

TO: BOARD OF DIRECTORS

FROM: MARIO IGLESIAS
GENERAL MANAGER



DATE: May 20, 2022

AGENDA ITEM

E-2

MAY 25, 2022

**AMEND SOLID WASTE FRANCHISE AGREEMENT
BETWEEN NIPOMO COMMUNITY SERVICES DISTRICT AND
SOUTH COUNTY SANITARY SERVICES TO INCLUDE
SENATE BILL 1383 REQUIREMENTS**

ITEM

Approve amendments to the Solid Waste Franchise Agreement ("Agreement") between Nipomo Community Services District and South County Sanitary Services to include Senate Bill 1383 requirements. [RECOMMEND APPROVE AND AUTHORIZE BOARD PRESIDENT TO SIGN AGREEMENT IN A FORM APPROVED BY THE GENERAL MANAGER AND DISTRICT LEGAL COUNSEL].

BACKGROUND

In January 2001, the Nipomo Community Services District ("District") passed Resolution 2001-753 for application to the Local Agency Formation Commission ("LAFCO") to establish authority to provide for the collection and disposal of garbage or refuse matter within the boundaries of the District. In July of 2001, the District's Board of Directors ("Board") passed Resolution 2001-777 approving a Solid Waste Collection Franchise Agreement ("Agreement") with South County Sanitary Services, Inc. ("SCSS"). In 2008, the Board directed the Board President to execute an extension of the Franchise Agreement to 2023.

The District entered into the First Amendment to Amended and Restated Solid Waste Franchise Agreement ("First Amendment") in November 2015. The First Amendment addressed Green-waste and Food-waste processing at SCSS facilities. The attached Second Amendment to Amend the Solid Waste Franchise Agreement ("Second Amendment") addresses the requirements of Senate Bill 1383 ("SB 1383"), a much broader reform of how communities recycle or reuse organic waste materials such as Green-waste and Food-waste, and report on compliance with these requirements. SB 1383 recognizes organic waste as materials that must be diverted from community landfills to reduce the production of methane gas. Your Board has already adopted the ordinance required by SB 1383, which now requires customers to separate organic waste for recycling by SCSS. Compliance with the SB 1383 regulations imposed by CalRecycle is driving up SCSS' collection and disposal costs, as well as the costs to oversee elements in SB 1383 that are managed by the Integrated Waste Management Authority (IWMA). There is very little the District can do to help customers avoid these costs of regulations imposed by the State. Further, the District is required by law to amend its Franchise Agreement to impose these requirements.

The District adopted Resolution 2001-759 in 2001, entering into a Memorandum of Understanding with IWMA. IWMA assists the District with solid waste compliance issues by providing programs, services and access to technical assistance. The IWMA will assess a fee to recover their cost for service which will be collected by SCSS through rates charged to customers. The amount of the

fee is 5.4% of the customer's bill and will be assessed starting July 1 2022. The District will be responsible for increasing solid waste rates via a Proposition 218 process to cover the expenses for compliance with SB 1383. The Agreement discusses these responsibilities for each of the agencies, SCSS, IWMA, and the District. Further, the Agreement will impose the SB 1383 compliance requirements on SCSS, as required by law.

FISCAL IMPACT

The Second Amendment has taken review and editorial time of District's legal counsel as the amendments are a significant addition to solid waste management efforts on all parties. The Second Amendment harbors cost increases for the District's solid waste customers, but the elements as presented in the Second Amendment are required by the State and the cost increases will be considered in the upcoming rate study and adjustment. Funding for District staff and legal counsel comes from the District's Fund #300 Solid Waste account. The Fund balance is meeting its reserve level and is not significantly impacted by the current work load.

STRATEGIC PLAN

Goal 2. FACILITIES THAT ARE RELIABLE, ENVIRONMENTALLY SENSIBLE AND EFFICIENT. Plan, provide for and maintain District facilities and other physical assets to achieve reliable, environmentally sensible, and efficient District operations.

Goal 6. GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

Goal 8. ADDITIONAL COMMUNITY SERVICES. Staff should focus on meeting the goals and objectives of existing services. Adding new services will be considered on a case-by-case basis and entered into only if funding can be found and existing services are not harmed.

- A.1 SOLID WASTE. Seek to maximize solid waste services for community and build understanding of services like hazardous waste, recycling, etc. and District's role.

RECOMMENDATION

Staff recommends your Board Approve the Second Amendment and Authorize Board President to sign Agreement in a form approved by the General Manager and District Legal Counsel.

ATTACHMENT

- A. Second Amendment to the Amended and Restated Solid Waste, Recyclable Materials, and Organic Materials Collection Franchise Agreement – Clean Copy
- B. Second Amendment to the Amended and Restated Solid Waste, Recyclable Materials, and Organic Materials Collection Franchise Agreement – Blackline Copy

MAY 25, 2022

ITEM E-2

ATTACHMENT A

**SECOND AMENDMENT
TO**

**AMENDED AND RESTATED SOLID WASTE,
RECYCLABLE MATERIALS, AND ORGANIC MATERIALS
COLLECTION FRANCHISE AGREEMENT**

BETWEEN

NIPOMO COMMUNITY SERVICES DISTRICT

AND

**WASTE CONNECTIONS, INC. AND SOUTH COUNTY
SANITARY SERVICES, INC.**

MAY 19, 2022

This page intentionally left blank.

This Second Amendment to the Amended and Restated Solid Waste Collection Franchise Agreement (“Second Amendment”) is made and entered into between the Nipomo Community Services District, a political subdivision of the State of California (hereafter “District”) and Waste Connections, Inc., a Delaware Corporation, and South County Sanitary Services, Inc., a California corporation (hereafter collectively, “Contractor”), each of which may be referred to individually as a “Party” or together as the “Parties.” Except as specifically amended herein, the Agreement remains unchanged and in full force and effect.

RECITALS

This Second Amendment is made and entered into on the basis of the following facts, understandings, and intentions of the Parties:

WHEREAS: The Parties entered into the Amended and Restated Solid Waste Collection Franchise Agreement on July 27, 2008, as amended on November 12, 2015 (“Agreement” capitalized terms used but not defined herein shall have the meanings given to them in the Agreement); and,

WHEREAS: Section 6 of the Agreement provides the District with the right to direct the Contractor to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and,

WHEREAS: SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

WHEREAS: SB 1383 requires the District to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the District has chosen to delegate some of its responsibilities to the Contractor, acting as the District’s designee, through this Agreement; and,

WHEREAS: Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the District’s compliance with SB 1383, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, District and Contractor do hereby agree as follows:

EFFECTIVE DATE

This Second Amendment shall become effective on the date this Amendment is signed by both Parties.

AMENDMENTS TO FIRST AMENDMENT

A. Article 1 of the First Amendment to the Agreement is hereby amended to read as follows:

“(iii) “**Food Waste**” means Source Separated Food Scraps and Food-Soiled Paper. Food Waste is a subset of Organic Materials.”

AMENDMENTS TO AGREEMENT

Title of Agreement

B. The Title of the Agreement is hereby amended to read as follows:

“Amended and Restated Solid Waste, Recyclable Materials, and Organic Materials Collection Franchise Agreement.”

Section 1. Definitions

Modified Definitions

C. Section 1 of the Agreement is hereby amended to remove the definition numbering and modify the following definitions:

“**Collect**” or “**Collection**” (or any variation thereof) means to take physical possession, Transport, and remove Discarded Materials and other material at the place of generation within and from the District and hauling it to an Approved Facility for Processing, Transfer or Disposal.

“**Container**” means Bins, Carts, Compactors, and Roll-Offs, equipped with wheels or casters that is provided by Contractor, and used for Collection and storing of Discarded Materials before removal.

“**District**” means the Nipomo Community Services District, a community services district organized and operated pursuant to §61000 et seq. of the Government Code, acting through the District Board of Directors or the District Manager, and all territory lying within the boundaries of the District as presently existing or as such boundaries may be modified during the term of this Agreement. The District may designate responsibilities to District staff, the IWMA, or a third party through written letter between the District Manager and the designee.

“**Developed Properties**” means property within the District that is developed with a building or structure that is capable of generating Discarded Materials. Developed properties include, but are not limited to, occupied Residential property, Multi- Family property, public facilities and Commercial property.

“**Garbage**” see “Solid Waste.”

“**Greenwaste**” means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of Organic Materials resulting from normal yard and landscaping maintenance that may be specified in District Municipal Code for Collection and Processing as Organic Materials under this Agreement. Greenwaste does not include items herein defined as Excluded Waste. Greenwaste is a subset of Organic Materials. Greenwaste placed for Collection may not exceed six (6) inches in diameter and three (3) feet in length and must fit within the Contractor-provided Container. Acceptable Greenwaste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the District. Contractor shall not add or remove materials to or from this list without written approval from the District Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

“Gross Revenues Collected” means any and all revenue or compensation actually Collected by Contractor from Customers under this Agreement for the exclusive Collection, Transportation, Processing, Recycling and Disposal of Solid Waste, Recyclables, and Organic Materials within the District, in accordance with Generally Accepted Accounting Principles (GAAP), net of Franchise Fees and AB 939 fees. The term Gross Revenues Collected, for purposes of this Agreement, shall not include any: a) District, or other Federal, State, or local taxes or surcharges; or b) any revenues generated from the sale of Recyclables or any recycling rebates received from the State.

“Hazardous Waste” means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from Residential Premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

“Materials Recovery Facility” see “Approved Processing Facility.”

“Multifamily Dwelling Unit” or **“Multi-Family”** or **“MFD”** means, notwithstanding any contrary definition in the District Code, any Residential Premises with five (5) or more Dwelling Units, other than a Single Family Dwelling Unit, used for Residential purposes, (irrespective of whether residence therein is transient, temporary or permanent), including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more Dwelling Units who receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address shall be considered Multi-Family.

“Owner” means the person(s) holding legal title to the real property constituting the Premises to which Discarded Materials Collection service is to be provided under this Agreement.

“Premises” means any developed property within the District where Discarded Materials are generated or accumulated.

“Recyclable Materials” means Discarded materials set aside, handled, packaged or offered for Collection from Residential, Commercial, governmental or industrial Customers for the purpose of Recycling by the Contractor. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. Recyclable Materials shall include, but not be limited to, aluminum, newspaper, clear and colored glass, tin and bi-metal, all plastic containers, cardboard, chipboard, magazines, mixed paper (including magazines, phone books and junk mail) and motor oil and filters (separately Collected) Acceptable Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the District. Contractor shall not add or remove materials to or from this list without written approval from the District Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

“Recycle” or **“Recycling”** means the process of separating, Collecting, treating and/or reconstituting Recyclable Materials at a Recyclable Materials Processing Facility, which would otherwise be

discarded without receiving compensation or returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transfer, transportation or Disposal of Recyclable Materials not intended for, or capable of, reuse is not Recycling.

“Single Family Dwelling Unit” or **“Single-Family”** or **“SFD”** means, notwithstanding any definition in the District Code, any detached or attached house or residence designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family includes Townhouses that maintain individual collection service regardless of whether each unit is separately billed for their specific Service Level. Single-Family also includes duplex, tri-plex, or four-plex Residential structures regardless of whether each unit maintains individual collection service or is separately billed for their specific Service Level.

“Solid Waste” means Solid Waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, §40191 and regulations promulgated hereunder. Excluded from the definition of Solid Waste are Excluded Waste, C&D, Source Separated Recyclable Materials, Source Separated Organic Materials, and radioactive waste. Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of Household Hazardous Waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation.

“Transfer Station” see “Approved Transfer Facility.”

“Waste Generator” means any Person as defined by the Public Resources Code, whose act or process produces Discarded Materials as defined in the Public Resources Code, or whose act first causes Discarded Materials to become subject to regulation.”

New Definitions

D. Section 1 of the Agreement is hereby amended to remove the definition numbering and add the following new definitions:

“For purposes of this Agreement, unless a different meaning is clearly required, the following words and phrases shall have the following meanings respectively ascribed to them by this Section and shall be capitalized throughout this Agreement:

“AB 1826” means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as “AB 1826,” as amended, supplemented, superseded, and replaced from time to time.

“AB 341” means the California Jobs and Recycling Act of 2011 (Chapter 476, Statues of 2011 [Chesbro, AB 341]), also commonly referred to as “AB 341”, as amended, supplemented, superseded, and replaced from time to time.

"AB 901" means Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

"Applicable Law" means all Federal, State, County, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, and Processing of Recyclable Materials, Organic Materials, and Solid Waste that are in force on the Effective Date and as may be enacted, issued or amended during the Term of this Agreement. Applicable Law includes, but is in no way limited to, AB 939, AB 341, AB 1826, and SB 1383.

"Approved Facility(ies)" means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; Approved Transfer Facility; and/or Approved Disposal Facility.

"Approved Disposal Facility" means the landfill or Transfer station, selected by District where Solid Waste Collected under this Agreement is sent for final Disposal. The Approved Disposal Facility is the Cold Canyon Landfill.

"Approved Organic Materials Processing Facility" means a Kompogas SLO facility (or other similar technology) capable of processing the District's Organic Materials.

"Approved Processing Facility(ies)" means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; or Approved Transfer Facility.

"Approved Recyclable Materials Processing Facility" means the Cold Canyon Landfill or similar facility.

"Approved Transfer Facility" means the Santa Maria Transfer Station or similar facility. The Approved Transfer Facility shall serve as the Transfer site for all Solid Waste Collected by Contractor.

"Bin" means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels (where appropriate), that is serviced by a front end-loading Collection vehicle, including Bins with Compactors attached to increase the capacity of the Bin.

"Bulky Waste" means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, bundled and tied Greenwaste and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special Collection due to their size or nature, but can be Collected without the assistance of special loading equipment (such as forklifts or cranes), and without violating vehicle load limits. Bulky Waste must be generated by the Customer and at the service address wherein the Bulky Waste is Collected. Bulky Waste does not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items herein defined as Excluded Waste.

"Business Days" mean days during which the District and Contractor offices are open to do business with the public.

“California Code of Regulations (CCR)” means 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” refers to Title 14 of CCR).

“CalRecycle” means California's Department of Resources Recycling and Recovery.

“Cart” means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. A Cart has capacity of 20, 35, 64 or 96 gallons (or similar volumes).

“Commercial” shall mean of, from, or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

“Compactor” means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader Collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by Roll-Off Collection vehicles.

“Complaint” shall mean each written or orally communicated statement made by any Person, whether to District or Contractor, alleging: (1) non-performance, or deficiencies in Contractor's performance, of its duties under this Agreement; (2) a violation by Contractor of this Agreement; or, (3) an SB 1383 Non-Compliance Complaint as required under 14 CCR Section 18995.3.

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for Compostability.

“Composting” or “Compost” (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.

“County” means the County of San Luis Obispo, a political subdivision of the State of California.

“Curb” or “Curbside” (or any variation thereof) means the cornered edging between the street and sidewalk. Curb or Curbside also means and describes the location of a Collection Container for pick-up, where such Container is placed on the street or alley against the face of the Curb, or where no Curb exists, the Container is placed not more than five (5) feet from the outside edge of the street or alley nearest the property's entrance.

“Customer” means the Person whom Contractor submits its billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

“Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services.

Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

“Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Waste Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste.

“Disposal” or **“Dispose”** (or any variation thereof) means the final disposition of Solid Waste, or Processing Residue at a Disposal Facility.

“Disposal Facility” means a landfill, or other facility for ultimate Disposal of Solid Waste.

“Divert” or **“Diversion”** (or any variation thereof) means to prevent Discarded Materials from Disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, Recycling, Composting, anaerobic digestion or other method of Processing, subsequent to the provisions of AB 939. Diversion is a broad concept that is to be inclusive of material handling and Processing changes that may occur over the Term including, but not limited to, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce Disposal risk, decrease costs and/or are for other reasons deemed desirable by the District.

“Dwelling Unit” means any individual living unit in a; Single-Family dwelling (SFD) or Multi-Family dwelling (MFD) structure or building, a mobile home, or a motor home located on a permanent site intended for, or capable of being utilized for, Residential living other than a hotel or motel.

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“Effective Date” means the date on which the latter of the two Parties signs this Agreement.

“Excluded Waste” means Hazardous Substances, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, or waste that Contractor reasonably believes would, as a result of or upon Disposal, be a violation of local, State or Federal law, regulation or ordinance, including land use restrictions or conditions, or waste that cannot be Disposed of in Class III landfills, or waste that in Contractor’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or District to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

“Federal” means belonging to or pertaining to the Federal government of the United States.

“Food Recovery” means actions to Collect and distribute food for human consumption which otherwise would be Disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Scraps” means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste.

“Food-Soiled Paper” means Compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, Compostable paper plates, napkins, and pizza boxes. Food -Soiled Paper is a subset of Food Waste.

“Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

“Holidays” are defined as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

“Household Hazardous Waste” or **“HHW”** means Hazardous Waste generated at Residential Premises within the District. HHW includes: paint, stain, varnish, thinner, adhesives, auto products such as old fuel, Used Motor Oil and Filter, Used Oil Filter, batteries, household batteries, fluorescent bulbs , tubes, cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and lancets.

“Infectious Waste” means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.

“Liquidated Damages” means the amounts due by Contractor for failure to meet specific quantifiable standards of performance as described in Section 17.

“Non-Collection Tag” means the notice as described in Section 5.4.

“Occupant” means the Person who occupies a Premises.

“Organic Materials” means Greenwaste and Food Waste, individually or collectively. No Discarded Material shall be considered to be Organic Materials, however, unless it is separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.

“Organic Waste” means wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Greenwaste, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

“Party” or “Parties” refers to the District and Contractor, individually or together.

“Processing” or “Process” means to prepare, treat, or convert through some special method.

“Processing Facility” means any plant or site used for the purpose of sorting, cleansing, treating or reconstituting Recyclable Materials, or Reusable Materials for the purpose of making such material available for Recycling or reuse or the facility for the Processing and/or Composting of Organic Materials.

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Recyclable Materials for the District’s Collection program; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Organic Materials for the District’s Collection program; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Recyclable Materials and/or Organic Materials to be placed in the District’s Recyclable Materials or Organic Materials Containers or otherwise managed under the District’s Collection program; and, (iv) Excluded Waste placed in any Container.

“Residential” shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.

“Residue” means those materials which, after Processing, are Disposed rather than Recycled due to either the lack of markets for materials or the inability of the Processing Facility to capture and recover the materials.

“Roll-Off” means an open-top Container with a capacity of seven (7) to forty (40) cubic yards that is serviced by a Roll-Off Collection vehicle.

“San Luis Obispo County Integrated Waste Management Authority (SLO IWMA)” or “IWMA” means the Joint Powers Authority that has the responsibilities as defined by the Memorandum of Agreement related to the District’s compliance with Applicable Law. The District may, at its discretion, designate the IWMA certain responsibilities and rights of the District related to reporting, monitoring, and education requirements as specified in this Agreement, or subsequent written authorization by the District Manager.

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing

methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” or “Self-Haul” means a Person who hauls Discarded Materials, recovered material, or any other material, to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66)(A).

“Service Level” refers to the size of a Customer’s Container and the frequency of Collection service.

“Source Separated” means the segregation, by the Waste Generator, of materials designated for separate Collection for some form of Recycling, Composting, recovery, or reuse.

“State” means the State of California.

“Subcontractor” means a Party who has entered into a contract, express or implied, with the Contractor for the performance of an act that is necessary for the Contractor’s fulfillment of its obligations for providing service under this Agreement. Vendors providing materials and supplies to Contractor shall not be considered Subcontractor.

“Ton” or “Tonnage” means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

“Townhouse” means an attached or semi-attached Dwelling Unit within a group of attached or semi-attached Dwelling Units. A Townhouse shall be considered a Single-Family Dwelling Unit if each unit maintains individual Collection service subscription. A Townhouse shall be considered a Multi-Family Dwelling Unit if the Premise receives centralized, shared, Collection service for all units on the Premise. These shall be the designations regardless of whether the Premises are billed individually or through a central account (e.g., homeowner association, property manager).

“Transfer” means the act of transferring the materials Collected by Contractor in its route vehicles into larger vehicles for Transport to other facilities for the purpose of Recycling or Disposing of such materials.

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

Section 2. Grant of Franchise

2.1 Grant

E. Section 2, Subsection 2.1 of the Agreement is hereby amended to read as follows:

“Pursuant to District Code. §7.20.010, and subject to the terms and conditions of this Agreement, the District Board of Directors hereby grants to Contractor the right, privilege, and franchise to Collect Discarded Materials from Developed Properties within the Franchise Area.”

2.2 Scope of Franchise

F. Section 2, Subsection 2.2 of the Agreement is hereby amended to read as follows:

"Except as otherwise provided in this Agreement, the Franchise granted herein shall be exclusive for Solid Waste, Organic Materials, and Recyclable Materials, except where otherwise precluded by law. This Agreement does not include construction and demolition debris; however, the District reserves the right to add construction and demolition debris, at its sole discretion, at some point in the future. In addition this Agreement does not include either animal waste or remains from slaughterhouse or butcher shops or by-products of sewage treatment, including sludge, sludge ash, grit and screening; however the District reserves the right to add grit and screening at its sole discretion, at some point in the future."

2.3 Limitations to Scope

G. Section 2, Subsection 2.3 of the Agreement is hereby amended to read as follows:

"The Agreement for the Collection, Processing and marketing of Recyclable Materials granted to Contractor shall be exclusive except as to the categories of Recyclable Materials listed below. The granting of this Agreement shall not preclude the categories of Recyclable Materials listed below from being delivered to and Collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any person from obtaining any authorization from District that is otherwise required by law:

- A. Recyclable Materials Source Separated by the Waste Generator and for which Waste Generator sells or is otherwise compensated by a collector in a manner resulting in a net payment to the Waste Generator for such Recycling or related services; provided that such separation and Recycling or Disposal are actually performed by the Waste Generator, and not by a Subcontractor or other third party;
- B. Recyclable Materials donated to a charitable, environmental, or other non- profit organization; provided, however, that all such Recyclable Materials are substantially separated from non-Recyclable Solid Waste by the Waste Generator;
- C. Recyclable Materials which are separated at any Premise and which are Transported by the Owner or Occupant of such Premises (or by their full-time employee) to a Recycling center;
- D. Other Governmental Agencies within the District which can contract for separate Solid Waste and Recycling services.

This Agreement to Collect, Transport, Process, and market Recyclable Materials shall be interpreted to be consistent with State and Federal laws, now and during the term of the Agreement, and the scope of this Agreement shall be limited by current and developing State and Federal laws with regard to Recyclable Materials handling, Recyclable Materials flow control, and related doctrines. In the event that changes in law limit the ability of the District to lawfully provide for the scope of services as specifically set forth herein, Contractor and District agree to work in good faith to amend the scope of the Agreement so as to comply with such changes in law, and the District shall not be responsible for any lost profits and/or damages claimed by the Contractor as a result of changes in law.

Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Edible Food Recovery efforts in the District. "

2.4 Franchise Area

H. Section 2, Subsection 2.4 of the Agreement is hereby amended to read as follows:

“The Franchise Area subject to this Agreement shall consist of that territory within the District boundaries. The Contractor shall automatically extend all services herein described to any area annexed to or detached from the District, except that, in the case of annexations, the District may permit a Discarded Materials provider franchised by the County of San Luis Obispo before the annexation to continue serving the area for a period not to exceed five (5) years or as otherwise required by the County franchise agreement or as otherwise required by a duly authorized governmental agency with appropriate jurisdiction.”

Section 4. Relationship of Parties

4.2 Arranger Status

I. Section 4, Subsection 4.2 of the Agreement is hereby amended to read as follows:

“The District and Contractor mutually agree that the District's granting of this franchise shall not be construed as the District “arranging for” the Collection and Disposal of Discarded Materials within the meaning of CERCLA. The Parties further mutually agree that the granting of this Agreement to the Contractor by District shall be construed as an action whereby the Contractor is granted, and accepts the rights, responsibilities, benefits, and liabilities of Collection and Disposal of Discarded Materials. Commencing on the Effective Date of this Agreement and, to the extent that Contractor's performance under this Agreement requires the Collection and Disposal of Discarded Materials, and may be construed as “arranging for” Collection and Disposal of Discarded Materials within the meaning of CERCLA, such actions shall be the sole responsibility of Contractor and Contractor expressly agrees to be solely responsible for all such actions.”

Section 5. Services to be Provided

5.1 General

J. Section 5, Subsection 5.1 of the Agreement is hereby amended to read as follows:

- “A. The services to be provided by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, containers, materials, supplies, and all other items necessary to perform the services, as set forth in this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated or not.
- B. The services to be provided by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents and businesses within the District are provided reliable, courteous and high-quality Discarded Materials services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Section, whether such aspects are enumerated elsewhere in the Agreement or not.”

5.2 Discarded Materials Collection

K. Section 5, Subsection 5.2 of the Agreement is hereby retitled and amended to read as follows:

“5.2 Discarded Materials Collection.

- A. General.** Except as otherwise provided in this Agreement and/or District Code, Contractor shall provide regular weekly Collection of Discarded Materials for all Single Family, Multi-Family, Commercial Premises and other Developed Properties within the Franchise Area at rates established by this Agreement.
- B. Food Services.** All Discarded Materials created, produced or accumulated at or about any restaurant, retail or wholesale market, food processing facility, hotel, motel or other business establishment where food is sold, prepared or served, shall be Collected from the Premises at least twice each week or more frequently if determined necessary by the District.
- C. Operations.** To preserve peace and quiet, no Discarded Materials shall be Collected from or within two-hundred (200) feet of Residential Premises between 5:00 P.M. and 6:00 A.M. on any day. Residential Discarded Materials shall be Collected, Monday through Friday on the same day. The one exception is the Contractor may elect to Collect motor oil and filters with a separate vehicle using an on-call program. When the regularly scheduled Collection day falls on Christmas, Collection shall take place on the following regularly scheduled Collection day.
- D. Collection Schedule.** Contractor shall establish a Collection schedule in accordance with District Code. When a regular Collection day occurs on a Holiday, Contractor shall either provide Collection on the Holiday or one calendar day before or after the Holiday. Contractor shall notify Residential and Commercial Customers of their respective Holiday Collection schedules. In the event the Contractor misses the Collection of properly set out Discarded Materials the Contractor shall Collect the missed pickups within one (1) Business Day of notification.
- E. Recyclable Extra Services.** Contractor recognizes that because of an unusual circumstance, a Single Family Dwelling Unit may generate more Recyclable Material than will fit in the blue Recyclable Materials Container. The excess Recyclable Material may be neatly placed next to the blue Container and Contractor will Collect the excess Recyclable Material at no additional charge. This extra service to a Single Family Dwelling Unit shall be limited to a frequency of once per month and a quantity to an amount that will fit into the existing blue Recycling Materials Container.
- F. Special Needs.** Handicapped residents who reside in a Family Dwelling Unit shall have the option of placing their Containers near their Dwelling Unit, visible from the Curb, and the Contractor will Collect their Containers at this location and return the Containers to the same location. To be eligible for this Collection option, residents must present proof of their physical incapacity to the Contractor.
- G. Three Stream Collection System**
 - 1. General.** No later than January 1, 2022, Contractor shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste using Containers that comply with the requirements of Section 5.3.
 - 2. Solid Waste.** Contractor shall provide gray Containers to Customers for Collection of Solid Waste, and shall provide Solid Waste Collection service. Contractor shall Transport the Solid Waste to (i) the Approved Disposal Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to an Approved Disposal Facility, as specified in Section 7. Contractor may allow carpets and textiles to be placed in the Solid Waste Containers. Prohibited Container Contaminants shall not

be Collected in Solid Waste Containers. The Containers shall comply with the requirements of Section 5.3.

3. **Recyclable Materials.** Contractor shall provide blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service. Contractor shall Transport the Source Separated Recyclable Materials to (i) the Approved Recyclable Materials Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Recyclable Materials Processing Facility, as specified in Section 7.
4. **Organic Materials.** Contractor shall provide green Containers to Customers for Collection of Organic Materials and shall provide Organic Materials Collection service. Organic Materials that are to be accepted for Collection in the Organic Materials Collection program include the following: Food Scraps; Food-Soiled Paper; and, Greenwaste. Contractor shall Transport the Organic Materials to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Section 7.

No later than January 1, 2022, Contractor shall implement an Organic Materials Collection program that allows Waste Generators to commingle Food Waste and Greenwaste in the Organic Materials Containers to all Residential, Multi-family, and Commercial businesses. Contractor shall provide Organic Materials Collection service and Transport the Organic Materials to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to an Approved Organic Waste Processing Facility.”

5.3 Discarded Materials Containers

L. Section 5, Subsection 5.3 of the Agreement is hereby retitled and amended to read as follows:

“5.3 **Discarded Materials Containers.**

- A. **Single Family Dwelling Unit.** Contractor shall supply each Single Family Dwelling Unit with a 32, 64 or 96-gallon Container for Solid Waste at rates established by this Agreement. Each Single Family Dwelling Unit will receive from Contractor a 64 or 96-gallon Container for all commingled Recyclable Materials. Each Single Family Dwelling Unit will receive from Contractor a 96-gallon Container for Greenwaste. If requested by Customer, Contractor shall provide to the Customer a new Collection Container to meet the Customer’s desired Service Level within five (5) days of Contractor’s first receipt of request.
- B. **Multi-Family, Commercial Business, Governmental Agencies.** Contractor shall supply each Multi-Family Dwelling Unit, Commercial business or governmental agency with appropriately sized Containers for Solid Waste, Recyclable Materials and Organic Materials if needed. All Multi-Family Dwelling Units, Commercial businesses or governmental agencies shall be entitled to the free Collection of an unlimited quantity of Recyclables picked up twice per week in Contractor provided Bins. Contractor agrees not to limit the specific type of Recyclable Material (such as cardboard only) that can be placed in a Container unless approved by the District on a Customer by Customer basis. If requested by Customer, Contractor shall provide to the Customer a new Collection Container to meet the Customer’s desired Service Level within five (5) days of Contractor’s first receipt of request.

- C. **Container Colors.** Solid Waste Carts must have a lid and body that are grey in color. Solid Waste Bins and Roll-Offs must have a body that is grey in color. Recyclable Materials Carts must have a lid and body that is blue in color. Recyclable Materials Bins and Roll-Offs must have a body that is blue in color. Organic Materials Carts must have a lid and body that are green in color. Organic Materials Bins and Roll-Offs must have a body that is green in color. Hardware such as hinges and wheels on the Containers may be a different color.

All Containers shall display identifying and contact information approved by the District Manager including, logo, telephone number, website, capacity (yards or gallons) and some identifying inventory or serial number.

No later than December 31, 2035, all Containers must comply with the Container color requirements as specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law. At least thirty (30) days in advance of Contractor Container purchases or reprinting of metal Containers, Contractor shall present proposed colors to the District Manager for review and approval.

1. Container Labels.

- a. Labels on Existing Containers or Lids. Per the existing Agreement, Contractor shall ensure a label on the body or lid of each Container has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container.
- b. Imprinted or In-Mold Labels for New Containers or New Lids. Any new Containers shall include an in molded graphic or sticker which provides instructions to the Waste Generator indicating the primary materials accepted and the primary materials prohibited in that Container. The final color and signage, including the in molded graphic or sticker on the Containers shall be approved by the District Manager or their designee.

- D. **Replacement of Containers.** Contractor acknowledges that from time to time, Containers may be damaged, destroyed or damaged by graffiti. Contractor also acknowledges that from time to time Containers may be stolen from the Curb or damaged due to normal use. Containers that are stolen or otherwise damaged due to normal use shall be replaced by Contractor at no additional charge. Containers damaged by graffiti shall be replaced by Contractor at no additional charge.
- E. **Kitchen Pails.** The Contractor shall provide kitchen pails designed to contain Food Scraps prior to placement in the Customer's Organic Materials Cart. Contractor will be responsible for distribution of kitchen pails to Single-Family and Multi-Family Customers upon request, from Contractor's office beginning January 1, 2022. District may restock Contractor inventories at local offices for distribution to new residents or residents who need a replacement.
- F. At no charge to the District, Contractor shall provide one (1) roll-off three (3) yard dumpster at a location on District property to be designated by the General Manager and collect Discarded Materials from the same on a regular services schedule.

All Contractor supplied Containers for Solid Waste Recyclable Materials, and Organic Materials shall remain the property of Contractor. Containers damaged due to lack of reasonable care by the Customer may be replaced by Contractor, the fee for which shall be established in Exhibit A. Contractor may recover Containers used by Customers for other than their intended purpose. Upon

expiration or early termination of Agreement, District may purchase all Containers put into service at Customer Premises during the Term of the Agreement and shall become property of the District at no cost to the District if such Containers are fully depreciated. All Containers and Compactors purchased and put into service at Customer Premises during the Term of the Agreement that have not been fully depreciated shall be available to the District, at the District's option, at a cost reflecting the net book value."

5.4 Non-Collection of Discarded Materials

M. Section 5, Subsection 5.4 of the Agreement is hereby retitled and amended to read as follows:

"5.4 Non-Collection of Discarded Materials

A. In the event Contractor does not Collect any item or Container of Discarded Materials, due to the identification of Prohibited Container Contaminants, Contractor shall attach a Non-Collection Tag securely to the item or Container not Collected specifying the reasons for non-Collection. The Non-Collection Tag shall contain, at a minimum:

1. Contractor's name and telephone number;
2. The date and time the notice was left or issued;
3. The reason for non-Collection; and,
4. Information regarding the proper Source Separation of Discarded Materials.

Franchisee shall maintain adequate records and report all Non-Collection Tags disbursed monthly to the District in accordance with Exhibit G.

B. In the event Contractor fails, without good cause, to Collect, remove, and Dispose of Discarded Materials on a Customer's regularly scheduled Collection day or within twenty-four (24) hours of a request from District or a Customer to do so, District may Collect said materials and Contractor shall be liable for all related expenses incurred by District, including Disposal, administrative, and legal costs."

5.5 Refusal to Provide Collection Services

N. Section 5, Subsection 5.5 of the Agreement is hereby amended to read as follows:

"Contractor may refuse to Collect Recyclable Materials Containers or Organic Materials Containers due to the identification of Prohibited Container Contaminants. Contractor shall leave a Non-Collection Tag on the material stating a reason for Contractor refusal to Collect the Container Adequate records from the Non-Collection Tag shall be maintained by Contractor and reported monthly to the District in accordance with Exhibit G."

5.6 Marketing and Sale of Recyclable Materials

O. Section 5, Subsection 5.5 of the Agreement is hereby amended to read as follows:

"Contractor shall be responsible for the marketing and sale of all Recyclable Materials and Organic Materials Collected pursuant to this Agreement. Revenues from the sales of these materials shall be retained by Contractor."

5.7 Litter Abatement

P. Section 5, Subsection 5.7 of the Agreement is hereby amended to read as follows:

“Contractor shall use due care to prevent Discarded Materials from being spilled or scattered during the Collection or Transportation process. If any Discarded Materials are spilled during Collection, Contractor shall promptly clean up all spilled materials. Each Collection vehicle shall carry a broom, shovel and oil spill kit at all times for this purpose.”

5.9 Clean-Up Days

Q. Section 5, Subsection 5.9 of the Agreement is hereby amended to read as follows:

- “A. At least twice per year throughout the term of this Agreement, Contractor shall provide, in addition to regularly scheduled service, two clean-up events pursuant to guidelines established by the Contractor and approved by the District, for Solid Waste placed at the Curb by Single Family Dwelling Units and at pre-arranged locations for Multi Family Residential properties in addition to each Customer’s normal Collection service. The dates for each event shall be proposed by Contractor and approved by the District Manager or his/her designee prior to September 1st of each year.
- B. Contractor shall record by class and weight (in Tons) the Discarded Materials, white goods, etc., Collected during the clean-up events. Contractor shall record the kinds and weights (in Tons) of Discarded Materials Diverted during these clean-ups from the landfill through Recycling, reuse, transformation or other means of Diversion.”

5.10 Solid Waste and Recyclable Materials Services in Public Areas

R. Section 5, Subsection 5.10 of the Agreement is hereby retitled and amended to read as follows:

“5.10 **Solid Waste and Recyclable Materials Services in Public Areas.** The Contractor will provide, at no cost, Collection of Solid Waste Containers and Recyclable Material Containers from District facilities and sidewalk Containers. The loss revenue from providing this service shall be deducted from the District projected revenue during the rate making process described in Section 11 (Rate Review). In addition, any increase in rates resulting from requested free service shall not be included when calculating the change in rate compared to the change in the CPI. During any calendar year, the revenue loss from this service is limited to five thousand dollars (\$5,000).”

5.11 Abatement of Bulky Waste

S. Section 5, Subsection 5.11 of the Agreement is hereby amended to read as follows:

- “A. **Removal of Bulky Waste from Public Right-of-Ways.** Contractor and District recognize that from time to time Persons discard Bulky Waste, such as couches, easy chairs, beds, mattresses, refrigerators, etc. within public right-of-ways, streets, alleys, and District property within the Franchise Area. Contractor agrees that it will, at the direction of the District Manager, at no cost, Collect, Transport and Dispose of such Bulky Waste.
- B. **Limitation.** The loss revenue from providing this service shall be deducted from the District projected revenue during the rate making process described in Section 11 (Rate Review). In addition, any increase in rates resulting from this service shall not be included when calculating the change in rate compared to the change in the CPI.

- C. **Greenwaste.** Contractor shall Collect Greenwaste separately from acceptable materials described in Section 5.2. Contractor shall Transport Greenwaste to the Approved Organic Material Processing Facility.”

5.12 Waste Generator Waivers

- T. Section 5, Subsection 5.12 of the Agreement is hereby amended to add the following new section:

“5.12 **Waste Generator Waivers.** The District may grant waivers described in this Section to Commercial or Multi-Family Waste Generators that impact the scope of Contractor’s provision of service for those Customers; provided, the Waste Generator shall continue to subscribe with Contractor for franchised Collection services to the extent such services are not waived by the District. Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the District.

- a. **De Minimis Waivers.** The District may waive a Multi-Family’s, Commercial Business’, or its Property Owner’s obligation to comply with some or all of the Source Separated Recyclable Materials and Organic Materials requirements set forth in this Agreement, SB 1383 Regulations, and District Code, if the Multi-Family, Commercial Business, or its Property Owner provides documentation, or the District has evidence demonstrating one of the following de minimis conditions:
- i. The Multi-Family’s or Commercial Business’ total Solid Waste Collection service is two (2) cubic yards or more per week, and Organic Materials subject to Collection comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family’s or Commercial Business’ total waste; or,
 - ii. The Multi-Family’s or Commercial Business’ total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family’s or Commercial Business’ total waste.
- b. **Space Constraint.** The District may waive a Multi-Family’s, Commercial Business’, or its Property Owner’s obligation to comply with some or all of the Source Separated Recyclable Materials or Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and/or as required in the District Code.
- c. **Waiver Requests.** Waste Generators may submit requests for de minimis waivers and physical space waivers to the District, if permitted by the District Code. If a Waste Generator submits a request for a waiver to the Contractor, the Contractor shall refer the Waste Generator to the District. Upon request of the District, the Contractor shall support the District in the waiver review process by providing requested Customer information. If the District grants a waiver to a Waste Generator, the District shall notify the Contractor and Contractor shall update the Customer’s information and Service Level in accordance with Exhibit G.”

d. 5.13 Monitoring

- U. Section 5, Subsection 5.13 of the Agreement is hereby amended to add the following new Section:

“5.13 **Actions Upon Identification of Prohibited Container Contaminants.** The District shall perform SB 1383 activities required for the identification of Prohibited Container Contaminants which includes but is not limited to, record keeping, provision of educational notices and reporting. The District shall report any

Contractor performed activities regarding the identification of Prohibited Container Contaminants to the District, such report shall include but is not limited to, record keeping, provision of educational notices, and reporting.”

5.14 Procurement of Recovered Organic Waste Products

V. Section 5, Subsection 5.14 of the Agreement is hereby amended to add the following new Section:

“5.14 **Procurement of Recovered Organic Waste Products**

Power. To the extent that electricity produced from the Approved Organic Materials Processing Facility qualifies for District’s procurement credit under SB 1383, District shall be allocated its proportional share of such qualified electricity usage based on the inbound tonnage delivered by County divided by the total inbound tonnage of the Approved Organic Materials Processing Facility for that same time period.”

Section 7. Responsibility for Collected Waste

7.1 Ownership of Discarded Materials

W. Section 7, Subsection 7.1 of the Agreement is hereby retitled and amended to read as follows:

“7.1. **Ownership of Discarded Materials.**

- A. All Discarded Materials Collected, removed, and Transported by Contractor from the Premises where produced, generated, and/or accumulated pursuant to this Agreement shall be the property and responsibility of Contractor.
- B. Once Recyclable Materials and Organic Materials are placed in Containers and properly presented for Collection, ownership and the right to possession shall transfer directly from the Waste Generator to Contractor by operation of this Agreement and/or District Code. Contractor is hereby granted the right to retain, Recycle, Process, reuse, Compost, and otherwise use such Recyclable Materials, Organic Materials or any part thereof, in any lawful fashion or for any lawful purpose consistent with the hierarchy and goals of AB 939. Subject to the provisions of this Agreement, Contractor shall have the right to retain any benefit resulting from its right to retain, Recycle, Process reuse, or Compost the Recyclable Materials or Organic Materials that it Collects. Recyclable Materials, Organic Materials or any part thereof, which are delivered to an Approved Processing Facility shall become the property of the owner or operator of the Facility(ies) once deposited there by Contractor.”

7.2 Disposal Requirements

X. Section 7, Subsection 7.2 of the Agreement is hereby amended to read as follows:

- “A. Contractor shall Dispose of all Discarded Materials Collected under this Agreement at Contractor's own expense and in accordance with all Federal, State and local laws, rules, and regulations. Contractor, at Contractor's own expense, shall be responsible for securing an appropriate location for the Disposal and Processing of all Discarded Materials Collected by Contractor pursuant to this Agreement.
 - 1. Approved Transfer Facility. Contractor’s Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated

- Recyclable Materials, Source Separated Organic Materials, and Solid Waste Collected in accordance with this Agreement.
2. Approved Disposal Facility. Contractor's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Solid Waste Collected in accordance with this Agreement for Disposal
 3. Approved Recyclable Materials Facility. Contractor's Approved Recyclables Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Recyclable Materials Container.
 4. Approved Organic Materials Facility. Contractor's Approved Organic Materials Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial Source Separated Organic Materials.
- B. Contractor shall secure within ninety (90) days of the Effective Date of this Agreement, sufficient Disposal site capacity commitment including landfill Disposal site capacity to adequately serve the reasonable anticipated Solid Waste Disposal needs of Contractor's Customers. District reserves the right to review and require approval for said Disposal capacity commitments.
- C. If Contractor receives notice from the landfill operator or Recyclables or Organic Materials processor or otherwise finds, during the term of the Agreement, to be prevented from delivering Discarded Materials to the Approved Facility, Contractor shall immediately notify, in writing, the District Manager, stating the reason(s) Contractor is prevented, or expects to be prevented, from delivering Discarded Materials at the Approved Facility. Contractor shall expeditiously identify and evaluate alternative sites. An alternative designated site or sites shall be arranged for and secured by Contractor. Such a change in Approved Facility shall be temporarily permitted until such time as the District Manager is able to consider and respond to the use of the proposed alternative Processing Facility. If the use of the proposed Alternative Facility is anticipated to or actually does exceed thirty (30) days in a consecutive twelve (12) month period, the use of such Facility shall be subject to approval by the District Manager with notice sent to the District. The District Manager in its sole discretion, may approve, conditionally approve, temporarily approve, or disapprove of the use of the proposed alternative Facility. If the District disapproves the use of the proposed alternative Facility, the Parties shall meet and confer to determine an acceptable Facility.
- If the use of an alternative Facility is for reasons within Contractor's, or its Approved Facility Subcontractor's control, Contractor's compensation shall not be adjusted for any change in Transportation and Processing costs associated with use of the alternative Facility. However, if the use of an alternative Facility is due to reasons beyond Contractor's or its Subcontractor's control, then District shall adjust, either up or down, Contractor's compensation for changes in Transportation and Processing costs associated with the use of the alternative Facility. In the event that the change in the Processing Facility results in increased costs, District may identify and direct Contractor to an alternative Processing Facility, at the Contractor's expense, which results in less cost than the Contractor-identified alternative.
- D. The Parties understand and agree that District participates in waste Diversion and resource recovery programs pursuant to regional and/or local implementation of AB 939, and may participate in such other programs as may be established by District.

- E. Contractor shall deliver all Solid Waste to any Approved Disposal Facility which collects the San Luis Obispo County AB 939 Tipping Fee Surcharge and Waste Management Program Fund Fee, pursuant to County Resolution No. 90-383 as amended from time to time. If the Contractor delivers Solid Waste to an Approved Disposal Facility which does not collect the County Tipping Fee Surcharge and Waste Management Program Fund Fee, the Contractor will make, on a monthly basis, the equivalent payment directly to the County's Waste Management Tipping Fee - AB 939 Trust Fund #0159 and Waste Management Tipping Fee Trust - Site Fund# 0160.
- F. Payment of the equivalent fees shall be made to County within thirty (30) days after the end of each calendar month, or prorated portion thereof, in which the Contractor delivers Solid Waste to an alternate facility. In the event that payment is not received by County within thirty (30) days after the date specified, then Contractor shall pay a penalty of ten percent (10%) on the outstanding balance, and Contractor shall also pay to County interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Contractor's failure to pay.
- G. **AB 939/SB 1383 Reimbursement.** If requested by District, Contractor shall pay an AB 939/SB 1383 reimbursement amount to the District each month, in an amount to be specified annually by the District and, in addition, if the San Luis Obispo Integrated Waste Management Authority ("IWMA") currently implements an AB 939, SB 1383 or Solid Waste Management fee, shall pay that fee directly to IWMA. Said fees shall be an allowable cost in Contractor's rate application. Said fees shall be considered a pass-through cost for purposes of rate setting and, as such, if the District or IWMA changes such fees Contractor's rates shall be adjusted accordingly, without additional markup subject to all Applicable Laws. Subject to the foregoing, District or IMWA may establish and/or adjust such fees at any time. Such fees shall be paid in equal monthly installments, paid in arrears. District shall use the AB 939/SB 1383 reimbursement to fund expenses including but not limited to, staffing costs related to District programs, pilot studies, education and outreach campaigns, technical assistance to Customers, reporting, compliance, capacity planning, provision of special Containers, or other activities involved in compliance with AB 939 and/or SB 1383. The District shall retain the sole right to set priorities for the use of its AB 939/SB 1383 reimbursement. All AB 939/SB 1383 reimbursements paid to the District shall be considered a pass-through cost for purposes of rate setting.
- H. As of March 1, 2007, the Tipping Fee Surcharge for Fund# 0159 is \$3.00 per Ton and the Waste Management Program Fund Fee for Fund# 0160 is \$0.40 per Ton. Payments made by the Contractor shall be sent to the County Franchise Coordinator along with an itemized statement regarding how the payment was calculated. Payments shall be adjusted to reflect any future changes in the amount of these fees.
- I. Contractor shall keep all existing permits and approvals necessary for use of the Approved Processing Facility(ies) and Approved Disposal Facility in full regulatory compliance. Upon request, Contractor shall provide copies of facility permits and/or notices of violations (obtained from its Processing Facility Subcontractor if necessary) to District Manager.
- J. Contractor shall not engage any Subcontractors for Collection, Transportation, or Processing of Recyclable Materials, Organic Materials, or Solid Waste services without the prior written consent of District Manager. Contractor must obtain written agreements with Processing Subcontractors to guarantee capacity to Process Discarded Materials. As of the Effective Date of this Agreement, Contractor has not applied to the District for approval of any Subcontractors. If the Contractor plans

to engage other affiliated or related party entities in the provision of services, Contractor shall provide District Manager with thirty (30) days written notification of its plans and provide an explanation of any potential impacts related to the scope, quality, timeliness, or cost of providing services under this Agreement. All insurance documents must be reviewed and approved by the District Manager prior to District acceptance. Contractor shall require that all Subcontractors file insurance certificates with the District, name District as an additional insured, and comply with all material terms of this Agreement.”

7.3 Material Processing

Y. Section 7, Subsection 7.3 of the Agreement is hereby amended to read as follows:

- “A. **Receipt of Recyclable Material Including Organic Materials.** The Contractor shall have in place or have made arrangements for an Approved Processing Facility(ies) to receive and accept all deliveries of Recyclable Materials and Organic Materials generated in the District.
- B. **Status of Approved Processing Facility.** Any Approved Processing Facility used by Contractor must be designed and constructed in accordance with all applicable State and local laws (e.g., CEQA, California Code of Regulations, etc.). The Approved Processing Facility must have all permits from Federal, State, Regional, County and District agencies necessary for it to operate as a Material Recovery Facility and must be in full regulatory compliance with all such permits. Contractor shall keep active all existing permits and approvals necessary for use of the Approved Processing Facility in compliance with regulatory requirements and Applicable Law. Upon request, Contractor shall provide copies of facility permits and/or notices of violations (obtained from its Processing Facility Subcontractor if necessary) to District Manager.

The Approved Processing Facility must be authorized to accept, under its existing permit, and have sufficient uncommitted capacity to accept, all Recyclable Materials and/or Organic Materials delivered to it by, or on behalf of, Contractor for the term of this Agreement. Contractor shall immediately notify District of any notice of breach or default received from Approved Processing Facility

- C. **Alternative Processing Facility.** If Contractor becomes unable to deliver the District's Recyclable Materials or Organic Materials to the Approved Processing Facility due to causes within its control and which could have been avoided by the exercise of due care, the Contractor shall arrange for it to be accepted at an alternative Processing Facility, in which case Contractor shall pay for any increased Transportation costs, any differences in the fees charged at such Approved Processing Facility and the fees then in effect under this Agreement. If Contractor's inability to deliver the District's Recyclable Materials and Organic Materials to the Approved Processing Facility is not due to causes within its control or which could have been avoided by the exercise of due care, then Contractor shall propose alternative Processing Facility including all related costs. Within forty-eight (48) hours of emergency or sudden and unforeseen closure, the Contractor shall provide a written description of the reasons the use of the Approved Processing Facility is not feasible, and the period of time Contractor proposes to use the alternative Processing Facility. Such a change in Processing Facility shall be temporarily permitted until such time as the District Manager is able to consider and respond to the use of the proposed alternative Processing Facility. If the use of the proposed alternative Processing Facility is anticipated to or actually does exceed thirty (30) days in a consecutive twelve (12) month period, the use of such Processing Facility shall be subject to approval by the District Manager with notice sent to the District. The District Manager in its sole discretion,

may approve, conditionally approve, temporarily approve, or disapprove of the use of the proposed alternative Processing Facility. If the District disapproves the use of the proposed Alternative Processing Facility, the Parties shall meet and confer to determine an acceptable Processing Facility.”

7.4 Recyclable and Organic Materials

Z. Section 7, Subsection 7.4 of the Agreement is hereby amended to read as follows:

“Contractor shall ensure that the residual from the Recyclable Materials and Organic Materials delivered to the Approved Processing Facility by the Contractor are Disposed of at a permitted Disposal site in full regulatory compliance. Monthly Residue shall not exceed ten percent (10%) of the monthly Recyclable and Organic Materials delivered to the Approved Processing Facility. If the District directs Contractor to deliver Recyclable Organic Materials to a third party facility for Processing, then such third party facility shall be responsible for Disposal of residual and the Processing requirements as described above and the District shall use its best efforts to enforce such requirements against the third party Processor.”

Section 8. Performance Standards

8.4.B Vehicles

AA. Section 8, Subsection 8.4.B of the Agreement is hereby amended to read as follows:

“B. **Specifications.** All vehicles used by Contractor in providing Discarded Materials Collection services under this Agreement shall comply with all Federal, State, and local requirements for such vehicles as they now exist or may be amended in the future, including all applicable air emissions requirements, and shall be registered with the California Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage, or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. The Contractor will, in good faith, consider incorporating natural gas trucks into its Collection fleet, to the extent practicable.”

Section 9. Customer Relations and Education

9.1 Subscriber Information

BB. Section 9, Subsection 9.1 of the Agreement is hereby amended to read as follows:

“At the time a Customer subscribes to service and annually thereafter for all Residential and Commercial Customers, the following information, at a minimum, shall be distributed: a list of Solid Waste, Recyclable Materials, and Organic Materials eligible for Collection, Complaint procedures, rates, Recycling opportunities, company contact information including billing address, office hours, location, and telephone numbers, Holiday Collection schedule, and Clean-Up Week information. Information regarding no cost dumpster cleanings shall be included for Commercial Customers. Copies shall be provided to each Customer at time of subscription, annually, and upon Customer's request.

The Contractor shall prepare and update as necessary a flier with this information in a form and content mutually acceptable to the Contractor and the District Manager. Contractor shall print all necessary copies of the flier and Contractor's employees and agents shall inform Customers that said flier is available upon request.”

9.4 Education and Public Information

CC. Section 9, Subsection 9.4 of the Agreement is hereby amended to read as follows:

- "A. **General.** Contractor acknowledges and agrees that education and public awareness are critical, key, and essential elements of any efforts to achieve AB 939, SB 1383, and other regulatory requirements. Accordingly, Contractor agrees to take direction from District to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle, and to cooperate fully with District in this regard. Contractor shall obtain approval from the District on all Contractor-provided public education materials outside of the District's education plan, including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. District shall have the right to request that Contractor include District identification and contact information on public education materials, and approval of such requests shall not be unreasonably withheld.

Contractor shall maintain its own program of providing information relevant to billing and Collection services, issues, and needs with its bills. Contractor shall also include in Customer bills additional information, including information on Recycling programs, as directed by the District. Contractor shall bear all labor costs with respect to inserting public education materials with the billings. District shall bear any additional postage expense resulting from the District's inserts and shall bear other expenses related to the inserts to the extent said expenses are clearly in excess of the Contractor's normal billing costs. All public education materials shall be approved in advance by the District.

At the direction of the District, Contractor shall participate in and promote AB 939 activities and other waste management techniques at community events and local activities at no additional cost. Such participation would normally include providing, without cost, educational and publicity information promoting the goals of the District's Discarded Materials program.

- B. **Program Objectives.** The District shall be responsible for designing, implementing, and conducting a public education and outreach program. The District's public education and outreach strategy shall focus on improving Waste Generator understanding of the benefits of and opportunities for source reduction, Reuse, and Landfill Disposal reduction and supporting compliance with Applicable Laws and regulations, including, but not limited to SB 1383. The cumulative intended effect of these efforts is to reduce the amount of each Waste Generator's Discarded Materials and, ultimately, Disposal of Discarded Materials, and Contractor agrees to support and not undermine or interfere with such efforts.
- C. **Bill Inserts.** Contractor agrees to insert and distribute brochures, newsletters, or other information developed by the District as single sheet, double-sided inserts in Contractor's Customer invoices at no additional charge to the District. Bill inserts shall be designed and produced by the District with review and comment by Contractor, and final approval by the District. Annually, Contractor shall be responsible for printing the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or other information developed by the District as attachments to Customer invoices at no additional charge to the District. Contractor shall provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments shall not be provided as links). Upon the District's request for such inserts, Contractor shall comply with such request during

its next billing cycle for the targeted Customer group. Contractor shall perform this service with no additional requirement for compensation.

- D. **Annual Notice of Requirements.** Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Waste Generator in the District a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website."

Section 10. Records, Reports, and Information Studies and Hearing Requirements

10.1 Records

DD. Section 10, Subsection 10.1 of the Agreement is hereby amended to read as follows:

"In addition to any record keeping or other reporting requirements pursuant to any Federal, State or local government (including the San Luis Obispo County Integrated Waste Management Authority), rules, regulations, other terms of this Franchise Agreement or other provisions of the District Code, Contractor shall maintain records required to conduct its operations, to support requests it may make to District, and to respond to requests of the District in accordance with Exhibit G. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data and records shall be protected and an adequate backup system shall be provided for such data and records. The protection and backup systems shall be subject to approval by the District.

- A. The following records shall be maintained for the District in form and detail satisfactory to the District, relating to:
- Customer services and billing;
 - Weight of Solid Waste, Recyclable Materials, and Organic Materials , especially as related to reducing and Diverting Solid Waste. Information is to be separated by kind of account (Commercial or Residential);
 - Special annual clean-up event results;
 - Routes;
 - Facilities, equipment and personnel used;
 - Facilities and equipment operations, maintenance and repair;
 - Processing and Disposal of Discarded Materials;
 - Complaints;
 - Missed pick-ups; and
 - Any other records as required in Exhibit G.

- B. Contractor shall maintain records of Transfer, Diversion and Disposal of all Discarded Materials Collected within the District for the period of this Agreement and all extensions to this Agreement or successor Agreements.
- C. Records for other programs shall be tailored to specific needs. In general, they shall include:
 - Plans, tasks, and milestones; and,
 - Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.”

10.2 Waste Generation/Characterization Studies

EE. Section 10, Subsection 10.2 of the Agreement is hereby amended to read as follows:

“Contractor acknowledges that the District must periodically perform and/or participate in Discarded Materials generation and Disposal characterization studies to comply with AB 939 and SB 1383 requirements. Contractor agrees to participate and cooperate with the District and the San Luis Obispo County Integrated Waste Management Authority and their agents, at no cost to the District, to perform studies and data collection, and prepare reports, as needed, to determine weights and volumes of Discarded Materials and characterize Solid Waste, Recyclable Materials, and Organic Materials generated, Diverted, Disposed, transformed, or otherwise handled or Processed to satisfy AB 939 and SB 1383 requirements.”

10.3 Report Formats and Schedule

FF. Section 10, Subsection 10.3 of the Agreement is hereby amended to read as follows:

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

- Determine and set rates, and evaluate the financial efficacy of operations; and
- Evaluate past and expected progress towards achieving goals and objectives; and
- Determine needs for adjustment to programs; and
- Evaluate Customer service and Complaints.

The District may at no cost to itself request that Contractor provide such additional information in the reports set forth below as the District deems necessary or appropriate to meet its needs, including provision of AB 939 and SB 1383 report information.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be subject to approval by the District.

All reports shall be submitted to:
District Manager
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444”

10.4 Monthly Reports

GG. Section 10, Subsection 10.4 of the Agreement is hereby amended to read as follows:

“Monthly reports shall be submitted within ten (10) calendar days after the end of the report month. The monthly report shall include all monthly report information pursuant to Exhibit G and the following: (The information listed shall be the minimum reported for each service):

- Solid Waste, Recyclable Materials, and Organic Materials that are Collected, Transferred, Diverted and Disposed of, by sector (Commercial, industrial, Residential) of Waste Generator Collected by Contractor, in Tons, by month;
- Complaint summary, for month and cumulative for report year, - Summarized by nature of Complaints; and
- Narrative summary of problems encountered and actions taken with recommendations for the District, as appropriate.”

10.5 Quarterly and Annual Reports

HH. Section 10, Subsection 10.5 of the Agreement is hereby retitled and amended to read as follows:

“10.5 Quarterly and Annual Reports.

- A. Quarterly Reports.** Quarterly reports shall be submitted within fifteen (15) calendar days after the end of the quarter. Quarters end on November 30, February 28, May 31, and August 31. Quarterly reports shall be quarterly summaries of the monthly reports, and required information pursuant to Exhibit G, and the following:
- Status report on applications for renewals of existing permits or any new permits which may be required to continue operations at the Approved Disposal Facility within existing permitted areas;
 - Solid Waste, Recyclable Materials, and Organic Materials Collected, Diverted and Disposed of, in Tons, during the semi-annual Residential clean-up weeks, if applicable.
 - For each new program, provide activity related and narrative reports on goals and milestone and accomplishments. Describe problems encountered, actions taken and any recommendations to facilitate progress.
 - Provide a summary assessment of the overall Discarded Materials program from Contractor's perspective relative to financial and physical status of program. The physical status is to relate to how well the program is operating for efficiency, economy, and effectiveness relative to meeting all the goals and objectives of this Agreement. Provide recommendations and plans to improve. Highlight significant accomplishments, problems, and proposed solutions.

The District may require Contractor, at no additional charge, to provide the Board of Directors with an oral presentation of the Quarterly Reports.

- B. Annual Reports.** The Contractor shall provide an Annual Report, covering the most recently completed calendar year as described in Exhibit G. Annual reports shall be submitted within forty-

five (45) calendar days after the end of the reporting year The District may require Contractor, at no additional charge, to provide the Board of Directors with an oral presentation of the Annual Reports.”

10.11 Regulatory Reporting

II. Section 10, Subsection 10.11 of the Agreement is hereby retitled and amended to read as follows:

- “A. Contractor shall promptly provide the District copies of each adverse report from, and each regulatory action from local, State or Federal regulatory agencies in accordance with Exhibit G. In addition, Contractor shall send copies to District of any reports that Contractor submits to regulatory agencies with respect to performance of this Agreement.
- B. Contractor shall provide District promptly with copies of any notices and correspondence from Approved Facilities, including the Approved Disposal Facility, utilized by Contractor in performance of this Agreement, concerning any breach of agreement with such facility or violation of regulations, including delivery of unauthorized wastes in accordance with Exhibit G. Contractor shall direct such facilities to at all times simultaneously send copies of such notices and correspondence to District.
- C. Contractor shall promptly provide District with copies of any reports and correspondence concerning the status of permits with respect to Contractor and Approved Facilities referenced above in accordance with Exhibit G.”

Section 17. Indemnification

17.1.E Failure to Perform

JJ. Section 17, Subsection 17.1.E of the Agreement is hereby amended to read as follows:

“If Contractor ceases to provide Discarded Materials services as required under this Agreement for a period of two (2) days or more, for any reason within the control of Contractor.”

17.3.A General

KK. Section 17, Subsection 17.3.A of the Agreement is hereby amended to read as follows:

“District finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by District as a result of a 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 the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive 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.”

17.3.B Service Performance Standards; Liquidated Damages for Failure to Meet Standards

LL. Section 17, Subsection 17.3.B of the Agreement is hereby amended to read as follows:

“The Parties acknowledge that consistent, reliable Discarded Materials service is of utmost importance to District and that District has considered and relied on Contractor's representations as to its quality of service commitment in awarding the Agreement to it. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, comply with Complaint resolution criteria, or fails to submit required documents in a timely manner, District and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that District will suffer. Therefore, without prejudice to District's right to treat such non-performance as an event of default under this Section 17, the Parties agree that the following Liquidated Damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to District that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient. Recognizing the importance of resolving any failure to meet the service performance standard, the District shall contact Contractor within two (2) days of any failing reported directly to the District. In addition Contractor agrees to meet with the District Manager within 2 days of a requested meeting to discuss the Contractor's performance.

Contractor agrees to pay (as Liquidated Damages and not as a penalty) the amounts set forth below:

Collection Reliability and Quality

For each failure over five (5) annually to commence service to a new Customer account within seven (7) days after order	\$150.00
For each failure over twenty-four (24) annually to Collect Solid Waste, Recyclable Materials, or Organic Materials, which has been properly set out for Collection, from an established Customer account on the scheduled Collection day and not Collected within 24 hours after notice of missed pick-up	\$150.00
For each failure to Collect Solid Waste, Recyclable Materials, or Organic Materials, which have been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days	\$150.00
For each occurrence over five (5) annually of damage to private property:	\$250.00
For each occurrence over ten (10) annually of discourteous behavior	\$250.00
For each occurrence over five (5) annually of Collecting Solid Waste, Recyclable Materials, or Organic Materials, during unauthorized hours	\$250.00
For each failure to respond to a Customer Complaint within twenty-four (24) working hours	\$250.00

Events of SB 1383 Related Non-Performance

District wishes to establish standards of performance under the Agreement in each of the seven (7) "Performance Areas" listed below. The District Manager may monitor Contractor's performance in each of those areas based on the "Specific Performance Measures" within that performance area. In the event that the District Manager determines that Contractor has failed to meet the performance standard established for any "Specific Performance Measure", the District may assess Liquidated Damages pursuant this Section of the Agreement. Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other measure in excess of the acceptable performance level.

<p>Use of Unauthorized Facilities. For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement.</p>	<p>\$0 for first 5 failures; \$1,000 per each subsequent failure occurrence</p>
<p>Failure to Implement Three-Container System. For each occurrence of failing to provide Customers with the three-Container system required by and compliant with Section 5.2, excluding Waste Generators and Customers granted waivers pursuant to Section 5.12 of this Agreement, and excluding Waste Generators and Customers that demonstrate compliance with Recycling and Organic Waste Self-Hauling requirements pursuant to District Code Title 7 and 14 CCR Division 7, Article 12, Article 7.</p>	<p>\$100 per Waste Generator or Customer per occurrence or Day until compliance achieved</p>
<p>Failure to Comply with Container Labeling and Colors. For each occurrence of Contractor's failure to comply with Container labeling and color requirements pursuant to Section 5.3 of this Agreement.</p>	<p>\$180 per Container per occurrence</p>
<p>Failure to Perform Public Education and Outreach. For each failure to perform any individual education and outreach activity as required and, in the timeframe, specified by this Agreement.</p>	<p>\$180 per occurrence</p>
<p>Failure to Submit Reports or Allow Access to Records. For each failure to submit any individual report or provide access to records in compliance with and in the timeframe specified in this Agreement. Incomplete and/or inaccurate reports shall be considered a failure to submit until such time as all information in the report has been provided in a complete and accurate form. In the event District determines an errant or incomplete report more than ten (10) Business Days after submittal by Contractor, Contractor shall be given ten (10) Business Days to complete and correct and any pending Liquidated Damages shall be tolled during that period.</p>	<p>\$150 per report or occurrence</p>
<p>Failure to Issue Non-Collection Tags. For each failure of Contractor Collection personnel to issue contamination notices and maintain documentation of issuance as required by Section 5.4 of this Agreement.</p>	<p>\$100 per Contractor Route per day</p>

Improper Fee Issuance. For each fee that is issued to a Waste Generator without prior authorization from District under this agreement.	\$100 per issuance per day
--	----------------------------

Section 18. District's Right to Perform Services

18.1 General

MM. Section 18, Subsection 18.1 of the Agreement is hereby amended to read as follows:

"In the event that Contractor, for any reason whatsoever, fails, refuses or is unable to Collect, Transport, Process or market any or all Discarded Materials which it is required by this Agreement to Collect, Transport, Process, market, and/or Dispose at the time and in the manner provided in this Agreement, for a period of more than seven (7) calendar days, and if, as a result thereof, Discarded Materials should accumulate in the District to such an extent, in such a manner, or for such a time that the District Manager or his/her designee should find that such accumulation endangers or menaces the public health, safety or welfare, then District shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Contractor during the period of such emergency as determined by the District Manager or his/her designee, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor; and/or (2) to take temporary possession of any or all of Contractor's equipment and other property to Collect, Transport, Process, market and/or Dispose any Discarded Materials generated within the District which Contractor would otherwise be obligated to Collect, Transport, Process, market and/or Dispose pursuant to this Agreement. In the event the District takes possession of the Contractor's equipment and other property, the District shall be required to pay a reasonable rental fee for such equipment, but the District does not guarantee repair of existing problems with equipment and facilities.

If Contractor is then providing billing services and District performs the services, Contractor will promptly forward to District all rates Contractor has collected in advance, or otherwise, to District for the period in duration equal to District's performance of the services. If Contractor does not promptly forward those rates, District may draw on the performance bond or other approved security for those amounts.

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

Contractor further agrees that in such event:

- A. It will take direction from District to affect the transfer of possession of property and equipment to District for District's use.
- B. It will, if District so requests, keep in good repair and condition all of such property and equipment, provide all motor vehicles with fuel, oil, and other service, and provide such other service as may be necessary to maintain said property in operational condition.
- C. District may immediately engage all or any personnel necessary or useful for the Collection, Transportation, Processing marketing and/or Disposing of Discarded Materials, including, if District

so desires, employees previously or then employed by Contractor, Contractor further agrees, if District so requests, to furnish District the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for Discarded Materials Collection, Transportation, Processing, marketing and/or Dispose operations and for the billing and collection of fees for these services.

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

District shall pay to Contractor the reasonable rental value of the equipment and facilities, possession of which is taken by District, for the period of District's possession, if any, which extends beyond the period of time for which Contractor has rendered bills in advance of service.

Except as otherwise expressly provided in the previous paragraph, District's exercise of its rights under this Section 18.1: (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of District to Contractor; and (3) does not exempt Contractor from the indemnity provisions of Section 14, Indemnification, Insurance and Bond, which are meant to extend to circumstances arising under this Section, provided that Contractor is not required to indemnify District against claims and damages arising from the negligence of District officers, employees and agents in the operation of Collection vehicles or performance of services during the time District has taken possession of such equipment."

Section 19. Franchise Fees

19.1

NN. Section 19, Subsection 19.1 of the Agreement is hereby amended to read as follows:

"In consideration of the granting of this Franchise, and for the privilege of providing Discarded Materials service along and within the rights-of way of the District, Contractor shall pay to District a Franchise Fee equal to 7.3 percent of Contractor's annual gross receipts attributable to services provided under this Agreement."

Section 20. Assignment

20.3 Reliance on Contractor

OO. Section 20, Subsection 20.3 of the Agreement is hereby amended to read as follows:

"Contractor acknowledges that this Agreement involves rendering a vital service to District's residents and businesses, and that District has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Discarded Materials management operations in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to District under this Agreement. District has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement."

20.4.C Reliance on Contractor

PP. Section 20, Subsection 20.4.C of the Agreement is hereby amended to read as follows:

“Contractor shall furnish District with satisfactory proof: 1) that the proposed assignee has at least five (5) years of Recyclable Material management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; 2) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any Federal, State or local agency having jurisdiction over its Discarded Materials management operations due to any significant failure to comply with State, Federal or local Environmental Laws and that the assignee has provided District with a complete list of such citations and censures; 3) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; 4) that the proposed assignee conducts its Discarded Materials management practices in accordance with sound waste management practices in full compliance with all Federal, State and local laws regulating the Collection, Transportation, Processing, marketing and Disposal of Discarded Materials and Hazardous Wastes; 5) that the proposed assignee, and any its officers, directors or employees have not been convicted of a) fraud or criminal offense in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to Discarded Materials services of any kind (including Collection, hauling, Transfer, Processing, Composting or Disposal), including this Agreement or any amendment thereto or b) bribery or attempting to bribe a public officer or employee of a local, State, or Federal agency in that officer or director's of Contractor's employee's official capacity; or c) embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice , knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony; or d) unlawful Disposal of Hazardous Waste or Designated Waste the occurrence of which the Contractor knows or should have known; and, 6) of any other information required by District to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely safe and effective manner.”

Section 21. Miscellaneous

21.10 District Free to Negotiate with Third Parties

QQ. Section 21, Subsection 21.10 of the Agreement is hereby amended to read as follows:

“District may investigate all options for the Collection, Processing and marketing of Recyclable Materials after the expiration of the Term. Without limiting generality of the foregoing, District may solicit proposals from Contractor and from third parties for the provision of Discarded Materials services, and any combination thereof, and may negotiate and execute Agreements for such services that will take effect upon the expiration or earlier termination under Section 17.1 (Events of Default) of this Agreement.”

EXHIBIT G. RECORD KEEPING AND REPORTING

RR. Exhibit G, Record Keeping and Reporting, is hereby added to the Agreement:

“G.1 General

“Contractor shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or Title 7 of the District Code (or any successor Title). Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and regulations and to meet the reporting and Discarded Materials Collection, Processing, and Disposal program management needs of the

District. At the written direction or approval of District, the records and reports to be maintained and provided by Contractor in accordance with this Exhibit and other Sections of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or Federal regulatory or reporting requirements.

Information from Contractor's records and reports can be used to, among other things:

- Determine and set Rates and evaluate the financial efficacy of operations;
- Evaluate past and expected progress toward achieving the Contractor's Landfill Disposal reduction or Diversion goals and objectives;
- Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law;
- Determine needs for adjustment to programs;
- Evaluate Customer service and Complaints; and,
- Determine Customer compliance with AB 341, AB 1826, and SB 1383 statutes and corresponding regulations; and, any subsequent State-mandated landfill Disposal reduction, Recycling, recovery, or Diversion statutes, regulations, or other requirements.

G.2 Record Keeping

- A. **General.** Contractor shall maintain Customer contact data, Customer service, accounting, statistical, operational, and other records related to its performance as shall be necessary to provide reporting required by this Agreement and Applicable Law and to demonstrate compliance with this Agreement and Applicable Law (such as, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations).

Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements. In particular, this Exhibit is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports that Contractor is required to maintain and report by Applicable Law or this Agreement. Upon written direction or approval of District, the records and reports required by Contractor in accordance with this and other Sections of the Agreement shall be adjusted in number, format, or frequency.

Contractor shall maintain adequate records, and corresponding documentation, of information required by this Exhibit, such that the Contractor is able to produce accurate monthly, quarterly, and annual reports, and is able to provide records to verify such reports. Contractor will make these records available and provide to the District any record or documentation necessary for the District to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations; and, other current or future Federal, State, or local statutes and regulations, as amended. Upon request by the District, Contractor shall provide access to Contractor's requested records in a timely manner, not to exceed ten (10) Business Days from the time of District's request to Contractor.

- B. **Record Retention and Security.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, pursuant to this Exhibit.

Contractor's records shall be stored in one central location, physical or electronic, that can be readily accessed by Contractor. District reserves the right to require the Contractor to maintain the records required herein through the use of a District-selected web-based software platform, at Contractor's expense. Unless otherwise required in this Exhibit, Contractor shall retain all records and data required to be maintained by this Agreement for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

Records and data shall be in chronological and organized form and readily and easily interpreted. Contractor shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically-maintained data and records shall be protected and backed-up. To the extent that Contractor utilizes its computer systems to comply with record keeping and reporting requirements under this Agreement, Contractor shall, on a monthly basis, save all system-generated reports supporting those record keeping and reporting requirements in a static format in order to provide an audit trail for all data required.

- C. **Compilation of Information for State Law Purposes.** Contractor shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities Transported to or Transferred to each Approved Facility, listed separately by material type, Customer type, and Facility. Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Contractor will make these records available and provide to the District any record or documentation necessary for the District to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, AB 1595, and SB 1383 statutes and corresponding regulations; and, other current or future local, Federal or State statutes and regulations, as amended.

G.3 Reporting

G.3.1 General

- A. **General Purpose.** Reports are intended to compile recorded data into useful forms of information that can be used by the District. All reports shall be adequate to meet District's current and future reporting requirements to CalRecycle, including AB 939, AB 341, AB 1826, and SB 1383 statutes and corresponding regulations, or any other State or Federal agency statutes and regulations throughout the Term of this Agreement.
- B. **Failure to Report.** Failure of Contractor to comply with the reporting requirements as set forth in this Section may result in an assessment of Liquidated Damages in accordance with the Liquidated Damages provision in Section 17. Contractor's repeated failure to submit reports, and/or failure to submit reports on time, may be deemed an event of default and may result in the termination of the Agreement at the discretion of the District Manager, in accordance with Section 16 of this Agreement.
- C. **Report Format.** Contractor shall submit all reports to the District electronically via e-mail using software acceptable to the District. The District reserves the right to require the Contractor to maintain records and submit the reports required herein through use of the District-selected web-based software platform and/or Microsoft Excel spreadsheet, at the Contractor's expense.
- D. **Submittal Process.** All reports shall be submitted to the District, Department of Public Works, Solid Waste Planning and Recycling Program and the Department of Environmental Health Local Enforcement Agency or as directed by the District Manager. Reports shall be submitted electronically

via email or uploaded to a document sharing platform agreed upon by the Parties. District reserves the right to require the Contractor to maintain records and submit the reports required herein through use of a District-selected web-based software platform, at the Contractor's expense.

Monthly reports shall be submitted within ten (10) days after the end of the reporting month; quarterly reports shall be submitted fifteen (15) days after the end of the reporting quarter; and, annual reports shall be submitted within forty-five (45) days after the end of the reporting year.

G.3.2 Monthly Reports

Monthly reports shall be submitted by Contractor to District and shall include the following information pertaining to the most recently completed calendar month. In addition, each monthly report shall include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year prior to the submittal of the current monthly report. Contractor shall report the information included in the following subsections.

A. Tonnage Report

1. Contractor shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Contractor, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocol. Tonnage shall be reported separately by:
 - a. Material type, which shall include, at a minimum, separate reporting of Source Separated Recyclable Materials, Source Separated Organic Materials, Solid Waste, and any other type of Discarded Material separately Collected by Contractor (including, but not limited to: Bulky Waste, used oil, mixed C&D, dirt, rock, metals, Cardboard, wood waste, Reusable Items, Salvageable Materials, etc.);
 - b. Customer/sector type (Single-Family, Multi-family, Commercial Roll-off, C&D); and,
 - c. Approved Facility and Facility type.
2. Report Residue level and Tonnage for all Discarded Materials Processed, listed separately by material type Collected and Approved Facility(ies) used.
3. Source Separated Recyclable Materials Tonnage Marketed, by commodity, and including average commodity value for each, and Processing Residue Tonnage Disposed, listed separately by material type Collected and Approved Facility(ies) used.
4. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.

B. Collection and Subscription Report

1. Number of Containers at each Service Level by Customer Type and program, including:
 - a. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Drop Box and Compactor service by Customer Type.
 - b. Calculation of the average volume of service received per: Single-Family Dwelling Unit (separately identifying Dwelling Units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and, Commercial Customer.
2. A summary of Customer subscription data, including the number of accounts; the number

of Customers subscribing to each Cart, Bin, and Roll-Off Service Level listed separately for Single-Family, Multi-Family, and Commercial and separately for each type of Discarded Material; and the number of Bulky Waste Collections performed.

3. The total number of de minimis waivers and physical space constraint waivers granted in the month, including the Waste Generator name and address for each waiver.
4. The number of waiver reverifications performed by the Contractor pursuant to Section 5.12 of this Agreement in the month, if any, including a copy of documentation for each reverification inspection, which shall include, at a minimum: the Waste Generator's name, address, and Waste Generator type; the type of waiver being verified; any photographic or other evidence collected during the inspection; and the resulting recommended conclusion by the Contractor regarding the validity of the waiver. The Contractor shall provide a summary of recommendations to the District of all waivers which the Contractor concludes to no longer be warranted.
5. Number of Bulky Waste Collection events by Customer Type.

C. Contamination Monitoring Report

The Contractor shall submit the following information regarding contamination monitoring conducted, including Non-Collection Notices pursuant to Section 5.4 of this Agreement:

1. Description of the Contractor's Process for determining the level of contamination;
2. Summary report of Non-Collection Tag issued, which for each notice shall include the date of issuance, Customer name, and service address.
3. A record of each inspection and contamination incident, which shall include, at a minimum:
 - a. Name of the Customer
 - b. Address of the Customer
 - c. The date the contaminated Container was observed
 - d. The staff who conducted the inspection
 - e. The total number of violations found and a description of what action was taken for each
 - f. Copies of all notices issued to Waste Generators with Prohibited Container Contaminants
 - g. Any photographic documentation or supporting evidence.
4. Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants;
5. Any other information reasonably requested by the District or specified in contamination monitoring provisions of this Agreement.

D. Customer Service Report

1. Number of Customer calls listed separately by Complaints and inquiries (where inquiries include requests for service information, Rate information, etc.). For Complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing

concerns, damage claims). These Complaints and inquiries shall be documented and reported separately from SB 1383 Regulatory non-compliance Complaints or other regulatory non-compliance Complaints.

2. Number of missed or incomplete Collections reported in total, and per one thousand (1,000) Service Opportunities in the District, presented in a graph format, which compares total missed Collections in the District during the current report period to total missed Collections in the District in past reporting periods.
3. Number of new service requests for each Customer type and requested service(s).

E. Education Program Report

The monthly status of activities identified in the annual public education plan described in Section 9 of this Agreement.

G.3.3 Annual Reports

In addition to the monthly reporting requirements in this Exhibit, the Contractor shall provide an Annual Report, covering the most recently-completed calendar year, in accordance with the format and submittal requirements of this Exhibit. The Annual Report shall include the information in the following subsections.

A. Collection and Subscription Report

1. A summary of all data provided in the Tonnage report section, including quarterly and annual totals and averages.
2. The type(s) of Collection service(s) provided, a list of all hauler routes serviced, and a record of the addresses served on each hauler route.
3. A summary of Customer subscription data, including the number of accounts; the total number of Waste Generators enrolled with Contractor for service, listed separately by Service Level and Container type (Cart, Bin, and Roll-Off service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material; and the number of Bulky Waste Collections performed.
4. A detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Solid Waste Container Waste, Recyclable Materials, and Organic Materials Service Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of December 1 (for the year in which the report is submitted)

B. Processing Facility Report

1. Approved Organics Processing Facility: Contractor shall provide documentation demonstrating the actual percent of the material removed for landfill Disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, demonstrations compliance with the digestate handling requirements specified in 14 CCR Section 17896.5.
2. Approved Transfer Facility: If applicable, Contractor shall provide documentation for the Approved Transfer Station that states the annual average Source Separated Organic content recovery rates determined by CalRecycle pursuant to 14 CCR Section 18815.5(f).

C. Compliance Monitoring and Enforcement Report

1. A summary of the total number of SB 1383 Regulatory non-compliance Complaints that were received and investigated, and the number of notices of violation issued based on investigation of those Complaints.
2. The number of Commercial Businesses that were included in a compliance review performed by the Contractor, and the number of violations found and corrected through compliance reviews, including a list with each Waste Generator's name or account name, address, and Waste Generator type.
3. The total number of Non-Collection Tags issued, categorized by type of Waste Generator.
4. The number of violations that were resolved, categorized by type of Waste Generator.
5. Copies of all Non-Collection Tags issued and educational materials issued to non-compliant Waste Generators.

D. Vehicle and Equipment Inventory

1. A list of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage at December 31.

C. Public Education and Outreach Report

1. A copy of all education and outreach materials provided to Waste Generators, or otherwise used for education and outreach efforts in accordance with this Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
2. A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Waste Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
3. For any mass distribution through mailings or bill inserts, the Contractor shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
4. A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
5. A summary of the status of the annual education plan of the reporting year, including activities conducted and the quantitative and/or qualitative results of those activities.
6. The annual public education plan required by Section 9 of the Agreement for the upcoming then-current calendar year. For example, Contractor submittal of a 2021 annual report in February 2022 shall include Contractor submittal of the annual public education plan for calendar year 2022.
7. Contractor shall maintain a record of all technical assistance efforts conducted, including:
 - a. The name and address of the Customer/Waste Generator receiving technical assistance, and account number, if applicable.

- b. The date of any technical assistance conducted and the type of technical assistance, including, but not limited to: waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications.
 - c. A copy of any written or electronic educational materials distributed during the technical assistance process.
9. A copy of Clean-Up Day event reports, submitted to the District in accordance with Section 5.9 of the Agreement.

G.3.4 Additional Reports

- A. **Upon Incident Reporting.** District reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the District. The Contractor shall provide the requested reports, documents, or information within ten (10) Business Days upon receipt of the request or within a timeframe determined by the District Manager, which shall not to exceed ten (10) days.
- B. **AB 901 Reporting.** At District option, District may require that Contractor provide the District copies of Contractor's AB 901 reports on a regular basis (such as monthly, quarterly, or annually) or within ten (10) Business Days of the request. If a Contractor has an Agreement with an Approved Facility, the Contractor shall be required to provide AB 901 reports for those facilities.
- C. **Facility Capacity Planning Information.** District may require Franchisee to provide District with information of available Organic Waste Processing capacity for any Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste such Approved Facilities have the ability to receive within permitted limits. Franchisee shall respond to District within sixty (60) days of District's request for information regarding available new or expanded capacity, and, at District's option, may be required to submit reports on a more regular basis (such as monthly, quarterly, or annually). If Franchisee uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Franchisee shall secure any District-requested Facility capacity planning information from its Subcontractor(s). The annual Facility capacity planning report shall comply with the following:
 - 1. Include reports of current throughput and permitted capacity and available capacity for Organic Materials Processing for any Facility in the District that Processes Organic Materials. Existing capacity may include identification of monthly Tons of additional Source Separated Recyclable Materials, Source Separated Organic Materials, and/or Solid Waste capacity such Facility has the ability to receive within permitted limits.
 - 2. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.
 - 3. Be submitted using a form or format approved by the District General Manager."

MAY 25, 2022

ITEM E-2

ATTACHMENT B

**SECOND AMENDMENT
TO**

**AMENDED AND RESTATED SOLID WASTE,
RECYCLABLE MATERIALS, AND ORGANIC MATERIALS
COLLECTION FRANCHISE AGREEMENT**

BETWEEN

NIPOMO COMMUNITY SERVICES DISTRICT

AND

**WASTE CONNECTIONS, INC. AND SOUTH COUNTY
SANITARY SERVICES, INC.**

~~JUNE 24, 2021 DRAFT~~ MAY 19, 2022

This page intentionally left blank.

This Second Amendment to the Amended and Restated Solid Waste Collection Franchise Agreement (“Second Amendment”) is made and entered into between the Nipomo Community Services District, a political subdivision of the State of California (hereafter “District”) and Waste Connections, Inc., a Delaware Corporation, and South County Sanitary Services, Inc., a California corporation (hereafter collectively, “Contractor”), each of which may be referred to individually as a “Party” or together as the “Parties.” Except as specifically amended herein, the Agreement remains unchanged and in full force and effect.

RECITALS

This Second Amendment is made and entered into on the basis of the following facts, understandings, and intentions of the Parties:

WHEREAS: -The Parties entered into the Amended and Restated Solid Waste Collection Franchise Agreement on July 27, 2008, as amended on November 12, 2015 (“Agreement” capitalized terms used but not defined herein shall have the meanings given to them in the Agreement); and,

WHEREAS: -Section 6 of the Agreement provides the District with the right to direct the Contractor to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and,

WHEREAS: SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

WHEREAS: SB 1383 requires the District to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the District has chosen to delegate some of its responsibilities to the Contractor, acting as the District’s designee, through this Agreement; and,

WHEREAS: -Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the District’s compliance with SB 1383, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, District and Contractor do hereby agree as follows:

EFFECTIVE DATE

This Second Amendment shall become effective on the date this Amendment is signed by both Parties.

AMENDMENTS TO FIRST AMENDMENT

A. ~~Amendment to~~ Article 1 of the First Amendment to the Agreement is hereby amended to read as follows:

“(iii) “Food Waste” means Source Separated Food Scraps and Food-Soiled Paper. Food Waste is a subset of Organic Materials. ~~means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food waste includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code section 113789 (such as restaurants), food processing establishments as defined in Health and~~

~~Safety Code section 111955, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), and residential food scrap collection. Food waste does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto."~~

AMENDMENTS TO AGREEMENT

Title of Agreement

B. The Title of the Agreement is hereby amended to read as follows:

"Amended and Restated Solid Waste, Recyclable Materials, and Organic Materials Collection Franchise Agreement."

Section 1. Definitions

Modified Definitions

C. Section 1 of the Agreement is hereby amended to remove the definition numbering and modify the following definitions:

~~1.7~~—"Collect" or "Collection" (or any variation thereof) means to take physical possession, transport, and remove ~~Garbage Greenwaste and Recyclable Materials~~ Discarded Materials and other material at the place of generation within and from the District and hauling it to a facility an Approved Facility for processing, transfer or disposal.

~~1.9~~—"Container" means Bins, Carts, Compactors, and Roll-Offs any waste wheeler can or bin, equipped with wheels or casters that is provided by Contractor, and used for Collection and storing of ~~Garbage, Greenwaste or Recyclable Materials~~ Discarded Materials before removal.

"District" means the Nipomo Community Services District, a community services district organized and operated pursuant to §61000 et seq. of the Government Code, acting through the District Board of Directors or the District Manager, and all territory lying within the boundaries of the District as presently existing or as such boundaries may be modified during the term of this Agreement. The District may designate responsibilities to District staff, the IWMA, or a third party through written letter between the District Manager and the designee.

~~1.11~~—"Developed Properties" means property within the District that is developed with a building or structure that is capable of generating solid waste Discarded Materials. Developed properties include, but are not limited to, occupied residential property, multi- family property, public facilities and commercial property.

~~1.17~~—"Garbage" means solid waste comprised of rubbish, trash and refuse see "Solid Waste."

~~1.18~~—"Greenwaste" means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of Organic Materials resulting from normal yard and landscaping maintenance that may be specified in District Municipal Code for Collection and Processing as Organic Materials under this Agreement.

Greenwaste does not include items herein defined as Excluded Waste. Greenwaste is a subset of Organic Materials. Greenwaste placed for Collection may not exceed six (6) inches in diameter and three (3) feet in length and must fit within the Contractor-provided Container. Acceptable Greenwaste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the District. Contractor shall not add or remove materials to or from this list without written approval from the District Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.~~means all grass clippings, leaves, branches and tree trunks and other yard waste generated at the Premises.~~

~~1.19~~—**“Gross Revenues Collected”** means any and all revenue or compensation actually collected by Contractor from customers under this Agreement for the exclusive collection, transportation, processing, recycling and disposal of Solid Waste, Recyclables, and Green Waste~~Organic Materials~~ within the District, in accordance with Generally Accepted Accounting Principles (GAAP), net of Franchise Fees and AB 939 fees. The term Gross Revenues Collected, for purposes of this Agreement, shall not include any: a) District, or other Federal, State, or local taxes or surcharges; or b) any revenues generated from the sale of Recyclables or any recycling rebates received from the State.

~~1.20~~—**“Hazardous Waste”** means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as solar panels from Residential Premises, and Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder,~~any discarded material or mixture of materials, which is toxic, corrosive, flammable, radioactive or which, because of its quantity, concentration, physical, chemical or infectious characteristics may do harm to either humans, animals or the environment, or as defined in Section 2, Chapter 6.5 §25117 of the Health and Safety Code and Public Resources Code §40141.~~

~~1.21~~—**“Materials Recovery Facility”** see “Approved Processing Facility.” means a permitted Facility where Solid Waste or Recyclable Materials are sorted, processed, transferred or separated for the purposes of Recycling or reuse.

~~1.23~~—**“Multifamily Dwelling Unit”** or **“Multi-Family”** or **“MFD”** means, ~~notwithstanding~~notwithstanding any contrary definition in the District Code, any Residential Premises with five (5) or more Dwelling Units, other than a Single Family Dwelling Unit, used for Residential purposes, (irrespective of whether residence therein is transient, temporary or permanent), including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more Dwelling Units who receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address shall be considered Multi-Family.

~~1.24~~—**“Owner”** means the person(s) holding legal title to the real property constituting the Premises to which ~~solid waste~~Discarded Materials Collection service is to be provided under this Agreement.

~~1.25~~—**“Premises”** means any developed property within the District where Discarded Materials are

generated or accumulated.

~~1.26 “Putrescible waste” means organic material with a decomposition capacity to emit noticeable quantities of odor and gaseous byproducts. Material in this category includes, but is not limited to, kitchen waste, dead animals and food waste.~~

~~1.28 “Recyclable Materials” means Discarded materials set aside, handled, packaged or offered for Collection from Residential, Commercial, governmental or industrial Customers for the purpose of Recycling by the Contractor. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. Recyclable Materials shall include, including, but not be limited to, aluminum, newspaper, clear and colored glass, tin and bi-metal, all plastic containers, cardboard, chipboard, magazines, mixed paper (including magazines, phone books and junk mail) and motor oil and filters (separately Collected). Acceptable Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the District. Contractor shall not add or remove materials to or from this list without written approval from the District Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.~~

~~1.29 “Recycle” or “Recycling” means the process of separating, Collecting, treating and/or reconstituting Recyclable Materials at a Recyclable Materials Processing Facility, which would otherwise be discarded without receiving compensation or returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transfer, transportation or Disposal of Recyclable Materials not intended for, or capable of, reuse is not Recycling. means the process of separating, Collecting, treating and/or reconstituting Recyclable Materials which would otherwise be discarded without receiving compensation or returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transfer, transportation or disposal of Recyclable Materials not intended for, or capable of, reuse is not Recycling.~~

~~1.32 “Single Family Dwelling Unit” or “Single-Family” or “SFD” means, notwithstanding any definition in the District Code, any detached or attached house or residence designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family includes Townhouses that maintain individual collection service regardless of whether each unit is separately billed for their specific Service Level. Single-Family also includes duplex, tri-plex, or four-plex Residential structures regardless of whether each unit maintains individual collection service or is separately billed for their specific Service Level. each Premise used for or designated as a single family residential dwelling, including each unit of a duplex or triplex, in all cases in which there is separate or individual Solid Waste Collection services.~~

~~1.33 “Solid Waste” means Solid Waste as defined in California Public Resources Code, Division 30, Part 1, Chapter 2, §40191 and regulations promulgated hereunder. Excluded from the definition of Solid Waste are Excluded Waste, C&D, Source Separated Recyclable Materials, Source Separated Organic Materials, and radioactive waste. Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of Household Hazardous Waste in compliance with Section 41500 and~~

~~41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation. means all putrescible and non-putrescible refuse, Garbage, rubbish, Greenwaste and Recyclable Materials, and as otherwise defined in Public Resources Code §40191.~~

~~1.35—“Transfer Station” see “Approved Transfer Facility.”— includes those facilities used to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport and those facilities used for transformations.~~

~~1.36—“Waste Generator” means any Person as defined by the Public Resources Code, whose act or process produces Solid WasteDiscarded Materials as defined in the Public Resources Code, or whose act first causes Solid WasteDiscarded Materials to become subject to regulation.”~~

New Definitions

D. Section 1 of the Agreement is hereby amended to remove the definition numbering and add the following new definitions:

“For purposes of this Agreement, unless a different meaning is clearly required, the following words and phrases shall have the following meanings respectively ascribed to them by this Section and shall be capitalized throughout this Agreement:

“AB 1826” means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as “AB 1826,” as amended, supplemented, superseded, and replaced from time to time.

“AB 341” means the California Jobs and Recycling Act of 2011 (Chapter 476, Statues of 2011 [Chesbro, AB 341]), also commonly referred to as “AB 341”, as amended, supplemented, superseded, and replaced from time to time.

“AB 901” means Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

“Applicable Law” means all Federal, State, County, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, and Processing of Recyclable Materials, Organic Materials, and Solid Waste that are in force on the Effective Date and as may be enacted, issued or amended during the Term of this Agreement. Applicable Law includes, but is in no way limited to, AB 939, AB 341, AB 1826, and SB 1383.

“Approved Facility(ies)” means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; Approved Transfer Facility; and/or Approved Disposal Facility.

"Approved Disposal Facility" means the landfill or Transfer station, selected by District where Solid Waste Collected under this Agreement is sent for final Disposal. The Approved Disposal Facility is the Cold Canyon Landfill. _____

"Approved Organic Materials Processing Facility" means a ~~the~~ Kompogas SLO facility (or other similar technology) capable of processing the District's Organic Materials. _____

"Approved Processing Facility(ies)" means any one of or any combination of the: Approved Recyclable Materials Processing Facility; Approved Organic Materials Processing Facility; or Approved Transfer Facility.:

"Approved Recyclable Materials Processing Facility" means the Cold Canyon Landfill or similar facility. _____

"Approved Transfer Facility" means the Santa Maria Transfer Station of similar facility _____
The Approved Transfer Facility shall serve as the Transfer site for all Solid Waste Collected by Contractor.

"Bin" means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels (where appropriate), that is serviced by a front end-loading Collection vehicle, including Bins with Compactors attached to increase the capacity of the Bin.

"Bulky Waste" means discarded appliances (including refrigerators), furniture, tires, carpets, mattresses, bundled and tied Greenwaste and/or wood waste, and similar large items which can be handled by two (2) people, weigh no more than two hundred (200) pounds, and require special Collection due to their size or nature, but can be Collected without the assistance of special loading equipment (such as forklifts or cranes), and without violating vehicle load limits. Bulky Waste must be generated by the Customer and at the service address wherein the Bulky Waste is Collected. -Bulky Waste does not include abandoned automobiles, large auto parts, trees, construction and demolition debris, or items herein defined as Excluded Waste.

"Business Days" mean days during which the District and Contractor offices are open to do business with the public.

"California Code of Regulations (CCR)" means 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" refers to Title 14 of CCR).

"CalRecycle" means California's Department of Resources Recycling and Recovery.

"Cart" means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. A Cart has capacity of 20, 35, 64 or 96 gallons (or similar volumes).

“Commercial” shall mean of, from, or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

“Compactor” means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader Collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by Roll-Off Collection vehicles.

“Complaint” shall mean each written or orally communicated statement made by any Person, whether to District or Contractor, alleging: (1) non-performance, or deficiencies in Contractor’s performance, of its duties under this Agreement; (2) a violation by Contractor of this Agreement; or, (3) an SB 1383 Non-Compliance Complaint as required under 14 CCR Section 18995.3.

“Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for Compostability.

“Composting” or “Compost” (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.

“County” means the County of San Luis Obispo, a political subdivision of the State of California.

“Curb” or “Curbside” (or any variation thereof) means the cornered edging between the street and sidewalk. Curb or Curbside also means and describes the location of a Collection Container for pick-up, where such Container is placed on the street or alley against the face of the Curb, or where no Curb exists, the Container is placed not more than five (5) feet from the outside edge of the street or alley nearest the property’s entrance.

“Customer” means the Person whom Contractor submits its billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

“Designated Waste” means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

“Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Waste Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste.

“Disposal” or “Dispose” (or any variation thereof) means the final disposition of Solid Waste, or Processing Residue at a Disposal Facility.

“Disposal Facility” means a landfill, or other facility for ultimate Disposal of Solid Waste.

“Divert” or “Diversion” (or any variation thereof) means to prevent Discarded Materials from Disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, Recycling, Composting, anaerobic digestion or other method of Processing, subsequent to the provisions of AB 939. -Diversion is a broad concept that is to be inclusive of material handling and Processing changes that may occur over the Term including, but not limited to, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce Disposal risk, decrease costs and/or are for other reasons deemed desirable by the District.

“Dwelling Unit” means any individual living unit in a; Single-Family dwelling (SFD) or Multi-Family dwelling (MFD) structure or building, a mobile home, or a motor home located on a permanent site intended for, or capable of being utilized for, Residential living other than a hotel or motel.

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“Effective Date” means the date on which the latter of the two Parties signs this Agreement.

“Excluded Waste” means Hazardous Substances, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, biomedical, infectious, biohazardous, and toxic substances or material, or waste that Contractor reasonably believes would, as a result of or upon Disposal, be a violation of local, State or Federal law, regulation or ordinance, including land use restrictions or conditions, or waste that cannot be Disposed of in Class III landfills, or waste that in Contractor’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or District to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

“Federal” means belonging to or pertaining to the Federal government of the United States.

“Food Recovery” means actions to Collect and distribute food for human consumption which otherwise would be Disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Scraps” means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste.

“Food-Soiled Paper” means Compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, Compostable paper plates, napkins, and pizza boxes. Food -Soiled Paper is a subset of Food Waste.

“Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

“Holidays” are defined as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

“Household Hazardous Waste” or “HHW” means Hazardous Waste generated at Residential Premises within the District. HHW includes: paint, stain, varnish, thinner, adhesives, auto products such as old fuel, Used Motor Oil and Filter, Used Oil Filter, batteries, household batteries, fluorescent bulbs, tubes, cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and lancets.

“Infectious Waste” means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.

“Liquidated Damages” means the amounts due by Contractor for failure to meet specific quantifiable standards of performance as described in Section 17.

“Low Population Area(s)” means the certain regions of the District that have a valid low population waiver, granted by CalRecycle, in accordance with the criteria and process specified in 14 CCR Section 18984.12(a), as specified in Exhibit —.

“Non-Collection Tag” means the notice as described in Section 5.4.

“Occupant” means the Person who occupies a Premises.

“Organic Materials” means Greenwaste and Food Waste, individually or collectively.— No Discarded Material shall be considered to be Organic Materials, however, unless it is separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.

“Organic Waste” means wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Greenwaste, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

“Party” or “Parties” refers to the District and Contractor, individually or together.

“Processing” or “Process” means to prepare, treat, or convert through some special method.

“Processing Facility” means any plant or site used for the purpose of sorting, cleansing, treating or reconstituting Recyclable Materials, or Reusable Materials for the purpose of making such material available for Recycling or reuse or the facility for the Processing and/or Composting of Organic Materials.

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Recyclable Materials for the District’s Collection program; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Organic Materials for the District’s Collection program; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Recyclable Materials and/or Organic Materials to be placed in the District’s Recyclable Materials or Organic Materials Containers or otherwise managed under the District’s Collection program; and, (iv) Excluded Waste placed in any Container.

“Residential” shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, Townhouse complexes, mobile home parks, and cooperative apartments.

“Residue” means those materials which, after Processing, are Disposed rather than Recycled due to either the lack of markets for materials or the inability of the Processing Facility to capture and recover the materials.

“Roll-Off” means an open-top Container with a capacity of seven (7) to forty (40) cubic yards that is serviced by a Roll-Off Collection vehicle.

“San Luis Obispo County Integrated Waste Management Authority (SLO IWMA)” or “IWMA” means the Joint Powers Authority that has the responsibilities as defined by the Memorandum of Agreement related to the District’s compliance with Applicable Law. The District may, at its discretion, designate the IWMA certain responsibilities and rights of the District related to reporting, monitoring, and education requirements as specified in this Agreement, or subsequent written authorization by the District Manager.

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” or “Self-Haul” means a Person who hauls Discarded Materials, recovered material, or any other material, to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Hauler also includes a Person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66)(A).

“Service Level” refers to the size of a Customer’s Container and the frequency of Collection service.

“Source Separated” means the segregation, by the Waste Generator, of materials designated for separate Collection for some form of Recycling, Composting, recovery, or reuse.

“State” means the State of California.

“Subcontractor” means a Party who has entered into a contract, express or implied, with the Contractor for the performance of an act that is necessary for the Contractor’s fulfillment of its obligations for providing service under this Agreement.- Vendors providing materials and supplies to Contractor shall not be considered Subcontractor.

“Ton” or “Tonnage” means a unit of measure for weight equivalent to two thousand (2,000) standard pounds where each pound contains sixteen (16) ounces.

“Townhouse” means an attached or semi-attached Dwelling Unit within a group of attached or semi-attached Dwelling Units. A Townhouse shall be considered a Single-Family Dwelling Unit if each unit maintains individual Collection service subscription. A Townhouse shall be considered a Multi-Family Dwelling Unit if the Premise receives centralized, shared, Collection service for all units on the Premise. These shall be the designations regardless of whether the Premises are billed individually or through a central account (e.g., homeowner association, property manager).

“Transfer” means the act of transferring the materials Collected by Contractor in its route vehicles into larger vehicles for Transport to other facilities for the purpose of Recycling or Disposing of such materials.

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

Section 2. Grant of Franchise

2.1 Grant

E. Section 2, Subsection 2.1 of the Agreement is hereby amended to read as follows:

“Pursuant to District Code. §7.20.010, and subject to the terms and conditions of this Agreement, the District Board of Directors hereby grants to Contractor the right, privilege, and franchise to Collect Solid Waste/Discarded Materials from Developed Properties within the Franchise Area.”

2.2 Scope of Franchise

F. Section 2, Subsection 2.2 of the Agreement is hereby amended to read as follows:

"Except as otherwise provided in this Agreement, the Franchise granted herein shall be exclusive for ~~Garbage, Greenwaste~~ Solid Waste, Organic Materials, and Recyclable Materials, except where otherwise precluded by law. This Agreement does not include construction and demolition debris; however, the District reserves the right to add construction and demolition debris, at its sole discretion, at some point in the future. In addition this Agreement does not include either animal waste or remains from slaughterhouse or butcher shops or by-products of sewage treatment, including sludge, sludge ash, grit and screening; however the District reserves the right to add grit and screening at its sole discretion, at some point in the future."

2.3 Limitations to Scope

G. Section 2, Subsection 2.3 of the Agreement is hereby amended to read as follows:

"The Agreement for the Collection, ~~P~~rocessing and marketing of Recyclable Materials granted to Contractor shall be exclusive except as to the categories of Recyclable Materials listed below. The granting of this Agreement shall not preclude the categories of Recyclable Materials listed below from being delivered to and Collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any person from obtaining any authorization from District that is otherwise required by law:

- A. Recyclable Materials ~~separated from Solid Waste~~ Source Separated by the Waste Generator and for which Waste Generator sells or is otherwise compensated by a collector in a manner resulting in a net payment to the Waste Generator for such Recycling or related services; provided that such separation and Recycling or ~~D~~isposal are actually performed by the Waste Generator, and not by a ~~S~~ubcontractor or other third party;
- B. Recyclable Materials donated to a charitable, ~~environmental~~ environmental, or other non-profit organization; provided, however, that all such Recyclable Materials are substantially separated from non-Recyclable Solid Waste by the Waste Generator;
- C. Recyclable Materials which are separated at any Premise and which are ~~T~~ransported by the ~~O~~wner or ~~O~~ccupant of such Premises (or by ~~his/her~~ their full-time employee) to a ~~R~~ecycling center;
- D. Other Governmental Agencies within the District which can contract for separate ~~S~~olid ~~W~~aste and ~~R~~ecycling services.

This Agreement to ~~C~~ollect, ~~T~~ransport, ~~P~~rocess, and market Recyclable Materials shall be interpreted to be consistent with State and Federal laws, now and during the term of the Agreement, and the scope of this Agreement shall be limited by current and developing State and Federal laws with regard to Recyclable Materials handling, Recyclable Materials flow control, and related doctrines. In the event that changes in law limit the ability of the District to lawfully provide for the scope of services as specifically set forth herein, Contractor and District agree to work in good faith to amend the scope of the Agreement so as to comply with such changes in law, and the District shall not be responsible for any lost profits and/or damages claimed by the Contractor as a result of changes in law.

Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Edible Food Recovery efforts in the District."

2.4 Franchise Area

H. Section 2, Subsection 2.4 of the Agreement is hereby amended to read as follows:

“The Franchise Area subject to this Agreement shall consist of that territory within the District boundaries. The Contractor shall automatically extend all services herein described to any area annexed to or detached from the District, except that, in the case of annexations, the District may permit a ~~solid waste~~Discarded Materials provider franchised by the County of San Luis Obispo before the annexation to continue serving the area for a period not to exceed five (5) years or as otherwise required by the County franchise agreement or as otherwise required by a duly authorized governmental agency with appropriate jurisdiction.”

Section 4. Relationship of Parties

4.2 Arranger Status

I. Section 4, Subsection 4.2 of the Agreement is hereby amended to read as follows:

“The District and Contractor mutually agree that the District's granting of this franchise shall not be construed as the District “arranging for” the Collection and Disposal of ~~Solid Waste or recyclables~~Discarded Materials within the meaning of CERCLA. The ~~parties~~ further mutually agree that the granting of this Agreement to the Contractor by District shall be construed as an action whereby the Contractor is granted, and accepts the rights, responsibilities, ~~benefits~~benefits, and liabilities of Collection and Disposal of ~~Solid Waste~~Discarded Materials. Commencing on the Effective Date of this Agreement and, to the extent that Contractor's performance under this Agreement requires the Collection and Disposal of ~~Solid Waste~~Discarded Materials, and may be construed as “arranging for” Collection and Disposal of ~~Solid Waste~~Discarded Materials within the meaning of CERCLA, such actions shall be the sole responsibility of Contractor and Contractor expressly agrees to be solely responsible for all such actions.”

Section 5. Services to be Provided

5.1 General

J. Section 5, Subsection 5.1 of the Agreement is hereby amended to read as follows:

- “A. The services to be provided by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, containers, materials, supplies, and all other items necessary to perform the services, as set forth in this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated or not.
- B. The services to be provided by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents and businesses within the District are provided reliable, courteous and high-quality ~~solid waste~~Discarded Materials services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Section, whether such aspects are enumerated elsewhere in the Agreement or not.”

5.2 ~~Solid Waste~~Discarded Materials Collection

K. Section 5, Subsection 5.2 of the Agreement is hereby retitled and amended to read as follows:

“5.2 **Solid Waste Discarded Materials Collection.**

- A. **General.** Except as otherwise provided in this Agreement and/or District Code, Contractor shall provide regular weekly Collection of ~~Solid Waste (Garbage, Recycling and Greenwaste)~~ Discarded Materials for all ~~residential~~ Single Family, ~~M~~ multi-Family, Commercial Premises and other Developed Properties within the Franchise Area at rates established by this Agreement.
- B. **Food Services.** All ~~Solid Waste~~ Discarded Materials created, produced or accumulated at or about any restaurant, retail or wholesale market, food processing facility, hotel, motel or other business establishment where food is sold, prepared or served, shall be Collected from the Premises at least twice each week or more frequently if determined necessary by the District.
- C. **Operations.** To preserve peace and quiet, no ~~Garbage, Recyclable Materials or Greenwaste~~ Discarded Materials shall be Collected from or within two-hundred (200) feet of Residential Premises between 5:00 P.M. and 6:00 A.M. on any day. Residential ~~Garbage, Recyclable Materials including Greenwaste~~ Discarded Materials shall be Collected, Monday through Friday on the same day. The one exception is the Contractor may elect to Collect motor oil and filters with a separate vehicle using an on-call program. When the regularly scheduled Collection day falls on Christmas, Collection shall take place on the following regularly scheduled Collection day.
- D. **Collection Schedule.** Contractor shall establish a Collection schedule in accordance with District Code. When a regular Collection day occurs on a Holiday, Contractor shall either provide Collection on the Holiday or one calendar day before or after the Holiday. Contractor shall notify Residential and Commercial Customers of their respective Holiday Collection schedules. In the event the Contractor misses the Collection of properly set out ~~Garbage, Recyclables, or Greenwaste~~ Discarded Materials the Contractor shall Collect the missed pickups within one (1) Business Day of notification.
- E. **Recyclable Extra Services.** Contractor recognizes that because of an unusual circumstance, a Single Family Dwelling Unit may generate more Recyclable Material than will fit in the blue Recyclable Materials Container. The excess Recyclable Material may be neatly placed next to the blue Container and Contractor will Collect the excess Recyclable Material at no additional charge. This extra service to a Single Family Dwelling Unit shall be limited to a frequency of once per month and a quantity to an amount that will fit into the existing blue Recycling Materials Container.
- F. **Special Needs.** Handicapped residents who reside in a Family Dwelling Units shall have the option of placing their Containers near their Dwelling Unit, visible from the Curb, and the Contractor will Collect their Containers at this location and return the Containers to the same location. To be eligible for this Collection option, residents must present proof of their physical incapacity to the Contractor.
- G. **Three Stream Collection System**
1. **General.** No later than January 1, 2022, Contractor shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, Source Separated Organic Materials, and Solid Waste using Containers that comply with the requirements of Section 5.3.
 2. **Solid Waste.** Contractor shall provide gray Containers to Customers for Collection of Solid Waste, and shall provide Solid Waste Collection service. Contractor shall Transport the Solid Waste to (i) the Approved— Disposal Facility, or (ii) the Approved Transfer Facility for Transfer and

Transport to an Approved— Disposal Facility, as specified in Section 7. Contractor may allow carpets and textiles to be placed in the Solid Waste Containers. Prohibited Container Contaminants shall not be Collected in Solid Waste Containers. The Containers shall comply with the requirements of Section 5.3.

3. **Recyclable Materials.** Contractor shall provide blue Containers to Customers for Collection of Source Separated Recyclable Materials and shall provide Source Separated Recyclable Materials Collection service. Contractor shall Transport the Source Separated Recyclable Materials to (i) the Approved Recyclable Materials Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Recyclable Materials Processing Facility, as specified in Section 7.
4. **Organic Materials.** Contractor shall provide green Containers to Customers for Collection of Organic Materials and shall provide Organic Materials Collection service. Organic Materials that are to be accepted for Collection in the Organic Materials Collection program include the following: Food Scraps; Food-Soiled Paper; and, Greenwaste. Contractor shall Transport the Organic Materials to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Section 7.

No later than January 1, 2022, Contractor shall implement an Organic Materials Collection program that allows Waste Generators to commingle Food Waste and Greenwaste in the Organic Materials Containers to all Residential, Multi-family, and Commercial businesses. Contractor shall provide Organic Materials Collection service and Transport the Organic Materials to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to an Approved Organic Waste Processing Facility.

H. ~~Low Population Exemption.~~ Areas that qualify for Low Population waivers as described in Section 5.12 of this Agreement are exempt from certain services, subject to application by the District and approval by CalRecycle."

'''

5.3 Garbage, Recycling, and Greenwaste Discarded Materials Containers

L. Section 5, Subsection 5.3 of the Agreement is hereby retitled and amended to read as follows:

"5.3 Garbage, Recycling and Greenwaste Discarded Materials Containers.

- A. **Single Family Dwelling Unit.** Contractor shall supply each Single Family Dwelling Unit with a 32, 64 or 96-gallon Container for Garbage-Solid Waste at rates established by this Agreement. Each Single Family Dwelling Unit will receive from Contractor a 64 or 96-gallon Container for all commingled Recyclable Materials. Each Single Family Dwelling Unit will receive from Contractor a 96-gallon Container for Greenwaste. If requested by Customer, Contractor shall provide to the Customer a 32-gallon Recyclable container and/or a 96-gallon Greenwaste new Collection Container to meet the Customer's desired Service Level within five (5) days of Contractor's first receipt of request.
- B. **Multi-Family, Commercial Business, Governmental Agencies.** Contractor shall supply each Multi-Family complex Dwelling Unit, Commercial business or governmental agency with appropriately sized Containers or bins for Garbage, Solid Waste, Recyclable Materials and Organic Materials Greenwaste if needed. All Multi-Family Dwelling Units complexes, Commercial

businesses or governmental agencies shall be entitled to the free Collection of an unlimited quantity of Recyclables picked up twice per week in Contractor provided Bbins. Contractor agrees not to limit the specific type of Recyclable Material (such as cardboard only) that can be placed in a Container unless approved by the District on a Customer by Customer basis. If requested by Customer, Contractor shall provide to the Customer a new Collection Container to meet the Customer's desired Service Level within five (5) days of Contractor's first receipt of request.

- C. Container Colors ~~1] 2]. For Solid Waste Carts~~ must have a lid and body that are grey in color. Solid Waste Bins and Roll-Offs must have a body that is grey in color. Recyclable Materials Carts must have a lid and body that is blue in color. Recyclable Materials Bins and Roll-Offs must have a body that is blue in color. Organic Materials Carts must have a lid and body that are green in color. Organic Materials Bins and Roll-Offs must have a body that is green in color. Hardware such as hinges and wheels on the Containers may be a different color.

All Containers shall display identifying and contact information approved by the District Manager including, logo, telephone number, website, capacity (yards or gallons) and some identifying inventory or serial number. For commercial customers, all garbage Containers shall be grey, all Recyclable Materials Containers shall be blue and all greenwaste Containers shall be green.

Within the first six (6) months of this Agreement, Contractor shall replace any existing Container that is not the proper color with a Container that is the proper color that is either a new Container or a Container that is in the existing Contractor's inventory. No later than December 31, 2035, all Containers must comply with the Container color requirements as specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law. At least thirty ~~— (30—)~~ days in advance of Contractor Container purchases or reprinting of metal Containers, Contractor shall present proposed colors to the District Manager for review and approval.

1. Container Labels.

- a. Labels on Existing Containers or Lids. Per the existing Agreement, Contractor shall ensure a label on the body or lid of each Container has been provided to a Customer that includes language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that Container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each Container.
- b. Imprinted or In-Mold Labels for New Containers or New Lids. Any new Containers for Recyclable Materials shall include an in molded graphic or sticker which provides instructions to the Waste Generator indicating the primary materials accepted and the primary materials prohibited in that Container. The final color and signage, including the in molded graphic or sticker on the Containers shall be approved by the District Manager or his/her/their designee.

- D. **Replacement of Containers.** Contractor acknowledges that from time to time, Containers may be damaged, destroyed or damaged by graffiti. Contractor also acknowledges that from time to time Containers may be stolen from the Curb or damaged due to normal use. Containers that are stolen or otherwise damaged due to normal use shall be replaced by Contractor at no additional charge. Containers damaged by graffiti shall be replaced by Contractor at no additional charge.

- E. Kitchen Pails.** The Contractor shall provide kitchen pails designed to contain Food Scraps prior to placement in the Customer's Organic Materials Cart. Contractor will be responsible for distribution of kitchen pails to Single-Family and Multi-Family Customers upon request, from Contractor's office beginning January 1, 2022. District may restock Contractor inventories at local offices for distribution to new residents or residents who need a replacement.
- F.** At no charge to the District, Contractor shall provide one (1) roll-off three (3) yard dumpster at a location on District property to be designated by the General Manager and collect Discarded Materials from the same on a regular services schedule.

All Contractor supplied Containers for ~~Garbage, Solid Waste~~ Recyclable Materials, and ~~Greenwaste Organic Materials~~ shall remain the property of Contractor. Containers damaged due to lack of reasonable care by the Customer may be replaced by Contractor, the fee for which shall be established in Exhibit A. Contractor may recover Containers used by Customers for other than their intended purpose. Upon expiration or early termination of Agreement, District may purchase all Containers put into service at Customer Premises during the Term of the Agreement and shall become property of the District at no cost to the District if such Containers are fully depreciated. All Containers and Compactors purchased and put into service at Customer Premises during the Term of the Agreement that have not been fully depreciated shall be available to the District, at the District's option, at a cost reflecting the net book value."

5.4 Non-Collection of ~~Solid Waste~~ Discarded Materials

M. Section 5, Subsection 5.4 of the Agreement is hereby retitled and amended to read as follows:

"5.4 Non-Collection of ~~Solid Waste~~ Discarded Materials

- A. In the event Contractor does not collect any item or container of ~~Solid Waste~~ Discarded Materials, due to the identification of Prohibited Container Contaminants, Contractor shall attach a Non-Collection Tag securely to the item or container not collected specifying the reasons for non-collection. The Non-Collection Tag shall contain, at a minimum:
1. Contractor's name and telephone number;
 2. The date and time the notice was left or issued;
 3. The reason for non-collection; and,
 4. Information regarding the proper Source Separation of Discarded Materials.
- Franchisee shall maintain adequate records and report all Non-Collection Tags disbursed monthly to the District in accordance with Exhibit G.
- B. In the event Contractor fails, without good cause, to collect, remove, and dispose of ~~Solid Waste~~ Discarded Materials on a Customer's regularly scheduled collection day or within twenty-four (24) hours of a request from District or a Customer to do so, District may collect said materials and Contractor shall be liable for all related expenses incurred by District, including disposal, administrative, and legal costs."

5.5 Refusal to Provide Collection Services

N. Section 5, Subsection 5.5 of the Agreement is hereby amended to read as follows:

~~“Contractor may refuse to collect Recyclable Materials Containers or Greenwaste–Organic Materials Containers due to the identification of Prohibited Container Contaminants, and shall not be obligated to continue to provide Container(s) to any participant in the Recycling or Greenwaste program who, after reasonable warning by Contractor, fails to properly sort and set out Recyclable Materials or Greenwaste, including excessive contamination. Contractor shall leave a Non-Collection Tag on the material stating a reason for Contractor refusal to collect the same Container. Adequate records from the Non-Collection Tag shall be maintained by Contractor and reported monthly to the District in accordance with Exhibit G.”~~

5.6 Marketing and Sale of Recyclable Materials

O. Section 5, Subsection 5.5 of the Agreement is hereby amended to read as follows:

“Contractor shall be responsible for the marketing and sale of all Recyclable Materials and ~~Greenwaste Organic Materials~~ collected pursuant to this Agreement. Revenues from the sales of these materials shall be retained by Contractor.”

5.7 Litter Abatement

P. Section 5, Subsection 5.7 of the Agreement is hereby amended to read as follows:

“Contractor shall use due care to prevent ~~Solid Waste Discarded~~ Materials from being spilled or scattered during the ~~collection or transportation~~ process. If any ~~Solid Waste Discarded~~ Materials are spilled during ~~collection~~, Contractor shall promptly clean up all spilled materials. Each ~~collection~~ vehicle shall carry a broom, shovel and oil spill kit at all times for this purpose.”

5.9 Clean-Up Days

Q. Section 5, Subsection 5.9 of the Agreement is hereby amended to read as follows:

- A. At least twice per year throughout the term of this Agreement, Contractor shall provide, in addition to regularly scheduled service, two clean-up events pursuant to guidelines established by the Contractor and approved by the District, for Solid Waste placed at the ~~Curb~~ by ~~Single Family Dwelling Units~~ and at pre-arranged locations for ~~Multi Family Residential~~ properties in addition to each ~~customer’s~~ normal ~~collection~~ service. The dates for each event shall be proposed by Contractor and approved by the District Manager or his/her designee prior to September 1st of each year.
- B. Contractor shall record by class and weight (in ~~Tons~~) the ~~Solid Waste Discarded Materials~~, white goods, etc., ~~collected~~ during the clean-up events. Contractor shall record the kinds and weights (in ~~Tons~~) of ~~Solid Waste Discarded Materials~~ ~~Diverted~~ during these clean-ups from the landfill through ~~Recycling, reuse, transformation or other means of Diversion.~~

5.10 Solid Waste and Recyclable Materials Services in Public Areas

R. Section 5, Subsection 5.10 of the Agreement is hereby retitled and amended to read as follows:

“5.10 **Solid Waste and Recyclable Materials Services in Public Areas.** The Contractor will provide, at no cost, ~~collection of Garbage Solid Waste Containers and Recyclable Material Containers from District facilities and sidewalk~~ ~~containers~~. The loss revenue from providing this service shall be deducted from the District projected revenue during the rate making process described in Section 11 (Rate Review). ~~In addition,~~ any increase in rates resulting from requested free service shall not be included when

calculating the change in rate compared to the change in the CPI. During any calendar year, the revenue loss from this service is limited to five thousand dollars (\$5,000).”

5.11 Abatement of Bulky Waste

S. Section 5, Subsection 5.11 of the Agreement is hereby amended to read as follows:

- “A. **Removal of Bulky Waste from Public Right-of-Ways.** Contractor and District recognize that from ~~time to time~~ time to time Persons discard ~~Bulky W~~waste, such as couches, easy chairs, beds, mattresses, refrigerators, etc. within public right-of-ways, streets, ~~alleys~~alleys, and District property within the Franchise Area. Contractor agrees that it will, at the direction of the District General Manager, at no cost, ~~C~~ollect, ~~T~~ransport and ~~D~~ispose of such ~~Bulky W~~waste.
- B. **Limitation.** The loss revenue from providing this service shall be deducted from the District projected revenue during the rate making process described in Section 11 (Rate Review). In ~~addition~~addition, any increase in rates resulting from this service shall not be included when calculating the change in rate compared to the change in the CPI.
- C. **Greenwaste.** Contractor shall Collect Greenwaste separately from acceptable materials described in Section 5.2. Contractor shall Transport Greenwaste to the Approved Organic Material Processing Facility.”

5.12 Waste Generator Waivers

T. Section 5, Subsection 5.12 of the Agreement is hereby amended to add the following new section:

“5.12 **Waste Generator Waivers.** The District may grant waivers described in this Section to Commercial or Multi-Family Waste Generators that impact the scope of Contractor’s provision of service for those Customers; provided, the Waste Generator shall continue to subscribe with Contractor for franchised Collection services to the extent such services are not waived by the District. Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the District.

- a. **De Minimis Waivers.** The District may waive a Multi-Family’s, Commercial Business’, or its Property Owner’s obligation to comply with some or all of the Source Separated Recyclable Materials and Organic Materials requirements set forth in this Agreement, SB 1383 Regulations, and District Code, if the Multi-Family, Commercial Business, or its Property Owner provides documentation, or the District has evidence demonstrating one of the following de minimis conditions:
 - i. The Multi-Family’s or Commercial Business’ total Solid Waste Collection service is two (2) cubic yards or more per week, and Organic Materials subject to Collection comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family’s or Commercial Business’ total waste; or,
 - ii. The Multi-Family’s or Commercial Business’ total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family’s or Commercial Business’ total waste.
- b. **Space Constraint.** The District may waive a Multi-Family’s, Commercial Business’, or its Property Owner’s obligation to comply with some or all of the Source Separated Recyclable Materials or

Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and/or as required in the District Code., in the event that the Generator qualifies for a space constraint waiver under the District Code.

c. **Waiver Requests.** Waste Generators may submit requests for de minimis waivers and physical space waivers to the District, if permitted by the District Code. If a Waste Generator submits a request for a waiver to the Contractor, the Contractor shall refer the Waste Generator to the District. Upon request of the District, the Contractor shall support the District in the waiver review process by providing requested Customer information. If the District grants a waiver to a Waste Generator, the District shall notify the Contractor and Contractor shall update the Customer's information and Service Level in accordance with Exhibit G."

d. **District Exemptions.**

~~i. **Low Population.** As of the Effective Date, certain census tracts of the District qualify as Low Population Areas, as specified in Exhibit _____. Some Collection service requirements are waived for the Low Population Areas, as described in Section 5.2. Low population waivers granted by CalRecycle are only valid for a period of up to five (5) years; therefore, the qualifying areas identified in Exhibit _____ are subject to change. If, during the Term of this Agreement, the District is granted a waiver that expands the Low Population Areas, or if the District's waiver(s) are no longer valid, resulting in a reduction in the number of the Low Population Areas, any resulting Collection service changes shall be addressed as a change in scope in accordance with Section 5.2"~~

5.13 Monitoring

U. Section 5, Subsection 5.13 of the Agreement is hereby amended to add the following new Section:

"5.13 **Actions Upon Identification of Prohibited Container Contaminants.** The District shall perform SB 1383 activities required for the identification of Prohibited Container Contaminants which includes but is not limited to, record keeping, provision of educational notices and reporting. The District shall report any Contractor performed activities regarding the identification of Prohibited Container Contaminants to the District, such report shall include but is not limited to, record keeping, provision of educational notices, and reporting."

5.14 Procurement of Recovered Organic Waste Products

V. Section 5, Subsection 5.14 of the Agreement is hereby amended to add the following new Section:

"5.14 **Procurement of Recovered Organic Waste Products**

Power. To the extent that electricity produced from the Approved Organic Materials Processing Facility qualifies for District's procurement credit under SB 1383, District shall be allocated its proportional share of such qualified electricity usage based on the inbound tonnage delivered by County divided by the total inbound tonnage of the Approved Organic Materials Processing Facility for that same time period."

Section 7. Responsibility for Collected Waste

7.1 Ownership of ~~Solid Waste~~Discarded Materials

W. Section 7, Subsection 7.1 of the Agreement is hereby retitled and amended to read as follows:

"7.1. Ownership of ~~Solid Waste~~ Discarded Materials.

- A. All ~~Solid Waste~~ Discarded Materials ~~C~~ollected, removed, and ~~T~~ransported by Contractor from the Premises where produced, generated, and/or accumulated pursuant to this Agreement shall be the property and responsibility of Contractor.
- B. Once Recyclable Materials and Organic Materials are placed in Containers and properly presented for ~~C~~ollection, ownership and the right to possession shall transfer directly from the Waste Generator to Contractor by operation of this Agreement and/or District Code. Contractor is hereby granted the right to retain, ~~R~~ecycle, ~~P~~rocess, reuse, Compost, and otherwise use such Recyclable Materials, Organic Materials or any part thereof, in any lawful fashion or for any lawful purpose consistent with the hierarchy and goals of AB 939. Subject to the provisions of this Agreement, Contractor shall have the right to retain any benefit resulting from its right to retain, ~~R~~ecycle, ~~P~~rocess or reuse, or Compost the Recyclable Materials or Organic Materials that it ~~C~~ollects. Recyclable Materials, Organic Materials or any part thereof, which are delivered to an Approved Processing Facility (~~processing Facility, transformation Facility, transfer station, or Material Recovery Facility~~) shall become the property of the owner or operator of the Facility(ies) once deposited there by Contractor."

7.2 Disposal Requirements

X. Section 7, Subsection 7.2 of the Agreement is hereby amended to read as follows:

- "A. Contractor shall ~~D~~ispose of all ~~Garbage~~ Discarded Materials ~~C~~ollected under this Agreement at Contractor's own expense and in accordance with all Federal, State and local laws, rules, and regulations. Contractor, at Contractor's own expense, shall be responsible for securing an appropriate location for the ~~D~~isposal and ~~P~~rocessing of all Discarded Materials ~~C~~ollected by Contractor pursuant to this Agreement.
1. Approved Transfer Facility. Contractor's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials, Source Separated Organic- Materials, and Solid Waste Collected in accordance with this Agreement.
 2. Approved Disposal Facility. Contractor's Approved Disposal Facility shall be a Disposal Facility that accepts Single-Family, Multi-Family, and Commercial Solid Waste Collected in accordance with this Agreement for Disposal
 3. Approved Recyclable Materials Facility. Contractor's Approved Recyclables Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Recyclable Materials Container.
 4. Approved Organic Materials Facility. Contractor's Approved Organic Materials Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial Source Separated Organic Materials.
- B. Contractor shall secure within ninety (90) days of the ~~E~~ffective ~~D~~ate of this Agreement, sufficient ~~D~~isposal site capacity commitment including landfill ~~D~~isposal site capacity to adequately serve the reasonable anticipated ~~Garbage-Solid Waste~~ Disposal needs of Contractor's ~~C~~ustomers. District reserves the right to review and require approval for said ~~D~~isposal capacity commitments.

- C. If Contractor receives notice from the landfill operator or Recyclables or ~~Greenwaste~~ Organic Materials processor or otherwise finds, during the term of the Agreement, to be prevented from delivering ~~Solid Waste~~ Discarded Materials to the ~~Approved Facility~~ designated site, Contractor shall immediately notify, in writing, the District Manager, stating the reason(s) Contractor is prevented, or expects to be prevented, from delivering ~~Solid Waste~~ Discarded Materials at the ~~Approved~~ designated Facility. Contractor shall expeditiously identify and evaluate alternative sites. An alternative designated site or sites shall be arranged for and secured by Contractor. Such a change in Approved Facility shall be temporarily permitted until such time as the District Manager is able to consider and respond to the use of the proposed alternative Processing Facility. If the use of the proposed Alternative Facility is anticipated to or actually does exceed thirty (30) days in a consecutive twelve (12) month period, the use of such Facility shall be subject to approval by the District Manager with notice sent to the District. The District Manager in its sole discretion, may approve, conditionally approve, temporarily approve, or disapprove of the use of the proposed alternative Facility. If the District disapproves the use of the proposed alternative Facility, the Parties shall meet and confer to determine an acceptable Facility.

If the use of an alternative Facility is for reasons within Contractor's, or its Approved Facility Subcontractor's control, Contractor's compensation shall not be adjusted for any change in Transportation and Processing costs associated with use of the alternative Facility. However, if the use of an alternative Facility is due to reasons beyond Contractor's or its Subcontractor's control, then District shall adjust, either up or down, Contractor's compensation for changes in Transportation and Processing costs associated with the use of the alternative Facility. In the event that the change in the Processing Facility results in increased costs, District may identify and direct Contractor to an alternative Processing Facility, at the Contractor's expense, which results in less cost than the Contractor-identified alternative.

- D. The ~~P~~arties understand and agree that District participates in waste ~~D~~iversion and resource recovery programs pursuant to regional and/or local implementation of AB 939, and may participate in such other programs as may be established by District.
- E. Contractor shall deliver all ~~Garbage~~ Solid Waste to any ~~Approved Disposal Facility~~ landfill which collects the San Luis Obispo County AB 939 Tipping Fee Surcharge and Waste Management Program Fund Fee, pursuant to County Resolution No. 90-383 as amended from time to time. If the Contractor delivers ~~Garbage~~ Solid Waste to an ~~Approved Disposal Facility~~ landfill which does not collect the County Tipping Fee Surcharge and Waste Management Program Fund Fee, the Contractor will make, on a monthly basis, the equivalent payment directly to the County's Waste Management Tipping Fee - AB 939 Trust Fund #0159 and Waste Management Tipping Fee Trust - Site Fund# 0160.
- F. Payment of the equivalent fees shall be made to County within thirty (30) days after the end of each calendar month, or prorated portion thereof, in which the Contractor delivers ~~waste~~ Solid Waste to an alternate facility. In the event that payment is not received by County within thirty (30) days after the date specified, then Contractor shall pay a penalty of ten percent (10%) on the outstanding balance, and Contractor shall also pay to County interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Contractor's failure to pay.
- G. **AB 939/SB 1383 Reimbursement.** If requested by District, Contractor shall pay an AB 939/SB 1383 reimbursement amount to the District each month, in an amount to be specified annually by the District and, in addition, if the San Luis Obispo Integrated Waste Management Authority ("IWMA")

currently implements an AB 939, SB 1383 or Solid Waste Management fee, shall pay that fee directly to IWMA. Said fees shall be an allowable cost in Contractor's rate application. Said fees shall be considered a pass-through cost for purposes of rate setting and, as such, if the District or IWMA changes such fees Contractor's rates shall be adjusted accordingly, without additional markup subject to all Applicable Laws. Subject to the foregoing, District or IMWA may establish and/or adjust such fees at any time. The amount of the AB 939/SB 1383 Reimbursement shall be (\$) per calendar year and Such fees shall be paid in equal monthly installments, paid in arrears. District shall use the AB 939/SB 1383 reimbursement to refund expenses including but not limited to, staffing costs related to District programs, pilot studies, education and outreach campaigns, technical assistance to Customers, reporting, compliance, capacity planning, provision of special Containers, or other activities involved in compliance with AB 939 and/or SB 1383. The District shall retain the sole right to set priorities for the use of its AB 939/SB 1383 reimbursement. All AB 939/SB 1383 reimbursements paid to the District shall be considered a pass-through cost for purposes of rate setting.

- H. As of March 1, 2007, the Tipping Fee Surcharge for Fund# 0159 is \$3.00 per Ton and the Waste Management Program Fund Fee for Fund# 0160 is \$0.40 per Ton. Payments made by the Contractor shall be sent to the County Franchise Coordinator along with an itemized statement regarding how the payment was calculated. Payments shall be adjusted to reflect any future changes in the amount of these fees.
- I. Contractor shall keep all existing permits and approvals necessary for use of the Approved Processing Facility(ies) and Approved Disposal Facility in full regulatory compliance. Upon request, Contractor shall provide copies of facility permits and/or notices of violations (obtained from its Processing Facility Subcontractor if necessary) to District Manager.
- J. Contractor shall not engage any Subcontractors for Collection, Transportation, or Processing of Recyclable Materials, Organic Materials, or Solid Waste services without the prior written consent of District Manager. Contractor must obtain written agreements with Processing Subcontractors to guarantee capacity to Process Discarded Materials. As of the Effective Date of this Agreement, Contractor has not applied to the District for approval of any District has approved Contractor's use of these Subcontractors identified in Contractor's Proposal, included herein as Section Z. If the Contractor plans to engage other affiliated or related party entities in the provision of services, Contractor shall provide District Manager with thirty (30) days written notification of its plans and provide an explanation of any potential impacts related to the scope, quality, timeliness, or cost of providing services under this Agreement. All insurance documents must be reviewed and approved by the District Manager prior to District acceptance. Contractor shall require that all Subcontractors file insurance certificates with the District, name District as an additional insured, and comply with all material terms of this Agreement."

7.3 Material Processing

Y. Section 7, Subsection 7.3 of the Agreement is hereby amended to read as follows:

- "A. **Receipt of Recyclable Material Including ~~Greenwaste~~Organic Materials.** The Contractor shall have in place or have made arrangements for an ~~Materials Recovery Facility or Facilities~~Approved Processing Facility(ies) to receive and accept all deliveries of Recyclable Materials and ~~Greenwaste~~Organic Materials generated in the District.

- B. **Status of ~~Materials Recovery~~ Approved Processing Facility.** Any ~~Materials Recovery Facility~~ Approved Processing Facility used by Contractor must be designed and constructed in accordance with all applicable State and local laws (e.g., CEQA, California Code of Regulations, etc.). The ~~Materials Recovery Facility~~ Approved Processing Facility must have all permits from Federal, State, Regional, County and District agencies necessary for it to operate as a Material Recovery Facility and must be in full regulatory compliance with all such permits. Contractor shall keep active all existing permits and approvals necessary for use of the Approved Processing Facility in compliance with regulatory requirements and Applicable Law. Upon request, Contractor shall provide copies of facility permits and/or notices of violations (obtained from its Processing Facility Subcontractor if necessary) to and ~~District Manager.~~

The ~~selected Materials Recovery Facility~~ Approved Processing Facility must be authorized to accept, under its existing permit, and have sufficient uncommitted capacity to accept, all Recyclable Materials and/or ~~Greenwaste~~ Organic Materials delivered to it by, or on behalf of, Contractor for the term of this Agreement. Contractor shall immediately notify District of any notice of breach or default received from ~~Materials Recovery Facility~~ Approved Processing Facility

- C. **Alternative Processing Facility.** If Contractor becomes unable to deliver the District's Recyclable Materials or Organic Materials to the ~~Materials Recovery Facility~~ Approved Processing Facility due to causes within its control and which could have been avoided by the exercise of due care, the Contractor shall arrange for it to be accepted at ~~another Materials Recovery Facility~~ an alternative Processing Facility, in which case Contractor shall pay for any increased Transportation costs, any differences in the fees charged at such ~~Materials Recovery Facility~~ Approved Processing Facility and the fees then in effect under this Agreement. If Contractor's inability to deliver the District's Recyclable Materials and Organic Materials to the ~~Materials Recovery Facility~~ Approved Processing Facility is not due to causes within its control or which could have been avoided by the exercise of due care, then Contractor shall propose alternative ~~Material Recovery Facilities~~ Processing Facility including all related costs. and District shall have the right to approve the alternative to be used. Within forty-eight (48) hours of emergency or sudden and unforeseen closure, the Contractor shall provide a written description of the reasons the use of the Approved Processing Facility is not feasible, and the period of time Contractor proposes to use the alternative Processing Facility. Such a change in Processing Facility shall be temporarily permitted until such time as the District Manager is able to consider and respond to the use of the proposed alternative Processing Facility. If the use of the proposed alternative Processing Facility is anticipated to or actually does exceed thirty (30) days in a consecutive twelve (12) month period, the use of such Processing Facility shall be subject to approval by the District Manager with notice sent to the District. The District Manager in its sole discretion, may approve, conditionally approve, temporarily approve, or disapprove of the use of the proposed alternative Processing Facility. If the District disapproves the use of the proposed Alternative Processing Facility, the Parties shall meet and confer to determine an acceptable Processing Facility."

7.4 Recyclable and Organic Materials

- Z. Section 7, Subsection 7.4 of the Agreement is hereby amended to read as follows:

"Contractor shall ensure that the residual from the Recyclable Materials and Organic Materials delivered to the ~~Materials Recovery~~ Approved Processing Facility by the Contractor are Disposed of at a permitted Disposal site in full regulatory compliance. Monthly Residue shall not exceed ten percent (10%) of the

monthly Recyclable and Organic Materials delivered to the Materials Recovery Facility Approved Processing Facility. If the District directs Contractor to deliver Recyclable Organic Materials to a third party facility for Processing, then such third party facility shall be responsible for Disposal of residual and the Processing requirements as described above and the District shall use its best efforts to enforce such requirements against the third party Processor.”

Section 8. Performance Standards

8.4.B Vehicles

AA. Section 8, Subsection 8.4.B of the Agreement is hereby amended to read as follows:

“B. **Specifications.** All vehicles used by Contractor in providing Garbage, Recyclable Materials, and greenwaste Discarded Materials Collection services under this Agreement shall comply with all Ffederal, Sstate, and local requirements for such vehicles as they now exist or may be amended in the future, including all applicable air emissions requirements, and shall be registered with the California Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage, or overflow. All such vehicles shall comply with U.S. Environmental Protection Agency noise emission regulations and other applicable noise control regulations. The Contractor will, in good faith, consider incorporating natural gas trucks into its Collection fleet, to the extent practicable.”

Section 9. Customer Relations and Education

9.1 Subscriber Information

BB. Section 9, Subsection 9.1 of the Agreement is hereby amended to read as follows:

“At the time a Customer subscribes to service and annually thereafter for all Residential and Commercial Customers, the following information, at a minimum, shall be distributed: a list of Solid Waste, Recyclable Materials, and Organic Materials eligible for Collection, Complaint procedures, rates, Recycling opportunities, company contact information including billing address, office hours, location, and telephone numbers, Holiday Collection schedule, and Clean-Up Week information. Information regarding no cost dumpster cleanings shall be included for Commercial Customers. Copies shall be provided to each Customer at time of subscription, annually, and upon Customer's request ~~and annually~~.

The Contractor shall prepare and update as necessary a flier with this information in a form and content mutually acceptable to the Contractor and the District Manager. Contractor shall print all necessary copies of the flier and Contractor's employees and agents shall inform Customers that said flier is available upon request.”

9.4 Education and Public Information

CC. Section 9, Subsection 9.4 of the Agreement is hereby amended to read as follows:

“A. **General.** Contractor acknowledges and agrees that education and public awareness are critical, key, and essential elements of any efforts to achieve AB 939, SB 1383, and other regulatory requirements. Accordingly, Contractor agrees to take direction from District to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle ~~solid waste~~ and to cooperate fully with District in this regard. Contractor shall obtain approval from the

District on all Contractor-provided public education materials outside of the District's education plan, including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. District shall have the right to request that Contractor include District identification and contact information on public education materials, and approval of such requests shall not be unreasonably withheld.

Contractor shall maintain its own program of providing information relevant to billing and ~~solid waste~~Collection services, issues, and needs with its bills. Contractor shall also include in Customer bills additional information, including information on Recycling programs, as directed by the District. Contractor shall bear all labor costs with respect to inserting public education materials with the billings. District shall bear any additional postage expense resulting from the District's inserts and shall bear other expenses related to the inserts to the extent said expenses are clearly in excess of the Contractor's normal billing costs. All public education materials shall be approved in advance by the District.

At the direction of the District, Contractor shall participate in and promote AB 939 activities and other ~~solid-waste~~ management techniques at community events and local activities at no additional cost. Such participation would normally include providing, without cost, educational and publicity information promoting the goals of the District's ~~Solid Waste~~Discarded Materials program.

- B. Program Objectives.** The District shall be responsible for designing, implementing, and conducting a public education and outreach program. The District's public education and outreach strategy shall focus on improving Waste Generator understanding of the benefits of and opportunities for source reduction, Reuse, and Landfill Disposal reduction and supporting compliance with Applicable Laws and regulations, including, but not limited to SB 1383. The cumulative intended effect of these efforts is to reduce the amount of each Waste Generator's Discarded Materials and, ultimately, Disposal of Discarded Materials, and Contractor agrees to support and not undermine or interfere with such efforts.
- C. Bill Inserts.** Contractor agrees to insert and distribute brochures, newsletters, or other information developed by the District as single sheet, double-sided inserts in Contractor's Customer invoices at no additional charge to the District. Bill inserts shall be designed and produced by the District with review and comment by Contractor, and final approval by the District. Annually, Contractor shall be responsible for printing the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or other information developed by the District as attachments to Customer invoices at no additional charge to the District. Contractor shall provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments shall not be provided as links). Upon the District's request for such inserts, Contractor shall comply with such request during its next billing cycle for the targeted Customer group. Contractor shall perform this service with no additional requirement for compensation.
- D. Annual Notice of Requirements.** Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Waste Generator in the District a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website."

Section 10. Records, Reports, and Information Studies and Hearing Requirements

10.1 Records

DD. Section 10, Subsection 10.1 of the Agreement is hereby amended to read as follows:

“In addition to any record keeping or other reporting requirements pursuant to any Federal, State or local government (including the San Luis Obispo County Integrated Waste Management Authority), rules, regulations, other terms of this Franchise Agreement or other provisions of the District Code, Contractor shall maintain records required to conduct its operations, to support requests it may make to District, and to respond to requests of the District in accordance with Exhibit G. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data and records shall be protected and an adequate backup system shall be provided for such data and records. The protection and backup systems shall be subject to approval by the District.

- A. The following records shall be maintained for the District in form and detail satisfactory to the District, relating to:
- Customer services and billing;
 - Weight of Solid Waste, Recyclable Materials, and Organic Materials ~~solid waste~~, especially as related to reducing and Diverting ~~solid waste~~ Solid Waste. Information is to be separated by kind of account (Commercial or Residential);
 - Special annual clean-up event results;
 - Routes;
 - Facilities, equipment and personnel used;
 - Facilities and equipment operations, maintenance and repair;
 - Processing and Disposal of ~~solid waste~~ Discarded Materials;
 - Complaints; ~~and~~
 - Missed pick-ups; and
 - Any other records as required in Exhibit G.
- B. Contractor shall maintain records of Transfer, Diversion and Disposal of all ~~solid waste~~ Discarded Materials Collected within the District for the period of this Agreement and all extensions to this Agreement or successor Agreements.
- C. Records for other programs shall be tailored to specific needs. In general, they shall include:
- Plans, tasks, and milestones; and,
 - Accomplishments in terms such as dates, ~~activities~~ activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.”

10.2 Waste Generation/Characterization Studies

EE. Section 10, Subsection 10.2 of the Agreement is hereby amended to read as follows:

“Contractor acknowledges that the District must periodically perform and/or participate in ~~solid waste~~Discarded Materials generation and Disposal characterization studies to comply with AB 939 and SB 1383 requirements. Contractor agrees to participate and cooperate with the District and the San Luis Obispo County Integrated Waste Management Authority and their agents, at no cost to the District, to perform studies and data collection, and prepare reports, as needed, to determine weights and volumes of ~~solid waste~~Discarded Materials and characterize Solid Waste, Recyclable Materials, and Organic Materials generated, Diverted, Disposed, transformed, or otherwise handled or Processed to satisfy AB 939 and SB 1383 requirements.”

10.3 Report Formats and Schedule

FF. Section 10, Subsection 10.3 of the Agreement is hereby amended to read as follows:

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

- Determine and set rates, and evaluate the financial efficacy of operations; and
- Evaluate past and expected progress towards achieving goals and objectives; and
- Determine needs for adjustment to programs; and
- Evaluate Customer service and Complaints.

The District may at no cost to itself request that Contractor provide such additional information in the reports set forth below as the District deems necessary or appropriate to meet its needs, including provision of AB 939 and SB 1383 report information.

Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be subject to approval by the District.

All reports shall be submitted to:
District Manager
Nipomo Community Services District
P.O. Box 326
Nipomo, CA 93444”

10.4 Monthly Reports

GG. Section 10, Subsection 10.4 of the Agreement is hereby amended to read as follows:

“Monthly reports shall be submitted within ten (10) calendar days after the end of the report month. The monthly report shall include all monthly report information pursuant to Exhibit G and the following: (The information listed shall be the minimum reported for each service):

- Solid Waste, ~~and~~ Recyclable Materials, and Organic Materials that are, Collected, Transferred, Diverted and Disposed of, by sector (Commercial, industrial, Residential) of Waste Generator, ~~-~~ Collected by Contractor, in Tons, by month;
- Complaint summary, for month and cumulative for report year, - Summarized by nature of Complaints; and
- Narrative summary of problems encountered and actions taken with recommendations for the District, as appropriate."

10.5 Quarterly and Annual Reports

HH. Section 10, Subsection 10.5 of the Agreement is hereby retitled and amended to read as follows:

"10.5 **Quarterly and Annual Reports.**

A. Quarterly Reports. Quarterly reports shall be submitted within fifteen (15) calendar days after the end of the quarter. Quarters end on November 30, February 28, May 31, and August 31. Quarterly reports shall be quarterly summaries of the monthly reports, and required information pursuant to Exhibit G, and the following:

- Status report on applications for renewals of existing permits or any new permits which may be required to continue operations at the ~~designated disposal site~~ Approved Disposal Facility within existing permitted areas;
- Solid Waste, ~~and~~ Recyclable Materials, and Organic Materials Collected, Diverted and Disposed of, in Tons, during the semi-annual Residential clean-up weeks, if applicable.
- For each new program, provide activity related and narrative reports on goals and milestone and accomplishments. Describe problems encountered, actions taken and any recommendations to facilitate progress.
- Provide a summary assessment of the overall ~~solid waste~~ Discarded Materials program from Contractor's perspective relative to financial and physical status of program. The physical status is to relate to how well the program is operating for efficiency, economy, and effectiveness relative to meeting all the goals and objectives of this Agreement. Provide recommendations and plans to improve. Highlight significant accomplishments, problems, and proposed solutions.

The District may require Contractor, at no additional charge, to provide the Board of Directors with an oral presentation of the Quarterly Reports.

B. Annual Reports. The Contractor shall provide an Annual Report, covering the most recently completed calendar year as described in Exhibit G. Annual reports shall be submitted within forty-five (45) calendar days after the end of the reporting year. The District may require Contractor, at no additional charge, to provide the Board of Directors with an oral presentation of the Annual Reports."

10.11 Regulatory Reporting

II. Section 10, Subsection 10.11 of the Agreement is hereby retitled and amended to read as follows:

- "A. Contractor shall promptly provide the District copies of each adverse report from, and each regulatory action from local, ~~S~~state or ~~F~~federal regulatory agencies in accordance with Exhibit G. In addition, Contractor shall send copies to District of any reports that Contractor submits to regulatory agencies with respect to performance of this Agreement.
- B. Contractor shall provide District promptly with copies of any notices and correspondence from ~~other facilities~~Approved Facilities, including ~~disposal sites~~the Approved Disposal Facility, utilized by Contractor in performance of this Agreement, concerning any breach of agreement with such facility or violation of regulations, including delivery of unauthorized wastes in accordance with Exhibit G. Contractor shall direct such facilities to at all times simultaneously send copies of such notices and correspondence to District.
- C. Contractor shall promptly provide District with copies of any reports and correspondence concerning the status of permits with respect to Contractor and ~~such disposal sites and facilities~~Approved Facilities referenced above in accordance with Exhibit G."

Section 17. Indemnification

17.1.E Failure to Perform

JJ. Section 17, Subsection 17.1.E of the Agreement is hereby amended to read as follows:

"If Contractor ceases to provide ~~Garbage, Recycling or Greenwaste~~Discarded Materials services as required under this Agreement for a period of two (2) days or more, for any reason within the control of Contractor."

17.3.A General

KK. Section 17, Subsection 17.3.A of the Agreement is hereby amended to read as follows:

"District finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by District as a result of a 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 the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that exclusive 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."

17.3.B Service Performance Standards; Liquidated Damages for Failure to Meet Standards

LL. Section 17, Subsection 17.3.B of the Agreement is hereby amended to read as follows:

"The ~~P~~parties acknowledge that consistent, reliable ~~Garbage, Recycling and Greenwaste~~Discarded Materials service is of utmost importance to District and that District has considered and relied on Contractor's representations as to its quality of service commitment in awarding the Agreement to it. The

Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, comply with Complaint resolution criteria, or fails to submit required documents in a timely manner, District and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that District will suffer. Therefore, without prejudice to District's right to treat such non-performance as an event of default under this Section 17, the Parties agree that the following Liquidated Damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to District that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient. Recognizing the importance of resolving any failure to meet the service performance standard, the District shall contact Contractor within two (2) days of any failing reported directly to the District. In addition Contractor agrees to meet with the District Manager within 2 days of a requested meeting to discuss the Contractor's performance.

Contractor agrees to pay (as Liquidated Damages and not as a penalty) the amounts set forth below:

Collection Reliability and Quality

For each failure over five (5) annually to commence service to a new Customer account within seven (7) days after order	\$150.00
For each failure over twenty-four (24) annually to Collect Garbage, Recyclables or Greenwaste Solid Waste, Recyclable Materials, or Organic Materials, which as has been properly set out for Collection, from an established Customer account on the scheduled Collection day and not collected within 24 hours after notice of missed pick-up	\$150.00
For each failure to Collect Garbage, Recyclables or Greenwaste Solid Waste, Recyclable Materials, or Organic Materials, which have been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days	\$150.00
For each occurrence over five (5) annually of damage to private property:	\$250.00
For each occurrence over ten (10) annually of discourteous behavior	\$250.00
For each occurrence over five (5) annually of Collecting Garbage, Recyclables or Greenwaste Solid Waste, Recyclable Materials, or Organic Materials, during unauthorized hours	\$250.00
For each failure to respond to a Customer Complaint within twenty-four (24) working hours	\$250.00

Events of SB 1383 Related Non-Performance

District wishes to establish standards of performance under the Agreement in each of the seven (7) "Performance Areas" listed below. -The District Manager may monitor Contractor's performance in each of those areas based on the "Specific Performance Measures" within that performance area.- In the event that the District Manager determines that Contractor has failed to meet the performance standard established for any "Specific Performance Measure", the District may assess Liquidated Damages pursuant

this Section of the Agreement. -Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other measure in excess of the acceptable performance level.

<p>Use of Unauthorized Facilities. For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement.</p>	<p>\$0 for first 5 failures; \$1,000 per each subsequent failure</p>
<p>Failure to Implement Three-Container System. For each occurrence of failing to provide Customers with the three-Container system required by and compliant with Section 5.2, excluding Waste Generators and Customers granted waivers pursuant to Section 5.12 of this Agreement, and excluding Waste Generators and Customers that demonstrate compliance with Recycling and Organic Waste Self-Hauling requirements pursuant to District Code Title 7 Section — and 14 CCR Division 7, Article 12, Article 7.</p>	<p>\$100 per Waste Generator or Customer per occurrence for Day until compliance achieved</p>
<p>Failure to Comply with Container Labeling and Colors. For each occurrence of Contractor's failure to comply with Container labeling and color requirements pursuant to Section 5.3 of this Agreement.</p>	<p>\$180 per Container</p>
<p>Failure to Perform Public Education and Outreach. For each failure to perform any individual education and outreach activity as required and, in the timeframe, specified by this Agreement.</p>	<p>\$180 per occurrence</p>
<p>Failure to Submit Reports or Allow Access to Records. For each failure to submit any individual report or provide access to records in compliance with and in the timeframe specified in this Agreement. Incomplete and/or inaccurate reports shall be considered a failure to submit until such time as all information in the report has been provided in a complete and accurate form. In the event District determines an errant or incomplete report more than ten (10) Business Days after submittal by Contractor, Contractor shall be given ten (10) Business Days to complete and correct and any pending Liquidated Damages shall be tolled during that period.</p>	<p>\$150 per report or occurrence</p>
<p>Failure to Issue Non-Collection Tags. For each failure of Contractor Collection personnel to issue contamination notices and maintain documentation of issuance as required by Section 5.4 of this Agreement.</p>	<p>\$100 per Contractor Route per day</p>
<p>Improper Fee Issuance. For each fee that is issued to a Waste Generator without prior authorization from District under this agreement.</p>	<p>\$100 per issuance per day per Customer per Day</p>

Section 18. District's Right to Perform Services

18.1 General

MM. Section 18, Subsection 18.1 of the Agreement is hereby amended to read as follows:

"In the event that Contractor, for any reason whatsoever, fails, refuses or is unable to Collect, Transport, Process or market any or all ~~Garbage or Recyclable~~ Discarded Materials which it is required by this Agreement to Collect, Transport, Process, market, and/or Dispose at the time and in the manner provided in this Agreement, for a period of more than seven (7) calendar days, and if, as a result thereof, ~~Garbage or Recyclable~~ Discarded Materials should accumulate in the District to such an extent, in such a manner, or for such a time that the District Manager or his/her designee should find that such accumulation endangers or menaces the public health, safety or welfare, then District shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Contractor during the period of such emergency as determined by the District Manager or his/her designee, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor; and/or (2) to take temporary possession of any or all of Contractor's equipment and other property to Collect, Transport, Process, market and/or Dispose any ~~Garbage or Recyclable~~ Discarded Materials generated within the District which Contractor would otherwise be obligated to Collect, Transport, Process, market and/or Dispose pursuant to this Agreement. In the event the District takes possession of the Contractor's equipment and other property, the District shall be required to pay a reasonable rental fee for such equipment, but the District does not guarantee repair of existing problems with equipment and facilities.

If Contractor is then providing billing services and District performs the services, Contractor will promptly forward to District all rates Contractor has collected in advance, or otherwise, to District for the period in duration equal to District's performance of the services. If Contractor does not promptly forward those rates, District may draw on the performance bond or other approved security for those amounts.

Notice of Contractor's failure, refusal, or neglect to Collect, Transport, Process, market and/or Dispose ~~Garbage or Recyclable~~ Discarded Materials may be given orally by telephone to Contractor at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Contractor within twenty-four (24) hours of the oral notification.

Contractor further agrees that in such event:

- A. It will take direction from District to affect the transfer of possession of property and equipment to District for District's use.
- B. It will, if District so requests, keep in good repair and condition all of such property and equipment, provide all motor vehicles with fuel, oil, and other service, and provide such other service as may be necessary to maintain said property in operational condition.
- C. District may immediately engage all or any personnel necessary or useful for the Collection, Transportation, Processing marketing and/or Disposing of ~~Garbage or Recyclable~~ Discarded Materials, including, if District so desires, employees previously or then employed by Contractor,

Contractor further agrees, if District so requests, to furnish District the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for ~~Garbage or Recyclable~~Discarded Materials Collection, Transportation, ~~P~~rocessing, marketing and/or ~~D~~ispose operations and for the billing and collection of fees for these services.

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

District shall pay to Contractor the reasonable rental value of the equipment and facilities, possession of which is taken by District, for the period of District's possession, if any, which extends beyond the period of time for which Contractor has rendered bills in advance of service.

Except as otherwise expressly provided in the previous paragraph, District's exercise of its rights under this Section 18.1: (1) does not constitute a taking of private property for which compensation must be paid; (2) will not create any liability on the part of District to Contractor; and (3) does not exempt Contractor from the indemnity provisions of Section 14, Indemnification, Insurance and Bond, which are meant to extend to circumstances arising under this Section, provided that Contractor is not required to indemnify District against claims and damages arising from the negligence of District officers, employees and agents in the operation of Collection vehicles or performance of services during the time District has taken possession of such equipment."

Section 19. Franchise Fees

19.1

NN. Section 19, Subsection 19.1 of the Agreement is hereby amended to read as follows:

"In consideration of the granting of this Franchise, and for the privilege of providing ~~Solid Waste~~Discarded Materials service along and within the rights-of way of the District, Contractor shall pay to District a Franchise Fee equal to 7.3 percent of Contractor's annual gross receipts attributable to services provided under this Agreement."

Section 20. Assignment

20.3 Reliance on Contractor

OO. Section 20, Subsection 20.3 of the Agreement is hereby amended to read as follows:

"Contractor acknowledges that this Agreement involves rendering a vital service to District's residents and businesses, and that District has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its ~~Solid Waste~~Discarded Materials management operations in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to District under this Agreement. District has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement."

20.4.C Reliance on Contractor

PP. Section 20, Subsection 20.4.C of the Agreement is hereby amended to read as follows:

“Contractor shall furnish District with satisfactory proof: 1) that the proposed assignee has at least five (5) years of Recyclable Material management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; 2) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any Ffederal, Sstate or local agency having jurisdiction over its ~~Solid Waste~~Discarded Materials management operations due to any significant failure to comply with Sstate, Ffederal or local Environmental Laws and that the assignee has provided District with a complete list of such citations and censures; 3) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; 4) that the proposed assignee conducts its ~~Solid Waste~~Discarded Materials management practices in accordance with sound waste management practices in full compliance with all Ffederal, Sstate and local laws regulating the Collection, Transportation, Processing, marketing and Disposal of ~~Solid Waste~~Discarded Materials ~~including and~~ Hazardous Wastes; 5) that the proposed assignee, and any its officers, directors or employees have not been convicted of a) fraud or criminal offense in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement related to ~~Recyclables or Solid Waste~~Discarded Materials services of any kind (including Collection, hauling, Transfer, Processing, Composting or Disposal), including this Agreement or any amendment thereto or b) bribery or attempting to bribe a public officer or employee of a local, Sstate, or Ffederal agency in that officer or director's of Contractor's employee's official capacity; or c) embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony; or d) unlawful Disposal of Hazardous Waste or Designated Waste the occurrence of which the Contractor knows or should have known; and, 6) of any other information required by District to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely safe and effective manner.”

Section 21. Miscellaneous

21.10 District Free to Negotiate with Third Parties

QQ. Section 21, Subsection 21.10 of the Agreement is hereby amended to read as follows:

“District may investigate all options for the Collection, Processing and marketing of Recyclable Materials after the expiration of the Term. Without limiting generality of the foregoing, District may solicit proposals from Contractor and from third parties for the provision of ~~Garbage, Recycling and Greenwaste~~Discarded Materials services, and any combination thereof, and may negotiate and execute Agreements for such services that will take effect upon the expiration or earlier termination under Section 17.1 (Events of Default) of this Agreement.”

EXHIBIT G. RECORD KEEPING AND REPORTING

RR. Exhibit G, Record Keeping and Reporting, is hereby added to the Agreement:

G.1 General

“Contractor shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or Title 7 of the District Code (or any successor Title). Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and regulations and to meet the reporting and Discarded Materials Collection, Processing, and Disposal program management needs of the

District. At the written direction or approval of District, the records and reports to be maintained and provided by Contractor in accordance with this Exhibit and other Sections of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or Federal regulatory or reporting requirements.

Information from Contractor's records and reports can be used to, among other things:

- Determine and set Rates and evaluate the financial efficacy of operations;
- Evaluate past and expected progress toward achieving the Contractor's Landfill Disposal reduction or Diversion goals and objectives;
- Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law;
- Determine needs for adjustment to programs;
- Evaluate Customer service and Complaints; and,
- Determine Customer compliance with AB 341, AB 1826, and SB 1383 statutes and corresponding regulations; and, any subsequent State-mandated landfill Disposal reduction, Recycling, recovery, or Diversion statutes, regulations, or other requirements.

G.2 Record Keeping

- A. **General.**- Contractor shall maintain Customer contact data, Customer service, accounting, statistical, operational, and other records related to its performance as shall be necessary to provide reporting required by this Agreement and Applicable Law and to demonstrate compliance with this Agreement and Applicable Law (such as, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations).

Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements.- In particular, this Exhibit is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports that Contractor is required to maintain and report by Applicable Law or this Agreement.- Upon written direction or approval of District, the records and reports required by Contractor in accordance with this and other Sections of the Agreement shall be adjusted in number, format, or frequency.

Contractor shall maintain adequate records, and corresponding documentation, of information required by this Exhibit, such that the Contractor is able to produce accurate monthly, quarterly, and annual reports, and is able to provide records to verify such reports. Contractor will make these records available and provide to the District any record or documentation necessary for the District to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations; and, other current or future Federal, State, or local statutes and regulations, as amended. Upon request by the District, Contractor shall provide access to Contractor's requested records in a timely manner, not to exceed ten (10) Business Days from the time of District's request to Contractor.

- B. **Record Retention and Security.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, pursuant to this Exhibit.

Contractor's records shall be stored in one central location, physical or electronic, that can be readily accessed by Contractor. District reserves the right to require the Contractor to maintain the records required herein through the use of a District-selected web-based software platform, at Contractor's expense. Unless otherwise required in this Exhibit, Contractor shall retain all records and data required to be maintained by this Agreement for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

Records and data shall be in chronological and organized form and readily and easily interpreted. Contractor shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically-maintained data and records shall be protected and backed-up. To the extent that Contractor utilizes its computer systems to comply with record keeping and reporting requirements under this Agreement, Contractor shall, on a monthly basis, save all system-generated reports supporting those record keeping and reporting requirements in a static format in order to provide an audit trail for all data required.

- C. **Compilation of Information for State Law Purposes.** -Contractor shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities Transported to or Transferred to each Approved Facility, listed separately by material type, Customer type, and Facility. Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Contractor will make these records available and provide to the District any record or documentation necessary for the District to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, AB 1595, and SB 1383 statutes and corresponding regulations; and, other current or future local, Federal or State statutes and regulations, as amended.

G.3 Reporting

G.3.1 General

- A. **General Purpose.** Reports are intended to compile recorded data into useful forms of information that can be used by the District. All reports shall be adequate to meet District's current and future reporting requirements to CalRecycle, including AB 939, AB 341, AB 1826, and SB 1383 statutes and corresponding regulations, or any other State or Federal agency statutes and regulations throughout the Term of this Agreement.
- B. **Failure to Report.** Failure of Contractor to comply with the reporting requirements as set forth in this Section may result in an assessment of Liquidated Damages in accordance with the Liquidated Damages provision in Section 17. Contractor's repeated failure to submit reports, and/or failure to submit reports on time, may be deemed an event of default and may result in the termination of the Agreement at the discretion of the District Manager, in accordance with Section 16 of this Agreement.
- C. **Report Format.** Contractor shall submit all reports to the District electronically via e-mail using software acceptable to the District. The District reserves the right to require the Contractor to maintain records and submit the reports required herein through use of the District-selected web-based software platform and/or Microsoft Excel spreadsheet, at the Contractor's expense.
- D. **Submittal Process.** All reports shall be submitted to the District, Department of Public Works, Solid Waste Planning and Recycling Program and the Department of Environmental Health Local Enforcement Agency or as directed by the District Manager. Reports shall be submitted electronically

via email or uploaded to a document sharing platform agreed upon by the Parties. District reserves the right to require the Contractor to maintain records and submit the reports required herein through use of a District-selected web-based software platform, at the Contractor's expense.

Monthly reports shall be submitted within ten (10) days after the end of the reporting month; quarterly reports shall be submitted fifteen (15) days after the end of the reporting quarter; and, annual reports shall be submitted within forty-five (45) days after the end of the reporting year.

G.3.2 Monthly Reports

Monthly reports shall be submitted by Contractor to District and shall include the following information pertaining to the most recently completed calendar month. In addition, each monthly report shall include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year prior to the submittal of the current monthly report. Contractor shall report the information included in the following subsections.

A. Tonnage Report

1. Contractor shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Contractor, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocol. Tonnage shall be reported separately by:
 - a. Material type, which shall include, at a minimum, separate reporting of Source Separated Recyclable Materials, Source Separated Organic Materials, Solid Waste, and any other type of Discarded Material separately Collected by Contractor (including, but not limited to: Bulky Waste, used oil, mixed C&D, dirt, rock, metals, Cardboard, wood waste, Reusable Items, Salvageable Materials, etc.);
 - b. Customer/sector type (Single-Family, Multi-family, Commercial Roll-off, C&D); and,
 - c. Approved Facility and Facility type.
2. Report Residue level and Tonnage for all Discarded Materials Processed, listed separately by material type Collected and Approved Facility(ies) used.
3. Source Separated Recyclable Materials Tonnage Marketed, by commodity, and including average commodity value for each, and Processing Residue Tonnage Disposed, listed separately by material type Collected and Approved Facility(ies) used.
4. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.

B. Collection and Subscription Report

1. Number of Containers at each Service Level by Customer Type and program, including:
 - a. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Drop Box and Compactor service by Customer Type.
 - b. Calculation of the average volume of service received per: Single-Family Dwelling Unit (separately identifying Dwelling Units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and, Commercial Customer.
2. A summary of Customer subscription data, including the number of accounts; the number

of Customers subscribing to each Cart, Bin, and Roll-Off Service Level listed separately for Single-Family, Multi-Family, and Commercial and separately for each type of Discarded Material; and the number of Bulky Waste Collections performed.

3. The total number of de minimis waivers and physical space constraint waivers granted in the month, including the Waste Generator name and address for each waiver.
4. The number of waiver reverifications performed by the Contractor pursuant to Section 5.12 of this Agreement in the month, if any, including a copy of documentation for each reverification inspection, which shall include, at a minimum: the Waste Generator's name, address, and Waste Generator type; the type of waiver being verified; any photographic or other evidence collected during the inspection; and the resulting recommended conclusion by the Contractor regarding the validity of the waiver. The Contractor shall provide a summary of recommendations to the District of all waivers which the Contractor concludes to no longer be warranted.
5. Number of Bulky Waste Collection events by Customer Type.

C. Contamination Monitoring Report

The Contractor shall submit the following information regarding contamination monitoring conducted, including Non-Collection Notices pursuant to Section 5.4 of this Agreement:

1. Description of the Contractor's Process for determining the level of contamination;
2. Summary report of Non-Collection Tag issued, which for each notice shall include the date of issuance, Customer name, and service address.
3. A record of each inspection and contamination incident, which shall include, at a minimum:
 - a. Name of the Customer
 - b. Address of the Customer
 - c. The date the contaminated Container was observed
 - d. The staff who conducted the inspection
 - e. The total number of violations found and a description of what action was taken for each
 - f. Copies of all notices issued to Waste Generators with Prohibited Container Contaminants
 - g. Any photographic documentation or supporting evidence.
4. Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants;
5. Any other information reasonably requested by the District or specified in contamination monitoring provisions of this Agreement.

D. Customer Service Report

1. Number of Customer calls listed separately by Complaints and inquiries (where inquiries include requests for service information, Rate information, etc.). For Complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing

concerns, damage claims). These Complaints and inquiries shall be documented and reported separately from SB 1383 Regulatory non-compliance Complaints or other regulatory non-compliance Complaints.

2. Number of missed or incomplete Collections reported in total, and per one thousand (1,000) Service Opportunities in the District, presented in a graph format, which compares total missed Collections in the District during the current report period to total missed Collections in the District in past reporting periods.
3. Number of new service requests for each Customer type and requested service(s).

E. Education Program Report

The monthly status of activities identified in the annual public education plan described in Section 9 of this Agreement.

G.3.3 Annual Reports

In addition to the monthly reporting requirements in this Exhibit, the Contractor shall provide an Annual Report, covering the most recently-completed calendar year, in accordance with the format and submittal requirements of this Exhibit. The Annual Report shall include the information in the following subsections.

A. Collection and Subscription Report

1. A summary of all data provided in the Tonnage report section, including quarterly and annual totals and averages.
2. The type(s) of Collection service(s) provided, a list of all hauler routes serviced, and a record of the addresses served on each hauler route.
3. A summary of Customer subscription data, including the number of accounts; the total number of Waste Generators enrolled with Contractor for service, listed separately by Service Level and Container type (Cart, Bin, and Roll-Off service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material; and the number of Bulky Waste Collections performed.
4. A detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Solid Waste Container Waste, Recyclable Materials, and Organic Materials Service Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of December 1 (for the year in which the report is submitted)

B. Processing Facility Report

- 1.- Approved Organics Processing Facility: Contractor shall provide documentation demonstrating the actual percent of the material removed for landfill Disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, demonstrations compliance with the digestate handling requirements specified in 14 CCR Section 17896.5.
2. -Approved Transfer Facility: If applicable, Contractor shall provide documentation for the Approved Transfer Station that states the annual average Source Separated Organic content recovery rates determined by CalRecycle pursuant to 14 CCR Section 18815.5(f).

C. Compliance Monitoring and Enforcement Report

1. A summary of the total number of SB 1383 Regulatory non-compliance Complaints that were received and investigated, and the number of notices of violation issued based on investigation of those Complaints.
2. The number of Commercial Businesses that were included in a compliance review performed by the Contractor, and the number of violations found and corrected through compliance reviews, including a list with each Waste Generator's name or account name, address, and Waste Generator type.
3. The total number of Non-Collection Tags issued, categorized by type of Waste Generator.
4. The number of violations that were resolved, categorized by type of Waste Generator.
5. Copies of all Non-Collection Tags issued and educational materials issued to non-compliant Waste Generators.

D. Vehicle and Equipment Inventory

1. A list of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage at December 31.

C. Public Education and Outreach Report

1. A copy of all education and outreach materials provided to Waste Generators, or otherwise used for education and outreach efforts in accordance with this Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
2. A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Waste Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
3. For any mass distribution through mailings or bill inserts, the Contractor shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
4. A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
5. A summary of the status of the annual education plan of the reporting year, including activities conducted and the quantitative and/or qualitative results of those activities.
6. The annual public education plan required by Section 9 of the Agreement for the upcoming then-current calendar year. For example, Contractor submittal of a 2021 annual report in February 2022 shall include Contractor submittal of the annual public education plan for calendar year 2022.
7. Contractor shall maintain a record of all technical assistance efforts conducted, including:
 - a. The name and address of the Customer/Waste Generator receiving technical assistance, and account number, if applicable.

- b. The date of any technical assistance conducted and the type of technical assistance, including, but not limited to: waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications.
 - c. A copy of any written or electronic educational materials distributed during the technical assistance process.
9. A copy of Clean-Up Day event reports, submitted to the District in accordance with Section 5.9 of the Agreement.

G.3.4 Additional Reports

- A. **Upon Incident Reporting.** District reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the District. The Contractor shall provide the requested reports, documents, or information within ten (10) Business Days upon receipt of the request or within a timeframe determined by the District Manager, which shall not to exceed ten (10) days.
- B. **AB 901 Reporting.** At District option, District may require that Contractor provide the District copies of Contractor's AB 901 reports on a regular basis (such as monthly, quarterly, or annually) or within ten (10) Business Days of the request. If a Contractor has an Agreement with an Approved Facility, the Contractor shall be required to provide AB 901 reports for those facilities.
- C. **Facility Capacity Planning Information.** District may require Franchisee to provide District with information of available Organic Waste Processing capacity for any Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste such Approved Facilities have the ability to receive within permitted limits. Franchisee shall respond to District within sixty (60) days of District's request for information regarding available new or expanded capacity, and, at District's option, may be required to submit reports on a more regular basis (such as monthly, quarterly, or annually). If Franchisee uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Franchisee shall secure any District-requested Facility capacity planning information from its Subcontractor(s). The annual Facility capacity planning report shall comply with the following:
 1. Include reports of current throughput and permitted capacity and available capacity for Organic Materials Processing for any Facility in the District that Processes Organic Materials. Existing capacity may include identification of monthly Tons of additional Source Separated Recyclable Materials, Source Separated Organic Materials, and/or Solid Waste capacity such Facility has the ability to receive within permitted limits.
 2. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.
 3. Be submitted using a form or format approved by the District General Manager."