businesses that subscribe to Organics Collection Service and every year for businesses that do not subscribe to organics collection service in conformance with SB 1383 and AB 1826. Contractor shall conduct visits on or before October 31st.

18.02.7 MCR Site Visits. Contractor shall conduct site visits to all eligible Commercial entities and MFDs/MXD's once per year for the first three years and thereafter every other year for businesses that subscribe to Recycling Collection Service and every year for businesses do not subscribe to Recycling Collection Service with the Contractor. Contractor shall conduct visits on or before October 31st.

18.02.8 Waste Audits. Contractor shall complete Recycling and Solid Waste audits for twenty (20) Commercial or MFD/MXD Service Recipients per month and provide recommendations to customers on how to improve overall resource efficiency.

18.02.9 Compliance Reporting. Contractor shall report contaminations and overage issues via the City's Waste Reporting System.

18.02.10 Right-Sizing Containers. Contractor must right-size Collection Containers to maximize diversion from SFD, MFD/MXD and Commercial Service Recipients.

18.02.11 Education and Outreach Materials. Contractor must implement public education and outreach in conformance with applicable laws (e.g., SB 1383, AB 1826, AB 827, AB 939, AB 341, AB 1594, etc.) and in coordination with the City. Contractor shall attend public events and host booths to promote recycling education and awareness. Contractor will work with City to identify which special events will be attended. Contractor, together with City, shall work with local media to ensure information on new programs, events, recycling, organics etc. is communicated to the community. Contractor shall use a variety of options such as local paper, news, websites, Homeowners Associations, schools, and civic groups to distribute information and education about City solid waste and recycling programs, and events. Contractor shall distribute educational material to Service Recipients a minimum of once a quarter by mail or electronically. These materials should include

tips on recycling properly, use of organics containers, composting, battery and electronics education, prevention of contamination issues, proper Collection Container placement, resource information, and HHW education.

18.02.12 Service Recipient Personnel Training. Contractor shall advise and educate appropriate personnel (management, employees, janitors, etc.) at MFD/MXD and Commercial Service Units on methods and recommendations to increase recycling and decrease landfilling including best practices for recycling, waste reduction and availability and use of in-house recycling containers.

18.02.13 Available Services Notice and Information. At least annually Contractor must publish and distribute (by mail or electronically) a notice to all Service Units regarding the full range of services offered. The notice must contain at a minimum (i) definitions of the materials to be Collected, (ii) procedures for setting out materials, (iii) the days when Garbage Collection Services, Recycling Services, and Organic Waste Collection Services will be provided, (iv) Contractor's local customer service phone number, (v) instructions on the proper filling of Containers, (vi) instructions as to what materials may or may not be placed in Recyclable Materials or Organic Waste Containers, (vii) how to select container sizes to maximize diversion, (viii) participation in recycling and organics programs, (ix) the fees for overage and contamination in the event of non-compliance, (x) the availability of on-premises Collection Services, including the availability of no-charge on-premises Collection Services for qualified persons, (xi) Large Items Collection Services, (xii) HHW Services, and (xiii) the dates and locations of Free Landfill Days. The notice must be provided in English, and other languages as directed by the City, and must be distributed by Contractor no later than February 1st of each year.

18.02.14 Approach to Meeting City's Diversion Requirements. Contractor must document approach to meeting City's diversion requirements by specific diversion program type (SFD, MFD, Commercial, Recyclable Material, Organic Waste, Bulky Waste, etc.) and must be tied to both specific and public education programs. This must include an implementation schedule showing the specific programs and tasks, milestones, and time frames for meeting the diversion requirements.

18.02.15 Tonnage Table. Contractor must provide as part of the Plan, a tonnage table segregated by SFD, MFD/MXD, Commercial, and Additional Services that estimates tonnages for Recyclable Material and Organic Waste delivered and processed, and the estimated residual tonnages for each Calendar Year of the Franchise Agreement.

18.02.16 Environmental Stewardship. Contractor must describe all environmental management policies and activities related to the solid waste collection service, including the use of alternative fuel vehicles, reduction of air emissions and wear and tear on the City's streets, use of recycled products throughout operations, internal waste reduction and reuse protocol, water and resource conservation activities within facilities (design, construction and operation), compliance with laws governing e-waste, HHW, and u-waste, and use of non-toxic products when possible.

18.03 News Media Relations. Contractor will work with local media to ensure information is communicated to community (new programs, events, recycling information, etc.). Contractor to use options, such as; local newspaper, radio/TV news outlets, websites, and/or social media. Contractor will notify the City Representative by e-mail or phone of all requests for news media interviews related to the services covered under this Franchise Agreement within one (1) Work Day of Contractor's receipt of the request. Before responding to any inquiries involving controversial issues or any issues likely to affect participation or customer's perception of services, Contractor will discuss Contractor's proposed response with the Agreement Administrator.

18.04 Annual Recycling Awards. Contractor will recognize outstanding participation in Recycling and/or Organic Waste programs by identifying "recycling all-stars" for recognition at a City Council meeting during each November, beginning November 2023.

18.05 Outreach Activities. On an annual basis the Contractor will coordinate Recycling and Organic Waste education and outreach programs for Residential Service Recipients, in conformance with Applicable Laws, in coordination with the City. This program will consist of the following:

18.05.1 Contractor will attend public events and host booths to promote recycling education and awareness. Contractor will work with City to identify which special events will be attended.

18.05.2 Contractor to distribute educational material to Service Recipients on an annual basis. Examples include recycling tips, battery and bulb education, proper Can/Cart placement, resource information, and HHW education. This material will be mailed or electronically transmitted to Service Recipients.

18.05.3 Service Recipients will have access to Contractor's local website to find information specific to the City's programs. The Contractor will ensure that information provided on the website is maintained and up to date. This content will include proper container set out, educational materials, newsletters, and program descriptions. Service Recipients will also have the ability to use Contractor's web-based service request system.

18.05.4 Contractor, in collaboration with City, will work with local media to ensure information is communicated to the community (new programs, events, recycling information, etc.).

18.05.5 Contractor to use options, such as: local Paper, News, Websites, Homeowners Associations (HOA), and Civic Groups.

18.05.6 Contractor will assist the City in supporting Food Waste and Green Waste diversion surveys and programs.

18.05.7 Contractor will complete Garbage, Organic Waste, and Recycling audits for Commercial Service Recipients and provide recommendations to Commercial Service Recipients on how to improve overall resource efficiency.

18.06 News Media Requests. Contractor will notify the Agreement Administrator by fax, e-mail, or phone of all requests for news media interviews related to the services covered under this Franchise Agreement within twenty-four (24) hours of Contractor's receipt of the request. When practicable, before responding to any inquiries involving controversial issues or any issues likely to affect participation or Service Recipient's perception of services, Contractor will discuss Contractor's proposed response with the Agreement Administrator.

18.06.1 Copies of draft news releases or proposed trade journal articles that use the name of City or relate to the services provided hereunder must be submitted to the Agreement Administrator for prior review and approval at least five (5) working days in advance of release, except where Contractor is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case Contractor must submit such materials to City simultaneously with Contractor's submittal to such regulatory agency.

18.06.2 Copies of articles resulting from media interviews or news releases that use the name of City or relate to the services provided hereunder must be provided to the City within five (5) days after publication.



18.07 Annual Collection Service Notice. Each year during the term of this Agreement, Contractor must publish and distribute (by mail or electronically) a notice to all Service Units regarding the Collection Service programs. The notice must contain at a minimum; definitions of the materials to be Collected, procedures for setting out the materials, the days when Garbage Collection Services, Recycling Services, and Organic Waste Collection Services will be provided, City Service Recipient service phone number; and instructions on the proper filling of containers, instructions as to what materials may or may not be placed in Recyclable Materials or Organic Waste containers, and the amount of overage and contamination fees in the event of non-compliance. The notice must also advertise the availability of on-premises Collection Services, SFD Large Items Collection Services and Temporary Collection Services, and specifically the availability of no-charge on-premises Collection Services for specific qualified Service Recipients as described in Section 7.02. The notice must also advertise the date and location of upcoming free paper shredding events as described in Section 13.03. The notice must be provided in English, and other language(s) as directed by the City and must be distributed by Contractor no later than March 31 of each year.

18.08 Acceptable Materials Labeling. Contractor must affix to each Recycling and Organics Collection Container a sticker that clearly lists acceptable materials to be placed in these containers. Stickers must be replaced annually and include any updates in the list of acceptable materials (Exhibit 6).

18.09 Additional Outreach Programs and Services. Contractor will provide additional public outreach services and programs as requested by City at a price to be mutually agreed upon between the Contractor and the Agreement Administrator. This agreement will ultimately take the form of a standard Contractor personal services Agreement. In the event the Contractor and Agreement Administrator cannot reach a mutually agreed upon price for the requested service or program, City shall have the right to procure the service of other vendors or contractors to provide the requested public outreach services

## **ARTICLE 19. Emergency Service**

19.01 Revised Services During an Emergency. In the event of a natural disaster or Act of God, the Agreement Administrator may grant the Contractor a variance from regular routes and schedules, which will not be withheld unreasonably. As soon as practicable after such event, Contractor must advise the Agreement Administrator when it is anticipated that normal routes and schedules can be resumed. The Agreement Administrator will make an effort through the local news media and in coordination with the City to inform the public when regular services may be resumed. The clean-up from a natural disaster or Act of God may require that Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the natural disaster or Act of God. Contractor will receive additional compensation for extraordinary clean-up directly in response to a natural disaster or Act of God above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the rates set forth in **Exhibit 1** provided Contractor has first secured written authorization and approval from City through the Agreement Administrator. City will be given equal priority and access to resources as with other franchise jurisdictions held by Contractor or its affiliates.

## **ARTICLE 20. Record Keeping and Reporting Requirements**

20.01 Record Keeping. Notwithstanding Article 45 herein:

20.01.1 Accounting Records. Contractor must maintain full, complete, and separate financial, statistical, and accounting records, pertaining to cash, billing, and provisions of all Collection Services, prepared

on an accrual basis in accordance with GAAP. Such records will be subject to audit, copy, and inspection. Gross receipts derived from provision of the Collection Services, whether such services are performed by Contractor or by a subcontractor or subcontractors, will be recorded as revenues in the accounts of Contractor. Contractor must maintain and preserve all cash, billing, and disposal records for a period of not less than three (3) years following the close of each of Contractor's fiscal years.

20.01.1.1 City reserves the right to request audited, reviewed, or compiled financial statements for services provided under this Agreement by Contractor prepared by an independent Certified Public Accountant.

20.01.2 Agreement Materials Records. Contractor must maintain records of the quantities of Solid Waste Collected, processed, and disposed under the terms of this Agreement, by type, Collected, purchased, processed, sold, donated, or given for no compensation, and Residual disposed.

20.01.3 Other Records. Contractor must maintain all other records reasonably related to provision of Collection Services, whether or not specified in this Agreement.

## 20.02 Monthly Reporting.

20.02.1 General. Monthly reports must be submitted no later than 5:00 p.m. PST on the fifteenth (15<sup>th</sup>) day of the month following the close of the reporting period. If the fifteenth (15<sup>th</sup>) day falls on a day that City is closed, or a holiday, then the report will be due on the next business day.

20.02.1.1 Overweight Vehicle Reporting. The monthly report must include a summary total of all instances of overweight collection vehicles. This summary must include the number of overweight vehicle instances expressed as a percentage of the total number of collection vehicle loads transported during the reported month.

20.02.1.2 Contamination Reporting. To the extent required by Applicable Law, the monthly report must include a summary of all instances of qualifying contamination under the procedures in Section 3.10. This summary must include the total number of accounts where contamination occurred, the total number of Contamination Violation Notices issued by Contractor to Service Recipients, and the total number of instances where Collection Can or Cart size was increased/decreased specifically due to contamination. Within twenty (20) Work Days of request by City, Contractor will provide copies of the Contamination Violation Notices and the digital documentation of contamination.

## 20.03 Quarterly Reporting.

20.03.1 General. Quarterly reports must be submitted no later than 5:00 p.m. PT on the fifteenth (15<sup>th</sup>) day following the last month of the quarter. If the fifteenth (15<sup>th</sup>) day falls on a day that City is closed, or a holiday, then the report will be due on the next business day.

20.03.2 City Reports. Quarterly reports to City must include:

20.03.2.1 Gross Receipts Reporting. Contractor must include an accounting of Contractor's Gross Receipts collected during the preceding quarter.

20.03.2.2 Franchised Tonnage Data. Contractor must report the tonnage of Garbage, Recyclable Materials, and Organic Waste collected, processed for diversion, Residual amounts and landfilled for Collection Services, and the facilities where the tons were processed or disposed.

20.03.2.3 Non-Collection. The quarterly report must include a summary of each Service Unit receiving a Non-Collection Notice in the previous quarter along with a description for the Non-Collection Notice.

20.03.2.4 Collection Overage Charges. The quarterly report must include each Service Unit incurring a charge for a Solid Waste Overage in the previous quarter.

20.03.2.5 Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter as required in Section 17.01.3 of this Agreement.

20.03.2.6 Hazardous Waste diversion records showing types and quantities, if any, of Hazardous Waste that was inadvertently Collected, but diverted from landfilling.

20.03.2.7 Other information that the City may reasonably request or require.

#### 20.04 Annual Reporting.

20.04.1 General. An annual report must be submitted no later than 5:00 p.m. PT on April 1, 2024, and each April 1st thereafter for the previous Calendar Year. If April 1st falls on a day that City is closed, then the report will be due on the next business day. Annual reports must be provided electronically in a format acceptable to the City.

20.04.2 City Reports. Annual reports to City must include:

20.04.2.1 Financial Reports. Contractor must prepare an annual Financial Report for submittal to the City. At a minimum, the Financial Report must include the number of Service Units provided with Collection Services, including any additional services, the Contractor's gross billing and amount collected for each type of Service Unit, and the amount received for the sale of Recyclable Materials, cost of Recyclables Materials processing, and the cost of residual disposal.

20.04.2.2 Public Education Summary. Public education and information activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to the provision of Collection Services. This report will discuss the impact of these activities on Recycling program participation and include amounts Collected from Service Units.

20.04.2.3 Summary of Programs. An analysis of any Recycling and Organic Waste Collection, processing and marketing issues or conditions (such as participation, setouts, contamination, etc.) and possible solutions, discussed separately for each program.

20.04.2.4 Garbage Data. The number of Service Units and the number of Containers distributed by size and Service Unit type. Include a separate line item for Service Units utilizing manual Cans (as warranted) that are Collected by Contractor.

20.04.2.5 Recycling Data. Gross tons of Recyclable Material processed and recovered for the Calendar Year for Residential and Commercial Recycling Collection Service. Indicate, by material type (and grade where appropriate), quarterly totals of Recyclable Materials processed and sold including facility name and location, average price received per ton, and total recycling revenue received for the Calendar Year, cost of Recyclables Materials processing, and the cost of residual disposal. Indicate any quantities, by material type, donated or otherwise disbursed without compensation. Indicate number of Carts distributed by size and Service Unit type. Include a separate line item for Service Units utilizing manual Cans that are Collected by Contractor. Also provide quarterly totals and location for Residual disposed.

20.04.2.6 Organic Waste Data. Gross tons Organic Waste processed and recovered for the Calendar Year for Residential and Commercial Organic Waste Collection Service. Include the total number of generators that receive each type of Organic Waste Collection Service provided by the Contractor. Indicate average daily number of set-outs by route. Indicate average participation rates relative to the total number of Service Units in terms of weekly set-out counts. Indicate number of Carts distributed by size and Service Unit type. Include a separate line item for Service Units utilizing manual Cans that are Collected by Contractor. Provide totals and location for Residue Disposed. Include the number of route reviews conducted for prohibited contaminants and the number of Non-Collection Notices issued to Service Recipients.

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

20.04.2.8 Green Pages. A copy of Contractor's most recent "Green Pages" (i.e., Service Recipient call center "cheat sheet") for the City of Pomona, or the equivalent information used by Service Recipient service representatives in the event that the "Green Pages" are renamed or otherwise reworked during the term of this Agreement.

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

20.04.2.10 Summary Narrative. A summary narrative of problems encountered with Collection and processing activities and actions taken. Indicate type and number of Non-Collection Notices left at Service Recipient locations. Indicate instances or numbers of property damage or injury, significant changes in operation, market factors, publicity conducted, or needs for publicity. Include description of processed material loads rejected for sale, reason for rejection and disposition of load after rejection.

20.04.2.11 Cart and Vehicle Inventory. An updated complete inventory of Carts by type and size, and an updated complete inventory of Collection vehicles including for each vehicle: truck number, date purchased, vehicle type, tare weight, license plate number, vehicle make and model, vehicle manufacture year, and total miles.

20.05 Diversion Data. By 5:00 p.m. PT on April 1, 2024, and annually thereafter during the term of this Agreement, Contractor must deliver to City diversion data for the specific services performed under this Agreement in the format specified by City. City will provide any necessary information for data arising prior to the Effective Date and required by Contractor to prepare reports on behalf of City.

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

20.06.1 In the event that CalRecycle requires City to submit an Implementation Schedule to comply with AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1383 and other Applicable Laws, Contractor will provide reasonable assistance to City in preparing a report, including Contractor's policies and procedures related to compliance with AB 341, AB 901, AB 939, AB 1826, AB 1594, SB 1383, and other Applicable Laws and how recycling or organics are collected, a description of the geographic area, routes, list of addresses served and a method for tracking contamination, copies of route audits, copies of notice of contamination, copies of notices, violations, education and enforcement actions issued, and copies of educational materials, flyers, brochures, newsletters, website, and social media.

20.07 Additional Reporting. Contractor must furnish City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

## **ARTICLE 21. Nondiscrimination**

21.01 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor may not discriminate against any person on the basis of such person's race, color, sex (including pregnancy, childbirth, and related medical conditions), age, ancestry, national origin, religion, marital status, or sexual orientation, gender identify and gender expression, disability (physical and mental), medical conditions, AIDS/HIV, citizenship status and genetic information, military or veteran status, political affiliations or activities, and status as a victim of domestic violence, assault or stalking, or any other protected class identified under State or Federal Law or regulation, as may be adopted or amended from time to time. Contractor must comply with all applicable local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

## **ARTICLE 22. Service Inquiries and Complaints**

22.01 Contractor's Service Recipient Service. All service inquiries and complaints will be directed to Contractor. A representative of Contractor must be available to receive the complaints during normal business hours. Contractor is required to utilize the City's Service Recipient Relationship Management System (CRMS) or equivalent system for handling of Service Recipient complaints received by the City for hauling, street sweeping, storm drain cleaning, and any other services under this Agreement. Contractor must participate in mandatory CRMS training before utilizing system. All service complaints will be handled by Contractor in a prompt and efficient manner. CRMS cases must be addressed and resolved within 3 (three) Work Days. In the case of a dispute between Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement Administrator.

22.01.1 Contractor will utilize the Service Recipient Service Log to maintain a record of all inquiries and complaints in a manner prescribed by City.

22.01.2 For those complaints related to missed Collections, where Containers are properly and timely set out, that are received by 12:00 noon PST on a Work Day, Contractor will return to the Service Unit address and Collect the missed materials before leaving the Service Area for the day. For those complaints related to missed Collections that are received after 12:00 noon PST on a Work Day, Contractor will have until the end of



the following Work Day to resolve the complaint. For those complaints related to repair or replacement of Collection Containers, the appropriate Sections of this Agreement will apply.

22.01.3 Contractor agrees that it is in the best interest of City that all Commercial and MFD Garbage, Recyclable Materials, and Organic Waste be Collected on the scheduled Collection day. Accordingly, missed Collections will normally be Collected as set forth above regardless of the reason that the Collection was missed. However, in the event a Service Recipient requests missed Collection service more than two (2) times in any consecutive two (2) month period the Agreement Administrator will work with Contractor to determine an appropriate resolution to that situation. In the event Contractor believes any complaint to be without merit, Contractor will notify the Agreement Administrator, by e-mail. The Agreement Administrator will investigate all disputed complaints and render a decision which shall be final.

22.01.4 Contractor's service and emergency telephone numbers must be accessible by a local (City) phone number or toll-free number. The service telephone number(s) must be listed in the area's telephone directories under Contractor's name in the White Pages and available through an online search and listed on the Contractor's website.

## **ARTICLE 23. Quality of Performance of Contractor**

23.01 Intent. Contractor acknowledges and agrees that one of City's primary goals in entering into this Agreement is to ensure that the Collection Services are of the highest caliber, that Service Recipient satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials Collected are put to the highest and best use to the extent possible.

23.02 Service Supervisor. Contractor must assign a qualified supervisor to be in charge of the Collection Service within the Service Area and must provide the name of that person in writing to the Agreement Administrator within thirty (30) days prior to the effective date of this Agreement, and annually by January 1<sup>st</sup> of each subsequent Calendar Year of the term of this Agreement, and any other time the person in that position changes. The supervisor must be physically located in the Service Area and available to the Agreement Administrator through the use of telecommunication equipment at all times that Contractor is providing Collection Services. In the event the supervisor is unavailable due to illness or vacation, Contractor must designate an acceptable substitute who will be available and who has the authority to act in the same capacity as the supervisor.

23.03 Agreement Manager. Contractor must designate an Agreement Manager and must provide the name of that person in writing to City within thirty (30) days prior to the effective date of this Agreement and annually by January 1<sup>st</sup> of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Contract Manager must be available to the City through the use of telecommunications equipment at all times that Contractor is providing Collection Services in the Service Area. The Contract Manager must provide City with an emergency phone number where the Contract Manager can be reached outside of normal business hours.

23.04 Administrative Charges and Penalties. Should Contractor be in material breach of the requirements set forth in this Agreement, it is mutually understood and agreed that the public will necessarily suffer damages and that such damages, from the nature of the default in performance will be extremely difficult and impractical to fix. City finds, and the Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which will be incurred by City as a result of a material breach by Contractor of its obligations under this Agreement. The factors relating to the

impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration and deprivation of the benefits of this Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) services might be available at substantially lower costs than alternative services, and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

23.05     Procedure for Review of Administrative Charges. The Agreement Administrator may assess administrative charges and penalties as specified in Exhibit 8 pursuant to this Agreement monthly. At the end of each month during the term of this Agreement, the Agreement Administrator will issue a written notice to Contractor ("Notice of Assessment") of the administrative charges assessed and the basis for each assessment.

23.05.1     The assessment will become final unless, within ten (10) calendar days of the date of the notice of assessment, Contractor provides a written request for a meeting with the City Manager to present evidence that the assessment should not be made.

23.05.2     The Agreement Administrator will schedule a meeting between Contractor and the City Manager as soon as reasonably possible after timely receipt of Contractor's request.

23.05.3     The City Manager will review Contractor's evidence and render a decision sustaining or reversing the administrative charges as soon as reasonably possible after the meeting. Written notice of the decision will be provided to Contractor.

23.05.4     In the event Contractor does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Assessment, the Agreement Administrator's determination will be final.

23.05.5     City's assessment or collection of administrative charges will not prevent City from exercising any other right or remedy, including the right to terminate this Agreement, for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

23.06     Uncontrollable Circumstances.

23.06.1     If either party is prevented from or delayed in performing its duties under this Agreement by circumstances beyond its control, whether or not foreseeable, including, without limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather, freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, that are not reasonably within the control of the affected party, then the affected party will be excused from performance hereunder during the period of such disability.

23.06.2 The party claiming excuse from performance must notify the other party within fifteen (15) days when it learns of the existence of such cause, including the facts constituting such cause, and when such cause has terminated.

23.06.3 The interruption or discontinuance of services by a party caused by circumstances outside of its control will not constitute a default under this Agreement.

## **ARTICLE 24. Performance Bond**

24.01 Performance Bond. Within ten (10) Business Days from the date the City Council approves this Agreement, Contractor must furnish to City, and keep current, a performance bond, for the faithful performance of this Agreement and all obligations arising hereunder in an amount as follows:

24.01.1 From the Effective Date, and so long as this Agreement or any extension thereof remains in force, Contractor must maintain a performance bond in the amount of **Two Million Two Hundred Fifty Thousand Dollars (U.S. \$2,250,000).**

24.01.1.1 The performance bond must be executed by a surety company licensed to do business in the State of California; having an "A" or better rating by A. M. Best or Standard and Poors; and included on the list of surety companies approved by the Treasurer of the United States.

24.01.2 In the event City draws on the bond, all of City's costs of collection and enforcement of the Bond, including reasonable attorney's fees and costs, must be paid by Contractor.

## **ARTICLE 25. Insurance**

25.01 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, representatives, and subcontractors.

25.02 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

25.02.1 Insurance Services Office Form No. GL 0002 (Ed. 1/96) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

25.02.2 Insurance Services Office Form No. CA 0001 (Ed. 12/93) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

25.02.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

25.02.4 Environmental Pollution Liability Insurance.

25.03 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

25.03.1 Comprehensive General Liability: \$3,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit will apply separately to this Agreement, or the general aggregate limit must be \$5,000,000.

25.03.2 Automobile Liability: \$5,000,000 combined single limit per accident for bodily injury and property damage.

25.03.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

25.03.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants resulting from Contractor's operations.

25.03.5 If Contractor maintains higher limits than the minimum shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

25.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared to City's risk manager. Should City form a reasonable belief that Contractor may be unable to pay any deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's risk manager.

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

25.05.1 General Liability, Automobile and Environmental Liability Coverage.

25.05.1.1 City, its officers, employees, agents, and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by, or on behalf of, Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor; and automobiles owned, leased, hired or borrowed by Contractor. The coverage must contain no special limitations on the scope of protection afforded to City, its officers, employees, agents, and Contractors.

25.05.1.2 Contractor's insurance coverage must be primary insurance as respects City, its officers, employees, agents, and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents, or contractors will be in excess of Contractor's insurance and will not contribute with it.

25.05.1.3 Any failure to comply with reporting provisions of the policies will not affect coverage provided to City, its officers, employees, agents, or Contractors.

25.05.1.4 Coverage must State that Contractor's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

25.05.2 All Coverage. Each insurance policy required by this Agreement must be endorsed to State that coverage may not be canceled except after thirty (30) calendar days (ten (10) days in the event of

cancellation for non-payment) prior written notice has been given to City. Moreover, Contractor will not order the cancellation of any required insurance policy or change in insurance policy limits without thirty (30) days prior written notice to City by Contractor.

25.06 Acceptability of Insurers. Insurance is to be placed with insurers having an A.M. Best rating of A-/VII or better.

25.07 Verification of Coverage. Contractor must furnish City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor must furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

25.07.1 Proof of insurance must be mailed to the following address, or any subsequent address as may be directed by the City:

City of Pomona  
Public Works Department  
505 S Garey Ave  
Pomona, CA 91766

25.08 Subcontractors. Contractor must include all subcontractors performing services in the City as insureds under its policies or subcontractors must obtain separate certificates and endorsements.

25.09 Modification of Insurance Requirements. The insurance requirements provided in this Agreement may be modified or waived by City's risk manager, in writing, upon the request of Contractor if City's risk manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

25.10 Rights of Subrogation. All required insurance policies must preclude any underwriter's rights of recovery or subrogation against City with respect to matters related to Contractor's performance of its obligations under this Agreement, with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor must ensure that any companies issuing insurance to cover the requirements contained in this Agreement agree that they will have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured will not apply to City.

## **ARTICLE 26. Hold Harmless and Indemnification**

26.01 Hold Harmless for City's Damages. To the fullest extent permitted by law, Contractor holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's Contractors or subcontractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during the work or services required under this Agreement, or performance of any activity or work required under this Agreement.



26.02 Defense and Indemnity of Third-Party Claims/Liability. To the fullest extent permitted by law, Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers ("City Indemnitees") from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay City any final judgment rendered against City (and its officers, officials, employees, and volunteers) with respect to claims determined by a trier of fact to have been the result of Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

26.02.1 Contractor's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by a City Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City.

26.03 Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Article 25.

26.04 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1, which will control in the event of any conflict with the provisions of this Section, Contractor agrees to protect and defend City Indemnitees with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City Indemnitees harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code section 41780, as it may be amended, are not met by City with respect to the Materials Collected by Contractor and if the lack in meeting such goals are attributable to the failure of Contractor to implement and operate the recycling or diversion programs or undertake the related activities required by this Agreement. In the event CalRecycle provides an administrative process to challenge the imposition of a compliance order or a fine or fines, Contractor will be responsible for engaging any consultants or attorneys necessary to represent City in any challenge. Contractor will be responsible for the retention of and payment to any consultants engaged to perform waste generation studies (diversion and disposal). All consultants and attorneys engaged hereunder are subject to the agreement of City and Contractor.

26.05 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel reasonably approved by City), protect and hold harmless the City Indemnitees from and against any and all Claims

of any kind whatsoever paid, suffered or incurred by or against the City Indemnitees resulting from any removal action or remedial response action undertaken pursuant to CERCLA, the Health & Safety Code or other similar Federal, State or local law or regulation, with respect to Solid Waste or Household Hazardous Waste Collected and Disposed of by Contractor at facilities selected by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold harmless and indemnify the City Indemnitees from all forms of liability under CERCLA, the Health & Safety Code or other similar Federal, State, or local law or regulation at facilities selected by Contractor.

26.06 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor for the execution of this Agreement consists of the promises, payments, covenants, rights, and responsibilities contained in this Agreement.

26.07 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and release provisions; however, the collateral obligation of providing insurance must also be complied with as set forth in this Agreement.

26.08 Subcontractors. Contractor must require all subcontractors performing work in the City to enter into a contract containing the provisions set forth in Section 26.01 in which contract the subcontractor fully indemnifies City in accordance with this Agreement.

26.09 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees will not extend to any loss, liability, penalty, damage, action, or suit to the extent arising or resulting solely from acts or omissions constituting active negligence, willful misconduct, or material breach of this Agreement on the part of City, its officers, employees, agents, or volunteers.

26.10 Damage by Contractor. If Contractor's employees or subcontractors cause any injury, damage, or loss to City property, including but not limited to City streets or curbs, excluding normal wear and tear, Contractor must reimburse City for City's cost of repairing or replacing such injury, damage, or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage, or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private property owners as to damage to private property are civil matters and complaints of damage will be referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Article 26.

## **ARTICLE 27. Default of Agreement**

27.01 Termination. City may cancel this Agreement, except as otherwise provided below in this section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in this Agreement, upon the happening of any one of the following events:

27.01.1 Contractor takes the benefit of any present or future insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal

bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

27.01.2 By order or decree of a court, Contractor is adjudged bankrupt or an order is made approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) calendar days after the entry thereof, any notice of default will be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, such default will be deemed immediate; or

27.01.2.1 By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of the property of Contractor, and such possession or control continues in effect for a period of sixty (60) calendar days; or

27.01.3 Contractor has defaulted, by failing or refusing to pay in a timely manner the administrative charges or other monies due City and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

27.01.4 Contractor has defaulted by allowing any final judgment for the payment of money owed to City to stand against it unsatisfied and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or

27.01.5 In the event that the monies due City under Section 23.05.3 above or an unsatisfied final judgment under Section 23.05.4 above is the subject of a judicial proceeding, Contractor will not be in default if the sum of money is bonded. All bonds must be in the form acceptable to the City Attorney; or

27.01.6 Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Agreement or any of the rules and regulations promulgated by City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar days of receipt of written notice by City to do so, or if by reason of the nature of such default, the same cannot reasonably be remedied within thirty (30) calendar days following receipt by Contractor of written demand from City to do so, Contractor fails to commence the remedy of such default within such thirty (30) calendar days following such written notice or having so commenced fails thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure such default, and such default will be cured within a reasonable period of time).

27.02 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article 27, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein excepting those for which City's remedy is to levy and collect a penalty as Administrative Charges under Article 23, to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. City will thereupon issue



Contractor a final warning citing the circumstances therefor, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, City may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in City's written notice to Contractor, and all Agreement fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

27.03 Effective Date of Termination. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in City's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination all liability of City under this Agreement to Contractor will cease, and City will declare the Performance bond forfeited and will be free to negotiate with other Contractors for the operation of interim and long-term Collection Services. Contractor must reimburse City for all direct and indirect costs of providing any interim Collection Services as a result of Contractor's default in this Agreement.

27.04 Immediate Termination. City may terminate this Agreement immediately upon written notice to Contractor in the event Contractor offers or gives any gift to a City official or employee prohibited by State law or the City's Municipal Code.

27.05 Termination Cumulative. City's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

27.06 Alternative Service. Should Contractor, for any reason, except the occurrence or existence of any of the events or conditions set forth in Section 23.06 [Uncontrollable Circumstances], refuse or be unable for a period of more than forty-eight (48) hours, to Collect a material portion or all of the Solid Waste which it is obligated under this Agreement to Collect, and as a result, Solid Waste should accumulate in City to such an extent, in such a manner, or for such a time that the City Manager, in the reasonable exercise of the City Manager's discretion, should find that such accumulation endangers or menaces the public health, safety or welfare, then City will have the right to enter into an Agreement with another Solid Waste enterprise to Collect any or all Solid Waste which Contractor is obligated to Collect pursuant to this Agreement. City must provide twenty-four (24) hours prior written notice to Contractor during the period of such emergency, before agreeing with another Solid Waste enterprise to Collect any or all Solid Waste which Contractor would otherwise collect pursuant to this Agreement for the duration of period during which Contractor is unable to provide such services. In such event, Contractor must undertake commercially reasonable efforts to identify sources from which such substitute Solid Waste services are immediately available and must reimburse City for all its expenses for such substitute services during the period in which Contractor is unable to provide Collection services required by this Agreement.

## **ARTICLE 28. Modifications to the Agreement**

28.01 City-Directed Change. City has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Collection Services as may from time-to-time be necessary and desirable for the public welfare. City will give the Contractor notice of any proposed change and an opportunity to be heard concerning those matters. The scope and method of providing Collection Services as referenced herein will be liberally construed to include procedures, operations, and obligations, financial or otherwise, of Contractor. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase

or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 28.02.

28.01.1 Change in Law. City and Contractor understand and agree that the California Legislature has the authority to make comprehensive changes in Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions, or obligations under this Agreement. Contractor agrees that the terms and provisions of the City of Pomona Municipal Code, as it now exists or as it may be amended in the future, will apply to all the provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law of regulation, or the Municipal Code materially alters the obligations of Contractor, then the affected service rates, as established in **Exhibit 1** of this Agreement will be adjusted in accordance with Section 4.12. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. City and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, City and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article 28. City and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between City and Contractor on compensation adjustment not be reached within six months of the change request, or other period as agreed upon by both parties, City and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 28.02.

28.02 Disputes. Disputes arising from an alleged City-directed change, Change in Law, or disputes concerning Article 26 [Hold Harmless and Indemnification] shall be subject to arbitration upon the written request of City or Contractor. Arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the parties), the parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each party shall bear its own costs and expenses of any arbitration. Each party shall pay one half of the costs of the arbitrator.

## **ARTICLE 29. Legal Representation**

29.01 Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of, and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that an Agreement will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties.

## **ARTICLE 30. Conflict of Interest**

30.01 Financial Interest. Contractor is unaware of any City employee or official that has a financial interest in Contractor's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any City employee or official.



## **ARTICLE 31. Hiring Displaced City Employees; Apprenticeship; Contractor's Personnel**

31.01     Displaced Employees. Contractor shall offer employment to all qualified displaced employees of the City at or above their current wage. Contractors will reserve jobs for and must retain these displaced employees for a period of not less than 90 days, as provided for in Chapter 4.6, Sections 1070 through 1076 of the California Labor Code. Displaced employees at the time of the commencement of Effective Date shall receive:

31.01.1     Guarantee that all qualified employees who are laid off from the City as a result of the Solid Waste outsourcing will be offered employment with the new contractor. Such employees may be required to pass minimum requirements such as the DOT drug test and related procedures.

31.01.2     Full-time Solid Waste drivers will have the option to maintain a route within the City of Pomona for a minimum of 12 months.

31.01.3     Honor all employee vacations that were pre-approved prior to the transition of services.

31.01.4     If the Contractor's rate of pay is less than the current rate of pay of the employee as of the Effective Date, the Contractor agrees to grandfather the current rate of pay of the City of Pomona employees.

31.01.5     To the extent employees do not join a union bargaining unit affiliated with Contractor, the Contractor pays for at least 80% of the medical premium for the employee and their family for benefit-eligible employees.

31.01.6     One (1) Twenty-Five Thousand Dollar (\$25,000) payment provided to each full time displaced City-employee as a retention bonus.

31.01.7     One (1) Five Thousand Dollar (\$5,000) payment provided to each part time displaced City-employee as a retention bonus.

31.02     Apprenticeship Program. No later than thirty (30) days after the Effective Date, Contractor will establish and advertise a job apprenticeship program for City residents. The program will seek to train apprentices in Collection vehicle operation, repair and maintenance work in accordance with factory and industry standards and run diagnostics on such vehicles and work closely with other team members to meet our company goals.

31.03     Personnel Requirements. Contractor must employ and assign qualified personnel to perform all services required under this Agreement. Contractor is responsible for ensuring that its employees comply with all Applicable Laws related to their employment and position.

31.03.1     City may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of his or her duties under this Agreement.

31.03.2     Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card.

31.03.3 Each driver of a Collection vehicle must at all times carry a valid California driver's license and all other required licenses for the type of vehicle that is being operated.

31.03.4 Each driver of a Collection vehicle must at all times comply with all applicable State and Federal laws, regulations and requirements.

31.03.5 Contractor's employees, officers, and agents may not identify themselves or in any way represent themselves as being employees or officials of City.

## **ARTICLE 32. Exempt Waste**

32.01 Contractor is not required to Collect or dispose of Exempt Waste but may offer such services. All such Collection and disposal of Exempt Waste is not regulated under this Agreement, but if provided by Contractor must be in strict compliance with all Applicable Laws.

## **ARTICLE 33. Independent Contractor**

33.01 In the performance of services pursuant to this Agreement, Contractor is an independent Contractor and not an officer, agent, servant, or employee of City. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither Contractor nor its officers, employees, agents, contractors, or subcontractors will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrue to City employees and Contractor expressly waives any claim to such benefits.

33.02 Subcontractors. Contractor will require all subcontractors performing work in the City to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor agrees that Contractor and subcontractor are independent Contractors and have no other agency relationship with City.

## **ARTICLE 34. Laws to Govern**

34.01 The law of the State of California governs the rights, obligations, duties and liabilities of City and Contractor under this Agreement and govern the interpretation of this Agreement.

## **ARTICLE 35. Consent to Jurisdiction**

35.01 The parties agree that any litigation between City and Contractor concerning or arising out of this Agreement must be filed and maintained exclusively in the Superior Courts of Los Angeles County, State of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

## **ARTICLE 36. Assignment**

36.01 No assignment of this Agreement or any right occurring under this Agreement may be made in whole or in part by Contractor without the express prior written consent of the City. City will have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor. Any assignment of this Agreement made by Contractor without the express written consent of the City will be null and void and will be

grounds for City to declare a default of this Agreement and immediately terminate this Agreement by giving written notice to Contractor, and upon the date of such notice Contract will be deemed immediately terminated, and upon such termination all liability of City under this Contract to Contractor will cease, and City will have the right to call the performance bond and will be free to negotiate with other Contractors, for the services that are the subject of this Agreement. In the event of any assignment approved by City, the assignee must fully assume all the liabilities of Contractor by way of an assignment and assumption agreement.

36.02 The use of a subcontractor to perform services under this Contract will not constitute delegation of Contractor's duties provided that Contractor has received prior written authorization from the Agreement Administrator to subcontract such services and the Agreement Administrator has approved a subcontractor who will perform such services. Contractor will be responsible for directing the work of Contractor's subcontractors and any compensation due or payable to Contractor's subcontractor will be the sole responsibility of Contractor. The Agreement Administrator will have the right to require the removal of any approved subcontractor for reasonable cause. The subcontractors listed in **Exhibit 5**, if any, are hereby approved by the City.

### **ARTICLE 37. Compliance with Laws**

37.01 In the performance of this Agreement, City and Contractor must comply with all Applicable Laws, including without limitation the Pomona Municipal Code.

37.02 City will make good faith efforts to provide thirty (30) days' written notice to Contractor of any planned amendment of the Pomona Municipal Code that would substantially affect the performance of Contractor's services pursuant to this Agreement.

### **ARTICLE 38. Permits and Licenses**

38.01 Contractor must obtain, at its own expense, all permits and licenses, required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses, and approvals upon the request of the Agreement Administrator.

### **ARTICLE 39. Ownership of Written Materials**

39.01 Contractor hereby grants City a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of City or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by City. Contractor may not use such materials that specifically reference City for other purposes without the prior written consent of the Agreement Administrator. This Article 39 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

### **ARTICLE 40. Waiver**

40.01 Waiver by City or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant, or condition. The subsequent acceptance by City of any fee, tax, or any other monies which may become due from Contractor to City will not be deemed to be a waiver by City of any breach for violation of any term, covenant, or condition of this Agreement.

## **ARTICLE 41. Prohibition Against Gifts**

41.01 Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor may not offer any City officer or designated employee any gifts prohibited by the City.

## **ARTICLE 42. Point of Contact**

42.01 The day-to-day dealings between Contractor and City will be between Contractor Representative and the Agreement Administrator.

## **ARTICLE 43. Notices**

43.01 Except as provided in this Agreement, whenever either party desires to give notice to the other, it must be given by written notice addressed to the party for whom it is intended, at the place last specified and to the place for giving of notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective persons and places for giving of notice:

As to the City:

Public Works Director  
City of Pomona  
505 S Garey Ave  
Pomona, CA 91722  
Telephone:

As to the Contractor:

Gary Clifford  
Executive Vice President  
14048 E. Valley Blvd.  
P.O. Box 60009  
City of Industry, CA 91716  
Telephone: (626) 336-3636

43.02 Notices will be effective when either personally delivered or placed in the United States mail, first class postage prepaid, or other equivalent delivery service, or the address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice.

43.03 Notice by City to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Service Recipient Service System by the end of the Work Day.

## **ARTICLE 44. Transition to Next Contractor**

44.01 In the event Contractor is not awarded an extension or new contract to continue to provide Collection Services following the expiration or early termination of this Agreement, Contractor will cooperate fully with City and any subsequent Contractors to assure a smooth transition of services described in this Agreement. Such cooperation will include but not be limited to transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Service Recipients; providing a complete inventory of

all Collection Containers; providing adequate labor and equipment to complete performance of all Collection Services required under this Agreement; taking reasonable actions necessary to transfer ownership of carts and bins, as appropriate, to City; including transporting such containers to a location designated by the Agreement Administrator; coordinating Collection of Materials set out in new containers if new containers are provided for in subsequent Agreements and providing other reports and data required by this Agreement.

## **ARTICLE 45. Contractor's Records**

45.01 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing, and disposal transactions for the franchise area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the City to properly administer and monitor the Agreement and to assist the City in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete, and accurate records as indicated in the Agreement.

45.02 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit for the purposes set forth in Section 15.02.3, at any time during regular business hours, upon written request by the Agreement Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents will be provided to City electronically, available to City for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

45.02.1 Contractor acknowledges that City is legally obligated to comply with the California Public Records Act ("CPRA"). City acknowledges that Contractor may consider certain records, reports, or information contained therein ("Records"), which Contractor is required to provide to City under this Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform City in writing of which records are considered propriety or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. At such time as City receives a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, City will notify Contractor of the request, subpoena or order and of City's obligation and intent to provide a response within ten (10) calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then City may proceed to disclose the Records in which event Contractor agrees waives and releases City of any liability for the disclosure of the Records.

45.03 Where City has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, City may, by written request or demand of any of the above-named officers, require that custody of those records which City reasonably believes may be lost or discarded as the result of such dissolution, disbandment or termination be given to City and that the records and documents be maintained in City Hall. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.



## **ARTICLE 46. Entire Agreement**

46.01 This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties.

## **ARTICLE 47. Severability**

47.01 If any provision of this Agreement or the application of it to any person or situation is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

## **ARTICLE 48. Right to Require Performance**

48.01 The failure of City at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of City thereafter to enforce same. Nor will waiver by City of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

## **ARTICLE 49. All Prior Agreements Superseded**

49.01 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement will be predicated upon any prior representations or agreements, whether oral or written.

## **ARTICLE 50. Headings**

50.01 Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Agreement.

## **ARTICLE 51. Exhibits**

51.01 Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Each such Exhibit is a part of this Agreement, and each is incorporated by this reference.

## **ARTICLE 52. Effective Date**

52.01 This Agreement will become effective when it is properly executed by City and Contractor, and upon the Effective Date.


*[Signature Page Follows]*

**IN WITNESS WHEREOF**, City and Contractor have executed this Agreement on the respective date(s) below each signature and each such signatories are duly authorized to execute and deliver this Agreement on behalf of said Party.

City of Pomona, a California charter city

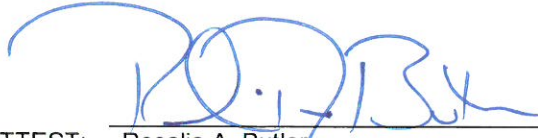
Contractor  
Athens Services


By:   
James Makshanoff  
City Manager

By:   
Ron Arakelian, III  
Executive Officer

Date: 1-26-23

Date: 1/24/2023


ATTEST:   
Rosalia A. Butler  
City Clerk

By:   
Adam Arakelian  
Executive Officer

Date: 1/26/2023

Date: 1/24/23

APPROVED AS TO FORM

  
By: Sonia Rubio Carvalho  
City Attorney

Date: 1-31-23

# EXHIBIT 1

## MAXIMUM SERVICE RATES

Proposer's Name: Athens Services		
<b>Form H, Tab A: Single-Family Dwelling Maximum Service Rates</b> Rate Schedule Effective 7/1/2023		
Service Descriptions	Billing Frequency	Proposed Bundled Rate
Standard Single-Family Automated Cart Service (96-Gallon Trash, 96-Gallon Recycling, 96-Gallon Organics)	per month	\$ 35.50
64-Gallon Single-Family Automated Cart Service (64-Gallon Trash, 96-Gallon Recycling, 96-Gallon Organics)	per month	\$ 30.89
32-gallon Single-Family Automated Cart Service (32-Gallon Trash, 96-Gallon Recycling, 96-Gallon Organics)	per month	\$ 27.34
Additional Trash Cart	each cart	\$ 13.41
Additional Recycling Cart	each cart	\$ 13.41
Additional Organics Cart	each cart	\$ 13.41
Restart of Service (Auto-Resume Fee)	per occurrence	\$ 31.78
Cart Delivery	per occurrence	\$ 30.99
Cart Removal	per occurrence	\$ 30.99
Cart Exchange	per occurrence	\$ 35.03
Residential Cart Replacement Fee	per occurrence	\$ 98.43
Residential Cart Washing	per request (3 barrels)	\$ 77.78
Residential Cart Washing Additional Barrel	per request over 3 barrels	\$ 27.78
Extra Service/Go Back Fee	per occurrence	\$ 16.67

Proposer's Name

Athens Services

**Form H, Tab B: Service Rates Multi-Family Dwelling Maximum Service Rates**  
**Rate Schedule Effective 7/1/2023**

**NOTE:**

All Multi-Family Dwelling Trash Rates include the equivalent of one 32-Gallon recycling cart and one 32-Gallon organics cart per unit in the MFD complex as part of the Bundled Trash rates. Any increased or additional collection service request for Recycling/Organics/Green Waste/Food Waste will be offset by the included bundled cost of Recycling/Organics/Green Waste/Food Waste.

**For Example:**

- a) The cost for a 96-Gallon Recycling Cart is **\$60** for once-a-week collection. This cost is already included with the bundled trash rate.
- b) Should the Service Recipient increase the collection frequency to twice a week collection, the cost for recycling collection is **not** **\$120**, it is **\$60** for the increased collection.
- c) The unbundled Rate may be \$120 for twice a week collection, however that rate is being offset by the already included once a week collection rate, which results in a twice a week collection rate at **\$60**.



Proposer's Name			Athens Services			
Form H, Tab B: Service Rates Multi-Family Dwelling Maximum Service Rates Rate Schedule Effective 7/1/2023						
Service	Collection Frequency					
	1/wk	2/wk	3/ wk	4/wk	5/wk	6/wk
Multi-Family Trash (Note: includes equivalent of 32-Gallon Recycling and 32-Gallon Organics)						
64-Gal Cart	\$ 170.01	\$ 336.23	\$ 502.45	\$ 668.67	\$ 834.89	\$ 1,001.11
96-Gal Cart	\$ 179.01	\$ 353.80	\$ 528.60	\$ 703.39	\$ 878.19	\$ 1,052.98
1 / 1.5 CY Bin	\$ 248.07	\$ 468.01	\$ 687.95	\$ 907.88	\$ 1,127.82	\$ 1,347.76
2 CY Bin	\$ 275.25	\$ 519.81	\$ 764.38	\$ 1,008.94	\$ 1,253.50	\$ 1,498.06
3 CY Bin	\$ 327.65	\$ 621.47	\$ 915.28	\$ 1,209.09	\$ 1,502.90	\$ 1,796.72
4 CY Bin	\$ 381.86	\$ 724.93	\$ 1,067.99	\$ 1,411.05	\$ 1,754.12	\$ 2,097.18
6 CY Bin	\$ 497.35	\$ 938.92	\$ 1,380.48	\$ 1,822.05	\$ 2,263.61	\$ 2,705.18
2 CY Compactor	\$ 412.88	\$ 779.72	\$ 1,146.56	\$ 1,513.41	\$ 1,880.25	\$ 2,247.09
3 CY Compactor	\$ 491.48	\$ 932.20	\$ 1,372.92	\$ 1,813.64	\$ 2,254.36	\$ 2,695.08
6 CY Compactor	\$ 746.03	\$ 1,408.38	\$ 2,070.72	\$ 2,733.07	\$ 3,395.42	\$ 4,057.77
Multi-Family Dwelling Recycling						
32-Gallon Cart	\$43.14	\$86.14	\$129.14	\$172.14	\$215.14	\$259.90
64-Gallon Cart	\$ 45.78	\$ 90.55	\$ 135.31	\$ 180.08	\$ 224.84	\$ 269.61
96-Gallon Cart	\$ 48.21	\$ 95.28	\$ 142.36	\$ 189.43	\$ 236.50	\$ 283.58
1 / 1.5 CY Bin	\$ 66.81	\$ 126.04	\$ 185.27	\$ 244.50	\$ 303.73	\$ 362.96
2 CY Bin	\$ 74.13	\$ 139.99	\$ 205.85	\$ 271.72	\$ 337.58	\$ 403.44
3 CY Bin	\$ 88.24	\$ 167.37	\$ 246.49	\$ 325.62	\$ 404.75	\$ 483.87
4 CY Bin	\$ 102.84	\$ 195.23	\$ 287.62	\$ 380.01	\$ 472.40	\$ 564.79
6 CY Bin	\$ 133.94	\$ 252.86	\$ 371.78	\$ 490.69	\$ 609.61	\$ 728.53
2 CY Compactor	\$ 111.19	\$ 209.99	\$ 308.78	\$ 407.57	\$ 506.37	\$ 605.16
3 CY Compactor	\$ 132.36	\$ 251.05	\$ 369.74	\$ 488.43	\$ 607.12	\$ 725.81
6 CY Compactor	\$ 200.91	\$ 379.29	\$ 557.66	\$ 736.04	\$ 914.42	\$ 1,092.79
Multi-Family Organics (Green Waste and Food Waste)						
32-Gallon Cart	\$86.27	\$172.26	\$258.26	\$344.26	\$430.25	\$519.78
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19



Proposer's Name			Athens Services			
Form H, Tab B: Service Rates Multi-Family Dwelling Maximum Service Rates						
Rate Schedule Effective 7/1/2023						
Service	Collection Frequency					
	1/wk	2/wk	3/wk	4/wk	5/wk	6/wk
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
3 CY Bin	\$ 202.94	\$ 334.71	\$ 492.96	\$ 651.20	\$ 809.45	\$ 967.69
4 CY Bin	\$ 231.18	\$ 390.44	\$ 575.21	\$ 759.98	\$ 944.75	\$ 1,129.52
6 CY Bin	\$ 267.87	\$ 505.69	\$ 743.51	\$ 981.33	\$ 1,219.15	\$ 1,456.98
Multi-Family Dwelling Green Waste Only						
32-Gallon Cart	\$86.27	\$172.26	\$258.26	\$344.26	\$430.25	\$519.78
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
3 CY Bin	\$ 202.94	\$ 334.71	\$ 492.96	\$ 651.20	\$ 809.45	\$ 967.69
4 CY Bin	\$ 231.18	\$ 390.44	\$ 575.21	\$ 759.98	\$ 944.75	\$ 1,129.52
6 CY Bin	\$ 267.87	\$ 505.69	\$ 743.51	\$ 981.33	\$ 1,219.15	\$ 1,456.98
Multi-Family Dwelling Food Waste Only						
32-Gallon Cart	\$86.27	\$172.26	\$258.26	\$344.26	\$430.25	\$519.78
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
Multi-Family Dwelling Other / Additional Services						
Additional Bulky Pick Up (0.5 yard max)			Per Occurrence \$ 176.47			
(insert additional service or containers w/frequency)			Per Occurrence			

Proposer's Name			Athens Services			
Form H, Tab C: Service Rates Commercial Maximum Service Rates Rate Schedule Effective 7/1/2023						
Service	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
Commercial Trash (Note: includes 96-Gallon Recycling and 64-Gallon Organics)						
64-Gallon Cart	\$ 184.56	\$ 365.01	\$ 545.46	\$ 725.91	\$ 906.36	\$ 1,086.80
96-Gallon Cart	\$ 194.33	\$ 384.08	\$ 573.84	\$ 763.60	\$ 953.36	\$ 1,143.11
1 / 1.5 CY Bin	\$ 269.31	\$ 508.07	\$ 746.83	\$ 985.59	\$ 1,224.36	\$ 1,463.12
2 CY B	\$ 298.81	\$ 564.31	\$ 829.80	\$ 1,095.30	\$ 1,360.79	\$ 1,626.29
3 CY Bin	\$ 355.70	\$ 674.66	\$ 993.62	\$ 1,312.58	\$ 1,631.55	\$ 1,950.51
4 CY Bin	\$ 414.55	\$ 786.98	\$ 1,159.40	\$ 1,531.83	\$ 1,904.26	\$ 2,276.69
6 CY Bin	\$ 539.92	\$ 1,019.28	\$ 1,498.65	\$ 1,978.01	\$ 2,457.37	\$ 2,936.73
2 CY Compactor	\$ 448.22	\$ 846.46	\$ 1,244.71	\$ 1,642.95	\$ 2,041.19	\$ 2,439.43
3 CY Compactor	\$ 533.55	\$ 1,011.99	\$ 1,490.43	\$ 1,968.88	\$ 2,447.32	\$ 2,925.76
6 CY Compactor	\$ 809.89	\$ 1,528.93	\$ 2,247.97	\$ 2,967.01	\$ 3,686.05	\$ 4,405.09
Commercial Recycling						
64-Gallon Cart	\$ 45.78	\$ 90.55	\$ 135.31	\$ 180.08	\$ 224.84	\$ 269.61
96-Gallon Cart	\$ 48.21	\$ 95.28	\$ 142.36	\$ 189.43	\$ 236.50	\$ 283.58
1 / 1.5 CY Bin	\$ 66.81	\$ 126.04	\$ 185.27	\$ 244.50	\$ 303.73	\$ 362.96
2 CY Bin	\$ 74.13	\$ 139.99	\$ 205.85	\$ 271.72	\$ 337.58	\$ 403.44
3 CY Bin	\$ 88.24	\$ 167.37	\$ 246.49	\$ 325.62	\$ 404.75	\$ 483.87
4 CY Bin	\$ 102.84	\$ 195.23	\$ 287.62	\$ 380.01	\$ 472.40	\$ 564.79
6 CY Bin	\$ 133.94	\$ 252.86	\$ 371.78	\$ 490.69	\$ 609.61	\$ 728.53
2 CY Compactor	\$ 111.19	\$ 209.99	\$ 308.78	\$ 407.57	\$ 506.37	\$ 605.16
3 CY Compactor	\$ 132.36	\$ 251.05	\$ 369.74	\$ 488.43	\$ 607.12	\$ 725.81
6 CY Compactor	\$ 200.91	\$ 379.29	\$ 557.66	\$ 736.04	\$ 914.42	\$ 1,092.79



Proposer's Name			Athens Services			
Form H, Tab C: Service Rates Commercial Maximum Service Rates						
Rate Schedule Effective 7/1/2023						
Service	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
Commercial Organics (Green Waste and Food Waste)						
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
3 CY Bin	\$ 202.94	\$ 334.71	\$ 492.96	\$ 651.20	\$ 809.45	\$ 967.69
4 CY Bin	\$ 231.18	\$ 390.44	\$ 575.21	\$ 759.98	\$ 944.75	\$ 1,129.52
6 CY Bin	\$ 267.87	\$ 505.69	\$ 743.51	\$ 981.33	\$ 1,219.15	\$ 1,456.98
Commercial <u>Green Waste Only</u>						
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
3 CY Bin	\$ 202.94	\$ 334.71	\$ 492.96	\$ 651.20	\$ 809.45	\$ 967.69
4 CY Bin	\$ 231.18	\$ 390.44	\$ 575.21	\$ 759.98	\$ 944.75	\$ 1,129.52
6 CY Bin	\$ 267.87	\$ 505.69	\$ 743.51	\$ 981.33	\$ 1,219.15	\$ 1,456.98
Commercial <u>Food Waste Only</u>						
64-Gallon Cart	\$ 91.56	\$ 181.09	\$ 270.61	\$ 360.14	\$ 449.66	\$ 539.19
96-Gallon Cart	\$ 96.41	\$ 190.55	\$ 284.70	\$ 378.84	\$ 472.98	\$ 567.12
1 / 1.5 CY Bin	\$ 133.61	\$ 252.06	\$ 370.52	\$ 488.97	\$ 607.43	\$ 725.89
2 CY Bin	\$ 176.47	\$ 279.97	\$ 411.68	\$ 543.40	\$ 675.12	\$ 806.84
Commercial <u>Other / Additional Services</u>						
Extra Pick Up Charge			Per Occurrence		\$ 58.82	
Rolloff impound fee			Per Occurrence		\$ 1,058.82	
Dumurrage Fee			Per Day		\$ 58.82	

Proposer's Name		Athens Services	
<b>Form H, Tab F: Street Sweeping</b> Rate Adjustment(s) Effective 7/1/2023			
Please provide a percentage increase/decrease by line of business for the cost of assuming Street Sweeping responsibilities under the following three (3) scenarios. Any and all adjustments pertaining to the cost of Street Sweeping will only impact standard service recipient			
Line of Business	Residential	Commercial	Roll Off
Scenario	% Increase/Decrease	% Increase/Decrease	% Increase/Decrease
Mon-Thu Same Days	0%	0%	0%
Mon-Thu Alternating Days	0%	0%	0%
Mon-Fri Alternating Days	0%	0%	0%



Proposer's Name Athens Services		
<b>Form H, Tab D: Additional Services Maximum Service Rates</b> Rate Schedule Effective 7/1/2023		
Service Descriptions	Billing Frequency	Proposed Rate
<b>Temporary Services</b>		
Special Pick-Up up to 3 cubic yards	each	\$ 97.89
Additional Standby and Loading Time	per hour	\$ 91.76
Large Venue Events (Non-City Events)	per occurrence	\$ 1,069.35
<b>Temporary Bins</b>		
3 Cubic Yard Temporary Bin		
Delivery, Removal and up to <u>7 days rental</u>	per bin	\$ 203.75
Each additional pickup	per occurrence	\$ 184.71
4 Cubic Yard Temporary Bin		
Delivery, Removal and up to <u>7 days rental</u>	per bin	\$ 213.87
Each additional pickup	per occurrence	\$ 196.48
<b>Other Services</b>		
Locking Bin, Lock on Gate, enclosure Monthly Fee	per lock per month	\$ 15.28
Trip Charge/Dry Run	per occurrence	\$ 76.44
Restart of Service (auto resume fee)	per occurrence	\$ 107.01
Setup Fee	per occurrence	\$ 7.64
Delivery Charge	per occurrence	\$ 38.22
Delivery Charge Commercial Carts	per occurrence	\$ 38.22
Removal	per occurrence	\$ 7.64
Exchange Fee	per occurrence	\$ 94.12
Stinger / Scout Service fee	per bin per service	\$ 29.41



Proposer's Name Athens Services		
<b>Form H, Tab D: Additional Services Maximum Service Rates</b> Rate Schedule Effective 7/1/2023		
Service Descriptions	Billing Frequency	Proposed Rate
Recycling Contamination Fee	per occurrence	\$ 47.06
Overage Fee	per occurrence	\$ 38.22
<b>Push Rate</b>		
Push Rate - 15 feet		
1 pickup per week	per month	\$ 12.74
2 pickup per week	per month	\$ 25.47
3 pickup per week	per month	\$ 38.21
4 pickup per week	per month	\$ 50.94
5 pickup per week	per month	\$ 63.68
6 pickup per week	per month	\$ 76.41
Push Rate - 25 feet		
1 pickup per week	per month	\$ 16.98
2 pickup per week	per month	\$ 33.96
3 pickup per week	per month	\$ 50.94
4 pickup per week	per month	\$ 67.92
5 pickup per week	per month	\$ 84.90
6 pickup per week	per month	\$ 101.88
Push Rate - 50 feet		
1 pickup per week	per month	\$ 25.47
2 pickup per week	per month	\$ 50.94
3 pickup per week	per month	\$ 76.41
4 pickup per week	per month	\$ 101.88
5 pickup per week	per month	\$ 127.35
6 pickup per week	per month	\$ 152.82
Push Rate - 75 feet		

Proposer's Name Athens Services		
<b>Form H, Tab D: Additional Services Maximum Service Rates</b> Rate Schedule Effective 7/1/2023		
Service Descriptions	Billing Frequency	Proposed Rate
1 pickup per week	per month	\$ 50.94
2 pickup per week	per month	\$ 101.88
3 pickup per week	per month	\$ 152.82
4 pickup per week	per month	\$ 203.76
5 pickup per week	per month	\$ 254.71
6 pickup per week	per month	\$ 305.65
Push Rate - 100 feet		
1 pickup per week	per month	\$ 76.41
2 pickup per week	per month	\$ 152.82
3 pickup per week	per month	\$ 229.24
4 pickup per week	per month	\$ 305.65
5 pickup per week	per month	\$ 382.06
6 pickup per week	per month	\$ 458.47
<b>Roll-Off Pull Rates</b>		
Roll-Off Containers billed on a per pull plus disposal fee		
10 Cubic Yard Container per pull	per haul	\$ 355.88
20 Cubic Yard Container per pull	per haul	\$ 355.88
30 Cubic Yard Container per pull	per haul	\$ 355.88
40 Cubic Yard Container per pull	per haul	\$ 355.88



Proposer's Name Athens Services						
<b>Form H, Tab E: Start Up Capital Costs</b> Rate Schedule Effective 7/1/2023						
Startup Capital Expenses						
Line of Business	Residential		Commercial		Roll Off	
Item	Number Each	Price/Unit	Number Each	Price/Unit	Number Each	Price/Unit
Front End Loader	-	\$ -	9	\$ 480,866	-	\$ -
Automated Side Loader	15	\$ 493,565	-	\$ -	-	\$ -
Roll-off Truck	-	\$ -	-	\$ -	5	\$ 349,344
Scout Truck	-	\$ -	3	\$ 52,659	-	\$ -
Real Loader & Mini Rear Loader	2	\$ 405,941	5	\$ 171,582	-	\$ -
32-Gallon Cart	-	\$ -	-	\$ -	-	\$ -
64-Gallon Cart	-	\$ -	2,363	\$ 68	-	\$ -
96-Gallon Cart	78,055	\$ 75	2,294	\$ 75	-	\$ -
1 CY Bin	-	\$ -	112	\$ 928	-	\$ -
1.5 CY Bin	-	\$ -	112	\$ 928	-	\$ -
2 CY Bin	-	\$ -	292	\$ 1,062	-	\$ -
3 CY Bin	-	\$ -	1,669	\$ 1,177	-	\$ -
4 CY Bin	-	\$ -	203	\$ 1,357	-	\$ -
6 CY Bin	-	\$ -	55	\$ 2,015	-	\$ -
10 CY Roll-Off	-	\$ -	-	\$ -	-	\$ -

Proposer's Name					Athens Services	
<b>Form H, Tab E: Start Up Capital Costs</b> Rate Schedule Effective 7/1/2023						
Startup Capital Expenses						
Line of Business	Residential		Commercial		Roll Off	
Item	Number Each	Price/Unit	Number Each	Price/Unit	Number Each	Price/Unit
20 CY Roll-Off	-	\$ -	-	\$ -	-	\$ -
30 CY Roll-Off	-	\$ -	-	\$ -	-	\$ -
40 CY Roll-Off	-	\$ -	-	\$ -	124	\$ 10,504
Other Capital Items						
	Residential		Commercial		Roll Off	
Other (Describe)	-		-		-	
Other (Describe)	-		-		-	
Total Anticipated Startup Capital Costs	\$ 14,088,841		\$ 8,544,046		\$ 3,214,854	

**EXHIBIT 2**  
**CITY SPONSORED EVENTS**



## EXHIBIT 3 CITY SERVICE UNITS

### List of City Facilities / Properties

#### Bins Collected from City Facilities

Building Name	Service Type	Service Level	Service Days
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#### City Buildings

City Hall	3 YD Trash (x2)	3 Times/Wk	M, W, F
City Yard - Fleet	3 YD Trash (x5)	1 Time/Wk	M
City Yard - Fleet	3 YD Rec (x1)	1 Time/Wk	M
Police Traffic	3 YD Trash (x1)	1 Time/Wk	W
Police Department	3 YD Trash (x2)	2 Times/Wk	M, F
Shooting Range	3 YD Trash (x3)	1 Time/Wk	W
Shooting Range	3 YD Rec (x1)	1 Time/Wk	W
Evidence Center	3 YD Trash (x1) w/ Lock Lid	1 Time/Wk	F
Library	3 YD Trash (x1)	2 Times/Wk	M, F
Library	3 YD Rec (x1)	1 Time/Wk	F
Palomares Senior Center	3 YD Trash (x2) w/ Lock Lid	3 Times/Wk	M, W, F
Palomares Senior Center	3 YD Rec (x1) w/ Lock Lid	1 Time/Wk	F
2383 Chanslor	3 YD Trash (x1)	3 Times/Wk	M, W, F
870 Ninth St	40 YD Green Waste R/O	As Needed	
870 Ninth St	40 YD Trash R/O	As Needed	

#### Parks

Veterans Park	3 YD Trash (x1)	1 Time/Wk	M
Veterans Park	3 YD Rec (x1)	1 Time/Wk	M
Phillips Mansion	3 YD Trash (x1)	1 Time/Wk	W
Phillips Mansion	3 YD Rec (x1)	1 Time/Wk	W
Ganesha Park	3 YD Trash (x1)	2 Times/Wk	M, F
Ganesha Park	3 YD Rec (x1)	1 Time/Wk	F
Westmont Park	3 YD Trash (x1)	1 Time/Wk	F
Westmont Park	3 YD Rec (x1)	1 Time/Wk	F
La Casa Primera	2 YD Trash (x1)	2 Times/Wk	M, F

Washington Park	3 Yd Trash (x3)	2 Times/Wk	M, F
Washington Park	3 YD Rec (x1)	1 Time/Wk	M
Brackett Field	3 YD Trash (x1)	1 Time/Wk	F

## **EXHIBIT 4**

### **CART AND BIN SPECIFICATIONS**

#### **1. Cart Specifications.**

- 1.1. Carts must be designed and manufactured with heavy plastic in accordance with standard industry specifications approved by City.
- 1.2. Carts must be constructed with material that resists deterioration from ultraviolet radiation and be incapable of penetration by household pets or small wildlife when lids are fully closed.
- 1.3. Carts must include wheels and handles that accommodate ease of movement by able-bodied persons.
- 1.4. Carts must include lids that continuously overlap the Cart body so as to prevent the intrusion of rainwater and minimize odors. The lids would be of a design and weight so as to prevent the Cart body from tilting backward when flipping the lid open.
- 1.5. Carts must be capable of being lifted into the collection vehicle without damage or distortion under normal usage.
- 1.6. Carts must be labeled using hot stamp or labels, and at a minimum will include Contractor's name and graphics indicating what materials may and may not be placed in each Cart type.

#### **2. Bin Specifications.**

- 2.1. Bins must be constructed of heavy metal or heavy plastic and must be watertight and well painted.
- 2.2. Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.
- 2.3. Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.
- 2.4. Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or universal waste."
- 2.5. Bin lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors. Locking bins will be provided upon request at the rate set forth in **Exhibit 1**.
- 2.6. Bins must be capable of being lifted into the collection vehicle without damage under normal usage.

## **EXHIBIT 5**

### **APPROVED SUBCONTRACTORS**

Contractor does not intend or anticipate the use of any subcontractors to perform Contractor's obligations under this Agreement. The Parties agree that due to the length of the Term, situations may arise in the future which are not currently contemplated, and which may make the use of one or more subcontractors desirable to both Parties. Based thereon, the Parties agree that Contractor may in the future propose the use of subcontractors to perform one or more obligations of Contractor under this Agreement. City shall have the right to approve or reject Contractor's proposal in its sole discretion. Under no circumstances shall the use of subcontractors be approved to the extent such use would constitute a transfer of this Agreement to a single subcontractor or to several subcontractors in the aggregate.



## **EXHIBIT 6 SUSTAINABILITY AND COMPLIANCE PLAN**

This Exhibit will be replaced by the Contractor's Sustainability and Compliance Plan, which must be submitted to the City and approved prior to the Effective Date, and annually thereafter as described in Section 18.02. Described below is the template for the Sustainability and Compliance Plan that the Contractor must develop. The Contractor's Plan must describe how the Contractor will provide outreach and education to residents, schools and businesses; the material that will be developed and distributed, including its format and distribution method; how the Contractor will maintain compliance with the State's Mandatory Commercial and Organics Recycling mandates (SB 1383, AB 1826, AB 939, AB 341), including when and to whom letters will be sent, how compliance will be documented and reported; and the Contractor's plan for waste audits and site visits. The Contractor is required to document site visits and compliance data in the City's Waste Reporting System.

## **EXHIBIT 7 STREET SWEEPING**

### **1.01 Street Sweeping Services**

1.01.1 Contractor shall provide "Street Sweeping Services," as specified herein, during the Term in accordance with the terms and conditions of this Agreement.

1.01.2 Manner of Service. Contractor shall provide a "Complete Sweep" of all Curb Miles on all publicly maintained City Streets. Within any Curb Mile, Contractor shall be responsible for sweeping all curbs including Median Islands and the corners from any cross street intersecting the subject street. Contractor shall obey all laws governing the operation of the sweepers on a public street, and shall perform its operations so that sweepers are traversing their routes in the normal direction of traffic.

1.01.3 Contractor shall furnish all materials, labor, supervision, and equipment necessary to perform all work required for regularly scheduled sweeping of all public streets in the City at the frequency and within the time frames described in Sections 1.01.11 and 1.01.12 below. Exceptions resulting from equipment breakdowns shall be immediately reported to the City with a catch-up schedule.

1.01.4 Maps. Contractor shall provide the Street Sweeping Service route maps to the City Representative upon request, within ninety (90) days from receipt of written notice. The maps shall be provided in a format that can be posted to the City website.

1.01.5 Sweeping Method. UnswEEPable items that impede sweeping, such as palm fronds, rocks, trash and debris shall be removed from the sweeping path and properly disposed of by the operator rather than driving around them. Items that impede sweeping and are immovable such as construction debris and impaired vertical or horizontal clearance by tree limbs shall be reported to the City immediately for correction. Contractor is not responsible for areas missed due to parked cars or other personal property. Sweeper operators shall immediately report to Contractor and the City all Illicit Discharges observed during routes. Contractor shall train all operators to recognize Illicit discharges and stormwater pollution sources prior to work as street operators and annually thereafter, using City-approved training materials. Such training shall be documented for review by the City.

1.01.5.1 In areas where drainage is a problem, Contractor shall make as many passes as necessary to remove debris from standing water. In addition, all sand, dirt, rocks, gravel, vegetation, and other sweepable debris shall be removed from the street during the sweeping operation. If standing water is over the top of curb, then Contractor shall not be required to sweep that specific area. Sweeper operators shall report drainage problems to Contractor and City on a monthly basis, or as deemed appropriate by Contractor.

1.01.6 Standards of Service. All areas swept under this Agreement shall be thoroughly cleaned. All debris shall be picked up by the sweeper unit and disposed of at Contractor expense as outlined in this Section. Sweeping shall include the removal of all sand, gravel, dirt, litter, vegetation, and any and all other debris that accumulates between sweeps. Curb lines shall be swept along both sides of the roadway, or to the edge of pavement where no curb exists, along all curbs on raised medians, over all portions of painted medians, painted left and right turn pockets, and all intersection cross gutters. Sweeping shall normally require one pass over an area. Contractor shall make additional passes or make such extra effort required to adequately clean the street to the satisfaction of the City. Extra effort shall be required when sweeping equipment leaves a dirt/silt smear in its swept

path. The service standards in this Article may be reviewed and modified as conditions warrant to maintain cleanliness by the City or as necessary to comply with any regulatory permits issued to City.

1.01.7 Water. Contractor shall obtain water services from the appropriate water utility or City for the water necessary in the street sweeping operation and use sufficient water to prevent dust arising during sweeping operations. The cost of the water shall be borne by Contractor.

1.01.7.1 When possible, Contractor shall use reclaimed or tertiary recycled water.

1.01.7.2 Contractor shall not discharge liquid waste from the sweeper units onto City streets or into the storm drain system.

1.01.7.3 Washing of sweepers on City property is prohibited. Any and all washing of sweeper units shall be compliant with Applicable law. Contractor shall implement best management practices when loading water into the street sweepers to prevent any overflow/potable water discharges into the storm drain system.

1.01.8 Sweeper Speed. Contractor shall operate the sweepers at a speed of not more than eight (8) miles per hour in residential and commercial areas when sweeping or when the sweeper brooms are down, unless Contractor can demonstrate to the City's satisfaction that the sweeper can operate efficiently and safely at a higher speed. City will use industry standards, Environmental Protection Agency information, and the sweeper manufacturers' recommendations on the speed of sweepers when considering speeds greater than six (6) miles per hour.

1.01.9 Width of Sweeper Path. Contractor shall sweep a path with a width of not less than eight (8) feet unless parked vehicles, structures, or other objects prohibit the safe sweeping of this path width. The path shall begin at the face of the curb and include the flow line of the gutter. Unless blocked by parked cars, Garbage Carts, Recycling Carts, or Organics Carts the face of the curb and gutter shall always be included within the sweeper path. On those residential streets with no curb, the width of the sweeper path shall be not less than eight (8) feet measured from the edge of the pavement toward the center of the street.

1.01.10 Street Sweeping Frequency.

1.01.10.1 Residential Streets. Contractor shall provide Street Sweeping Service for each Curb Mile of residential streets in the City bi-weekly on a scheduled route basis. Commercial Streets. Contractor shall provide Street Sweeping Service for each Curb Mile of commercial streets in the City bi-weekly on a scheduled route basis.

1.01.10.2 Parking Lots. Contractor shall provide Street Sweeping Service for each Curb Mile of the following designated parking areas in the City bi-weekly on a scheduled route basis.

1.01.10.3 Change in Frequency. The City may direct Contractor to change the frequency of street sweeping for any City street. Contractor shall implement City -directed changes in frequency within fifteen (15) Work Days of receipt of written notice from the City Representative to adjust sweeping frequency. Any changes under this Article shall be treated as City-directed changes under Section 28.01 of the Agreement.

1.01.11 Street Sweeping Hours of Service.

1.01.11.1 Residential Streets. Contractor shall provide Street Sweeping Service on residential streets commencing no earlier than 7:00 a.m. and terminating no later than 7:00 p.m. The hours, days,

or both of service may be extended due to extraordinary circumstances or conditions with the prior written consent of the City Representative. Sweeping in residential areas shall be coordinated with Collection Services to ensure that sweeping occurs after collection of all Carts has been completed on a specific street.

1.01.11.2 Commercial Streets. Contractor shall provide Street Sweeping Service on commercial streets commencing no earlier than 3:00 a.m. and terminating no later than 7:00 p.m.. The hours, days, or both of service may be extended due to extraordinary circumstances or conditions with the prior written consent of the City Representative.

1.01.11.3 Other Areas. Designated collector, arterial streets and City facilities may be swept on a designated day between the hours of 3:00 a.m. and 7:00 p.m. upon mutual approval between the City and Contractor.

1.01.11.4 Units of Service. Contractor shall provide the following levels of service in accordance with the specified event, monthly, and annual units:

Type of Sweeping	Units of Measure	Event Units	Monthly Units	Annual Units
	(A)	(B)	(C)	(D)
Every Other Week	TCM	728	1,456	17,472
Weekly Downtown	TCM	9	36	432
Parking Lots	Each	662	2,648	31,776

1.01.11.5 Contractor Weekly Operations Plan. Contractor shall comply with the following weekly operations plan, unless otherwise modified upon mutual agreement of the parties.



WEEKLY OPERATIONS PLAN						
Sweeper #1	MON	TUE	WED	THU	FRI	TOT
Total Sweeping Miles	39.00	30.00	35.00	34.50	0.00	138.50
Sweeping Hours	9.75	7.50	8.75	8.63	0.00	34.63
Parking Lot Hours	0.00	0.00	0.00	0.00	0.00	0.00
Event Hours (Allocated)	0.00	0.00	0.00	0.00	0.00	0.00
Non-Productive Hours	3.75	3.75	3.75	3.75	0.00	15.00
Total Hours	13.50	11.25	12.50	12.38	0.00	49.63
Sweeper #2	MON	TUE	WED	THU	FRI	TOT
Total Sweeping Miles	35.00	35.00	35.00	31.00	0.00	136.00
Sweeping Hours	7.00	7.00	7.00	6.20	0.00	27.20
Parking Lot Hours	0.00	1.00	0.00	1.00	0.00	2.00
Event Hours (Allocated)	0.00	0.00	0.00	0.00	0.00	0.00
Non-Productive Hours	3.75	3.75	3.75	3.75	0.00	15.00
Total Hours	10.75	11.75	10.75	10.95	0.00	44.20
Sweeper #3	MON	TUE	WED	THU	FRI	TOT
Total Sweeping Miles	30.00	31.00	30.00	11.00	0.00	102.00
Sweeping Hours	6.00	6.20	6.00	2.20	0.00	20.40
Parking Lot Hours	1.00	0.00	0.00	1.00	0.00	2.00
Event Hours (Allocated)	0.00	0.00	0.00	0.00	0.00	0.00
Non-Productive Hours	3.75	3.75	3.75	3.75	0.00	15.00
Total Hours	10.75	9.95	9.75	6.95	0.00	37.40
Weekly Total	MON	TUE	WED	THU	FRI	TOT
Total Sweeping Miles	104.00	96.00	100.00	76.50	0.00	376.50
Sweeping Hours	22.75	20.70	21.75	17.03	0.00	82.23
Parking Lot Hours	1.00	1.00	0.00	2.00	0.00	4.00
Event Hours (Allocated)	0.00	0.00	0.00	0.00	0.00	0.00
Non-Productive Hours	11.25	11.25	11.25	11.25	0.00	45.00
Total Hours	35.00	32.95	33.00	30.28	0.00	131.23
Monthly Total	MON	TUE	WED	THU	FRI	TOT
Total Sweeping Miles	450.67	416.00	433.33	331.50	0.00	1631.50
Sweeping Hours	98.58	89.70	94.25	73.77	0.00	356.31
Parking Lot Hours	4.33	4.33	0.00	8.67	0.00	17.33
Event Hours (Allocated)	0.00	0.00	0.00	0.00	0.00	0.00
Non-Productive Hours	48.75	48.75	48.75	48.75	0.00	195.00
Total Hours	151.67	142.78	143.00	131.19	0.00	568.64
Non-Productive Time		Misc Ops Data				
Pre-Trip inspection	0.25	Curb MPH	5.00			
Drive to Fuel Station and Fuel	0.00	Days/Week	4.00			
Drive to Route	0.50	Weeks/Year	52.00			
Breaks (2)	0.50	Routes	2.50			
Lunch	0.50	Years	5.00			
Drive to Disposal Site & Dump	0.75	Stem Miles	-			
Water	0.50	Dump Miles	-			
Drive to Yard	0.50	Event Miles	-			
Post-Trip Inspection	0.25	Fuel Cost/Mile	\$ 2.00			
Drive to Events (Allocated)	0.00	Dumps/Day	2.00			
Total Non-Productive Time	3.75					



1.01.11.6 Holidays. For the purposes of this Exhibit, Contractor shall not provide Street Sweeping Services on any of the following holidays:

- New Years Day (January 1<sup>st</sup>)
- Martin Luther King Jr. Day (3<sup>rd</sup> Monday in January)
- Presidents Day (3<sup>rd</sup> Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day (July 4<sup>th</sup>)
- Labor Day (1<sup>st</sup> Monday in September)
- Veterans Day (November 11<sup>th</sup>)
- Thanksgiving (4<sup>th</sup> Thursday in November)
- Day After Thanksgiving (Friday after Thanksgiving)
- Christmas Day (December 25<sup>th</sup>)

1.01.12 Street Changes. City and Contractor acknowledge that it may be necessary or desirable to add or delete City Streets for which Contractor will provide Street Sweeping Services or necessary to temporarily modify sweeping schedules. City will provide notice of any such changes to Contractor which may be caused by the following:

- Construction or development on or along a street.
- Pavement maintenance activities, including the chip seal program or the slurry seal program.
- Inclement weather when running water renders sweeping ineffective.
- Other legitimate reasons that make sweeping impractical as determined by the City Representative.

1.01.1 Street Additions. As new streets are constructed and accepted by City, City may, at City's sole option, designate such streets as part of the Service Area for the purposes of Street Sweeping Services. If the City Representative designates such streets as part of the Service Area, Contractor shall provide Street Sweeping Service on such streets under the terms and conditions of this Agreement within fifteen (15) Work Days of receipt of written notice from the City Representative to begin service.

1.01.2 Street Deletions. City may require some City Streets to be temporarily or permanently removed from the list of scheduled streets for which Contractor provides Street Sweeping Service under this Agreement. Contractor shall immediately cease providing Street Sweeping Service to any City Street upon receipt of written notice from the City Representative to stop such service. When a City Street has been temporarily removed from the list of scheduled streets, Contractor shall resume Street Sweeping Service on such street in the next regularly scheduled cycle following the receipt of written notice from the City Representative to resume service.

1.01.3 Revised Maps. Contractor shall revise the Street Sweeping Service route maps to show the addition or deletion of City Streets as provided above and shall provide such revised maps to the City Representative upon request, within ninety (90) days from receipt of written notice. The maps shall be provided in a format that can be posted to the City website.

1.01.4 Parking Restrictions. The City will provide written notice to Contractor of any streets where permit parking may impact scheduled Street Sweeping Service. Contractor may be required to adjust sweeping schedules to sweep prior to the permit parking restrictions.

1.01.5 Adverse Weather Conditions. Because of varying rain conditions throughout the City, Contractor may verbally request permission from the City Representative to cancel sweeping during heavy and persistent rainstorms within the Service Area. Contractor may cancel sweeping only with the prior consent of the City Representative.

1.01.6 Hazardous Waste. Contractor shall not be required to remove any Hazardous Waste from the street surface. If, in the course of performing Street Sweeping Services, any suspected Hazardous Waste is encountered, Contractor shall immediately report the location to the City Representative, and any other responsible agency.

1.01.7 Disposal of Sweep Waste. Contractor shall transport and deliver all Sweep Waste to designated Bins at a City facility as a result of performing Street Sweeping Services. Contractor will collect all Bins containing Sweep Waste and deliver to a facility in a manner that meets AB 939 or other waste diversion requirements established per CalRecycle. In the event the facility is closed on a Work Day or is otherwise unable to accept the Sweep Waste, Contractor shall transport and deliver the Sweep Waste to such other legally permitted facility approved by the Agreement Administrator. Sweep Waste recycling and processing shall be by mutual agreement between the Contractor and the City and shall not be calculated as part of the annual diversion rate required in Article 5.

1.01.8 Spillage. During hauling, all Sweep Waste shall be contained, covered, and enclosed so that leaking, spilling and blowing of the Sweep Waste is prevented. Contractor shall be responsible for the immediate clean-up of any spillage caused by Contractor.

1.01.9 Street Sweeping Service Routes. Not less than forty-five (45) days prior to commencement of Street Sweeping Services, Contractor shall submit to the City Representative, Service Area maps precisely defining the Sweeper Routes for review and approval by the City Representative. The route maps shall include the days of the month sweeping shall occur, the sweeping schedules in adjacent areas, the areas of the City to be swept, the start and finish of each route, the location of each dumpsite, and any special needs such as early starts, and late finishes.

1.01.9.1 The City Representative may provide written comments on the preliminary maps to Contractor no later than twenty (20) Work Days after receipt of the maps from Contractor. Contractor shall revise the maps to reflect such comments and return them to the City Representative within twenty (20) Work Days after receipt of the City Representative's comments.

1.01.9.2 Upon approval by the City Representative of the final Sweeper Route maps, Contractor shall develop and maintain the Sweeping Routes on a computerized mapping system that is compatible with City's mapping system to the extent possible. Street Sweeping maps provided to the City shall be in a format that is suitable for posting to the City website.

1.01.9.3 Changes in maps shall be provided by the City, and Contractor shall update the maps in Contractor's system every month. Such changes shall also be reflected in Contractor's printed route maps.

1.01.10 Service Route Changes. Contractor shall submit to the City Representative, in writing, any proposed route change (including maps thereof) not less than forty-five (45) days prior to the proposed date of implementation.

1.01.10.1 The City Representative may provide written comments to Contractor on such proposed change no later than ten (10) Work Days after receipt of the proposal from Contractor, and Contractor shall revise the routes to reflect such comments and return them to the City Representative within ten (10) Work Days of receipt of such comments.

1.01.11 Contractor shall not implement any route changes without the prior written approval of the City Representative. If the approved route change will change the day on which Street Sweeping Service will occur, Contractor shall notify the affected Service Recipients of route changes not less than thirty (30) Work Days before the proposed date of implementation in a manner approved by the City Representative.

1.01.12 Other City Sweep Service. If during the Term, circumstances exist that require work associated with the Street Sweeping Service program that is not specifically provided for in this Agreement, the City Representative may require Contractor to perform such other associated work ("OAW"). Contractor shall be reimbursed for such services at then current hourly rates.

## 1.02 Other Associated Work.

1.02.1 When Contractor performs OAW, the labor, materials, and equipment used in the performance of such work shall be subject to the prior written approval of the City Representative.

1.02.2 Examples of OAW that Contractor may be required to perform include: performance of special sweeps, flood clean-up, street sanitation for parades and celebrations, City requested clean-up services, and any contingency where sweeper and supporting sweeper equipment could assist in a particular instance.

1.02.3 Street Sweeping Quality of Work. The standards of performance which Contractor is obligated to meet are those good street sweeping practices which leave the service area in a debris and dirt free condition, and using sufficient water to avoid airborne dust arising from equipment operation.

### 1.02.4 Street Sweeping Equipment.

1.02.4.1 General Provisions. All Street Sweeping Service equipment used by Contractor in the performance of services under this Agreement shall be of a high quality and of the vacuum type in conformance with the City's MS4 Permit. The collection vehicles shall be designed and operated so as to prevent collected materials from escaping from the collection vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing, or falling from the collection vehicles.

1.02.4.2 Street Sweeping Vehicles. Street Sweeping vehicles shall be designed and operated so as to prevent Sweep Waste from escaping from the vehicles, including means of preventing collection materials from leaking, blowing or falling from collection vehicles.

1.02.4.3 Clean Air Collection Vehicles. During the Term, to the extent required by law, Contractor shall provide its Street Sweeping vehicles to be in full compliance with all Applicable Laws, including State and federal clean air requirements that are adopted or proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in California

Code of Regulations, title 13, sections 2020 et seq., the Federal EPA's Highway Diesel Fuel Sulfur regulations and all other applicable air pollution control laws.

1.02.4.4 Vehicle Noise Level. All Street Sweeping operations shall be conducted as quietly as possible and must comply with Applicable Laws, including federal EPA noise emission regulations, currently codified at Code of Federal Regulations, title 40, Part 205.

1.02.4.5 Reserve Equipment. Contractor shall have available to it, at all times, reserve collection and Street Sweeping Service equipment that can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by Contractor to perform Contractor's duties under this Agreement.

1.02.4.6 All equipment shall be maintained in good mechanical condition, including brushes and brooms that shall be replaced at regular intervals. Contractor shall immediately clean any vehicle fluids (hydraulic fluids, lubricating oils, etc.) that leak or spill from equipment into the street or public right of way.

1.02.4.7 Sweeping equipment shall not be stored on City property or in the public right of way unless mechanical failure prevents immediate removal. In the event of mechanical failure, all efforts must be made to remove the equipment from the public right of way as soon as possible. The City must approve any overnight storage in public right of way or on City property. Contractor may enter into optional Storage Agreement with City to store Sweeper equipment at City facility.

1.02.4.8 All equipment is subject to inspection by the City at any time.

1.02.4.9 All sweepers shall have an operational strobe and back-up alarm and shall conform to all City, Los Angeles County, State, and federal safety requirements.

1.02.5 Staffing. All Street Sweeper operators shall abide by the requirements set forth in Article 15 of this Agreement. In the event that the prevailing wage law is deemed to apply to services provided in this Exhibit, Section 28.01.1 of the Agreement will apply.

1.02.6 Communication. Contractor shall have direct communication with all sweeping operators in the field utilizing radios or cellular telephones. Each sweeper operator shall have the ability to communicate verbal information immediately to City staff, Police and Fire Department personnel, residents, and to report illicit storm water discharges and hazardous street or drainage conditions to the City. Contractor shall also report missed routes and citizen complaints and resolution to the City on a weekly basis, when applicable.

1.02.7 Contractor shall supply a 24-hour message telephone number to the City Traffic Engineer so that the CITY can notify Contractor of traffic counter installations.

1.02.8 Drivers shall be aware of their locations in order to raise their brooms and avoid destruction of traffic counter cables. Contractor shall use due diligence to avoid traffic counter cables.

1.02.9 All Sweepers shall have a GPS tracker located in the trucks, with all data accessible to City staff.

1.02.10 Deficiencies and Corrections. The City may also make regular unannounced inspections of Street Sweeping locations if a swept area is deemed to be below acceptable performance standards, the substandard section shall be re-swept within 24 hours of notification. Contractor shall re-sweep at their own expense. The City shall be notified of the completed re-sweep.



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## EXHIBIT 8 ADMINISTRATIVE CHARGES

ADMINISTRATIVE CHARGES			
Item		Amount if Not Cured in 30 Days	If Cured in 15 Days
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per day per incident per Customer.	
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.	-0-
c.	Failure to submit to City all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.	-0-
d.	Failure to submit to City all payments by the deadlines required under the provisions of this Agreement.	\$500 per day.	-0-
e.	Failure to display Contractor's name and customer service phone number on collection vehicles.	\$100 per incident per day.	-0-
f.	Failure to collect a missed collection by close of the next Work Day upon notice to Contractor that exceeds twenty (20) in any Calendar Year.	\$1,000 per Calendar Year, plus \$10 per incident per day.	-0-
g.	Failure to repair or replace damaged Containers to deliver or exchange Containers within the time required by this Agreement, that exceeds twenty (20) in any Calendar Year.	\$1,000 per Calendar Year, plus \$10 per incident per day.	
h.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.	-0-
i.	Failure to have Contractor personnel in Contractor - provided uniforms.	\$25 per day per employee.	-0-
j.	Failure of Contractor to follow Recyclable Materials and Organic Waste Contamination procedures as set forth under Section 3.10.	Submit plan of correction to City	-0-
k.	Failure of Contractor to meet the Customer Service Requirements.	\$1,000 per day	-0-

ADMINISTRATIVE CHARGES		
The following items Can Not Be Cured		
	Item	Amount (cannot be cured)
l.	Failure to clean up spillage or litter on public streets located within City caused by Contractor's collection vehicles within two (2) hours after notice by City to Contractor.	\$500 per incident per location and reimbursement to City for cleanup.
m.	Disposal of separately collected Recyclable Materials or separately collected Organic Waste in the Disposal Facility without first obtaining the required permission of the City.	\$500 per load.
n.	Failure to deliver Garbage collected under this Agreement to the Disposal Facility, except as otherwise expressly provided in this Agreement.	\$5,000 each failure.
o.	Failure to submit a corrective action plan as set forth in Section 5.01.2.	The current disposal cost/ton for each ton under the diversion requirement.
p.	Overweight Collection Vehicles, as set forth by Section 16.01.4.	\$500 per day per load after City has considered Contractor's reason for excessive overweight vehicles.

## EXHIBIT 9 CONTRACTOR COMMUNITY COMPOSTING STATEMENT



Your Zero Waste Partner

### ATHENS SERVICES' COMMUNITY COMPOST STATEMENT

Athens Services understands the importance of community based composting opportunities. Localized programs such as these have environmental and social benefits including educational opportunities to promote organics recycling participation and decrease contamination, work/volunteer/teaching options, greenhouse gas reduction, improved local soils, enhanced food security, social inclusion and empowerment, and increase to community GNH (Gross National Happiness) index.

Athens commits to collaborating with potential community composters in a way that allows for local, small-scale opportunities for organics recycling and education. In 2023, Athens will begin meeting with LA Compost, Pomona based FoodCycle Collective, and others to collaboratively establish the first-ever groundwork for what positive "community composter x waste hauler" relationships can look like. We imagine this will result in multiple partnership ideas that cities, haulers, and community composters across the state can take into consideration.

Once complete, Athens and local community composters will present to the City of Pomona for their approval what partnerships ideas they feel best meet the needs of the community and all parties involved.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Clifford', with a horizontal line extending to the right.

Gary Clifford  
Executive Vice President, Athens Services

14048 E. Valley Blvd, City of Industry, CA 91746  
(888) 336-6100

**AthensServices.com**