

Kern County

Agt. # 062-2023

**RESTATED
EXCLUSIVE SOLID WASTE
FRANCHISE AGREEMENT
BETWEEN
THE COUNTY OF KERN
AND
SOUTH TULARE - RICHGROVE REFUSE, INC.**



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List of Exhibits

- A. Approved and Designated Facilities**
- B. Rate Adjustment Methodology**
- C. Initial Rates for Collection Services**
- D. Reporting Requirements**
- E. Public Education and Outreach Plan**
- F. SB 1383 Implementation Plan**
- G. Reserved**
- H. Approved Subcontractors**
- I. Reserved**
- J. County Franchise Zone and Area**
- K. Contractor's Service Area**
- L. Supplemental Schedule**

1 **EXCLUSIVE SOLID WASTE**
2 **FRANCHISE AGREEMENT**

3 This Restated and now Exclusive Solid Waste Franchise Agreement (the "Agreement") is hereby
4 entered into on the 7th day of February 2023 with the provisions herein becoming effective
5 July 1, 2023, by and between the County of Kern, a political subdivision of the State of California,
6 (hereinafter, the "County"), and South Tulare – Richgrove Refuse, Inc., a California corporation,
7 (hereinafter, the "Contractor") (together, the "Parties").

8 **RECITALS**

9 WHEREAS, the County is obligated to protect the public health and safety within its jurisdiction
10 and arrangements for the collection of Solid Waste must be made in a manner consistent with said
11 obligation to protect the public health and safety; and,

12 WHEREAS, the County Board of Supervisors determines and finds that the public interest, health,
13 safety and wellbeing can be served through the performance of the needed services by a contractor under
14 the specific terms provided herein with the strict compliance of said terms by the contractor being vital
15 to this goal and the failure to meet such strict compliance grounds for declaration of material breach; and,

16 WHEREAS, in accordance with Section 40059 of the State Public Resources Code, the County
17 Board of Supervisors is empowered to enter into exclusive and nonexclusive franchise agreements and to
18 prescribe the terms and conditions for solid waste handling services by resolution or ordinance; and,

19 WHEREAS, the Contractor has an existing nonexclusive franchise agreement to provide services
20 to the area of Kern County as identified in Exhibits J and K; and,

21 WHEREAS, the now existing nonexclusive franchise agreement held by the Contractor, and any
22 understandings related to said agreement, are hereby deemed to be insufficient to meet the recent
23 changes in law and therefore said existing nonexclusive franchise agreement is superseded in its entirety
24 by this Restated Exclusive Franchise Agreement; and,

25 WHEREAS, Contractor understands and agrees that the Applicable Laws, Rules and Regulations
26 pertaining to solid waste handling services may be revised, rewritten and/or otherwise modified during
27 the Term of this Agreement and in the event of such an occurrence the Parties agree that they will meet
28 and confer to resolve any such issues should they arise; and,

29 WHEREAS, the County and the Contractor are mindful of the provisions of all Applicable Law
30 governing the safe Collection, Transport, Recycling, and Disposal of Solid Waste, including, but not limited
31 to, Proposition 218, AB 939, AB 341, SB 1383, AB 1826, AB 1594, AB 2176, SB 1016, and the Resource
32 Conservation and Recovery Act 42 U.S.C. 9601 et seq.; and,

33 WHEREAS, the Legislature of the State of California, by enactment of the California Integrated
34 Waste Management Act of 1989 ("AB 939") and subsequent modifications thereto, established a Solid
35 Waste management process which requires jurisdictions to implement source reduction, reuse, and
36 recycling as integrated waste management practices; and,

37 WHEREAS, AB 939 authorizes and requires the County to make adequate provisions for Solid
38 Waste handling within its solid waste handling jurisdiction; and,

39 WHEREAS, the State of California has found and declared that the amount of solid waste
40 generated in California, coupled with diminishing disposal capacity and interest in minimizing potential
41 environmental impacts from landfilling and the need to conserve natural resources, have created an
42 urgent need for state and local agencies to enact and implement an aggressive integrated waste
43 management program. The State has, through enactment of AB 939 and subsequent related legislation
44 including, but not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling
45 Act of 2004 (AB 2176), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory
46 Commercial Organics Recycling Act of 2014 (AB 1826), AB 1594 , and the Short-Lived Climate Pollutants
47 Bill of 2016 (SB 1383), directed the responsible state agency, and all local agencies, to promote a reduction
48 in landfill Disposal and to maximize the use of feasible waste reduction, Reuse, Recycling, and composting
49 options in order to reduce the amount of material that must be disposed; and,

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

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

58 WHEREAS, Section 40059 of the State Public Resources Code provides that the County may
59 determine aspects of Solid Waste handling which are of local concern, including, but not limited to,
60 frequency of Collection, means of Collection and Transportation, level of services, charges and fees and
61 nature, location, and extent of providing Solid Waste handling services and whether the services are to
62 be provided by means of partially exclusive or wholly exclusive agreements, contracts, licenses, permits
63 or otherwise; and,

64 NOW THEREFORE, in consideration of the respective and mutual covenants and promises herein,
65 and subject to all the terms and conditions hereof, terms and conditions which hereby superseded in their
66 entirety any other prior agreements or understandings, the Parties agree as follows:

ARTICLE 1: DEFINITIONS

67

68 Section 1.1: DEFINITIONS.

69 For the Purposes of this Agreement, and unless a different meaning is clearly required, the following
70 words and phrases shall have the following meanings respectively ascribed to them and shall be
71 capitalized throughout this Agreement:

72 **"AB 341"** means the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011
73 [Chesbro, AB 341]), also commonly referred to as "AB 341", as amended, supplemented,
74 superseded, and replaced from time to time.

75 **"AB 876"** means the Assembly Bill approved by the Governor of the State of California on October
76 8, 2015, which added Section 41821 to the Public Resources Code, relating to Solid Waste as
77 amended, supplemented, superseded, and replaced from time to time.

78 **"AB 901"** means the Assembly Bill approved by the Governor of the State of California on October
79 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6
80 of, and added Sections 41821.6 to, the Public Resources Code, relating to Solid Waste, as
81 amended, supplemented, superseded, and replaced from time to time.

82 **"AB 939"** means the California Integrated Waste Management Act of 1989 (Division 30 of the
83 California Public Resources Code), also commonly referred to as "AB 939," as amended,
84 supplemented, superseded, and replaced from time to time.

85 **"AB 1594"** means the Assembly Bill approved by the Governor of the State of California on
86 September 28, 2014, which amended Sections 40507 and 41781.3 of the Public Resources Code,
87 relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

88 **"AB 1826"** means the Assembly Bill approved by the Governor of the State of California on
89 September 28, 2014, which added Chapter 12.9 (commencing with Section 42649.8) to Part 3 of
90 Division 30 of the Public Resources Code, relating to Solid Waste, as amended, supplemented,
91 superseded, and replaced from time to time.

92 **"Administration Fee"** means the cost reimbursement used to offset expenses including staffing
93 costs related to contract management, compliance, monitoring, and to enforce the Agreement.

94 **"Affiliate(s)"** means any Person, corporation or other entity directly or indirectly controlling or
95 controlled by another person, corporation or other entity, or under direct or indirect common
96 management or control with such person, corporation or other entity. As between any two (2) or
97 more persons or entities, when ten percent (10%) of one is owned, managed, or controlled by
98 another, they are hereunder Affiliates of one another.

99 **"Agreement"** means this Restated Exclusive Solid Waste Franchise Agreement between the
100 County and the Contractor.

101 **"Agreement Date"** means the date of approval of this Restated Exclusive Solid Waste Franchise
102 Agreement by the County.

103 **"Agreement Year"** means a twelve-month period beginning on January 1 of each year and ending
104 on the following December 31 each year during the Term of this Agreement, provided however,
105 that the first Agreement Year will commence on the Agreement Date and the last Agreement Year
106 will end on the date of termination of this Agreement.

107 **"Annual Percentage Change"** means the average of the percentage monthly changes in the value
108 of an index for the 12-month period ending June 30 of the most recently completed Rate Period
109 minus the average of the percentage monthly changes in the index value for the 12-month period
110 ending June 30 of the Rate Period immediately preceding the most recently completed Rate
111 Period. The Annual Percentage Change shall be rounded to the nearest hundredth (100th).

112 **"Applicable Law"** means any law, ordinance, rule, regulation, requirement, guideline, permit,
113 action, determination, or order of any Governmental Body, including but not limited to the County
114 of Kern, having jurisdiction over any of the matters provided for or effected by this Agreement.
115 Applicable Law may change from time to time and the provisions in this Agreement shall be
116 interpreted and acted upon in accordance with Applicable Law at the time in question.
117 Furthermore, to the full extent of the law, the County of Kern's shall have ability to adopt future
118 rules, regulations and/or ordinances related to and/or effecting the matters in this Agreement
119 and to the extent there is a disagreement regarding the provisions or requirements of Applicable
120 Law the County of Kern's determinations shall prevail over the Contractor's.

121 **"Approved C&D Processing Facility"** means the facility and location designated on Exhibit A, and
122 which designation may be changed from time to time, in accordance with this Agreement.

123 **"Approved Facilities"** means any one or combination of the Approved C&D Processing Facility,
124 Approved Recyclable Materials Processing Facility, Approved Organic Waste Processing Facility
125 and Approved Green Waste Processing Facility.

126 **"Approved Green Waste Processing Facility"** means the facility and location set forth on Exhibit
127 A, and which designation may be changed from time to time, in accordance with this Agreement
128 to which the Contractor shall transport Green Waste.

129 **"Approved Organic Waste Processing Facility"** means the facility and location set forth in Exhibit
130 A, and which designation may be changed from time to time, in accordance with this Agreement
131 to which the Contractor shall transport Organic Materials or other separated Organic Waste.

132 **"Approved Recyclable Materials Processing Facility"** means the facility and location designated,
133 and which designation may be changed from time to time, by the County Contract Manager for
134 Recyclable Materials Processing.

135 **"Bi-monthly"** means every other calendar month. The following months are reporting months:
136 February, April, June, August, October and December.

137 **"Bin"** means a Container with capacity of approximately one (1) to six (6) cubic yards, with a
138 hinged lid, and with wheels (where appropriate), that is serviced by a front end-loading Collection
139 Vehicle.

140 **"Board of Supervisors"** means the Board of Supervisors of Kern County.

141 **"Bulky Waste"** means items that can reasonably be lifted by two people, including but not limited
142 to, large and small household appliances, furniture, carpets, mattresses, and similar large items
143 which require special Collection due to their size or nature, cannot be contained within a standard
144 Container, or which does not fit in or causes harm to Collection Vehicles.

145 **"Bureau of Labor Statistics (BLS)"** means the U.S. Department of Labor, Bureau of Labor Statistics
146 or its successor agency.

147 **"Business Days"** mean days during which the Kern County Public Works Department offices are
148 open to do business with the public.

149 **"California Code of Regulations" or "CCR"** means the State of California Code of Regulations. CCR
150 references in this Agreement are preceded with a number that refers to the relevant Title of the
151 CCR (e.g., "14 CCR" refers to Title 14 of CCR).

152 **"CalRecycle"** means the Department of Resources Recycling and Recovery, and any Governmental
153 Body which succeeds to its duties and powers under Applicable Law.

154 **"Cart"** means a plastic Container with a hinged lid and wheels that is serviced by an automated
155 or semi-automated Collection vehicle. A Cart has capacity of 35, 65, 96 gallons (or similar
156 volumes).

157 **"CEQA"** means the California Environmental Quality Act codified at California Public Resources
158 Code Section 21000 et seq., as amended or superseded, and the regulations promulgated
159 thereunder.

160 **"Collect" or "Collection" (or any variation thereof)** means the act of collecting Discarded
161 Materials at the place of generation in the County.

162 **"Collection Premises"** means the Residential Premises, Non-Residential Premises, or both for
163 which the Contractor is authorized to provide Collection Services.

164 **"Collection Services"** means all of the duties and obligations of the Contractor hereunder.

165 **"Commercial"** shall mean of, from or pertaining to non-Residential Premises where business
166 activity is conducted, including, but not limited to, retail sales, services, wholesale operations,
167 manufacturing, and industrial operations, but excluding businesses conducted upon Residential
168 property, which are permitted under applicable zoning regulations and are not the primary use of
169 the property. For the purposes of this Agreement, Commercial includes any parcels of real
170 property located within the County which are not classified under the Use Codes listed annually
171 in the *Schedule of Solid Waste Management Program Service Charges (Land Use Fees) for*
172 *Residential Real Property*.

173 **"Commercial Edible Food Generator"** means a Tier One Commercial Edible Food Generator or
174 Tier Two Commercial Edible Food Generator, or as otherwise defined in 14 CCR Section
175 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery
176 Services are not Commercial Edible Food Generators, or as otherwise specified by 14 CCR Section
177 18982(a)(7).

178 **“Community Composting”** means any activity that composts green material, agricultural
179 material, food material, and vegetative food material, alone or in combination, and the total
180 amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and
181 750 square feet; or as otherwise defined in 14 CCR Section 18982(a)(8).

182 **“Compostable Plastic Bags”** means plastic bags that are made of Compostable Plastic and are
183 certified “compostable” by the Biodegradable Products Institute (BPI).

184 **“Compostable Plastics”** means plastic materials that meet the ASTM D6400 standard for
185 compostability.

186 **“Construction and Demolition Debris (C&D)”** includes discarded building materials, packaging,
187 debris, and rubble resulting from construction, alteration, remodeling, repair, or demolition
188 operations on any pavements, excavation projects, houses, Commercial buildings, or other
189 structures, excluding Excluded Waste.

190 **“Consumer Price Index (CPI)”** shall mean the All Urban Consumers Index (CPI-U) compiled and
191 published by the BLS, for Garbage and Trash Collection:

- 192 • Area – U.S. West city average
- 193 • Base Period – December 1983=100
- 194 • Not seasonally adjusted
- 195 • Periodicity – Monthly
- 196 • Series Identification Number –CUUR0000SEHG02

197 In the event that this CPI index becomes unusable or inappropriate in the eyes of the County, then
198 the County shall, at its discretion, choose another index to replace this index.

199 **“Container(s)”** mean Bins, Carts and Roll-Off Containers.

200 **“Contractor”** means Contractor organized and operating under the laws of the State and its
201 officers, directors, employees, agents, companies, related-parties, affiliates, subsidiaries, and
202 Subcontractors.

203 **“County”** means the County of Kern, California, a political subdivision of the State, acting through
204 its Board of Supervisors.

205 **“County Code”** means the Kern County Codified Ordinances, as it may be amended,
206 supplemented, superseded, or modified from time to time.

207 **“County Contract Manager”** means the County Public Works Director or their designated
208 representative who is responsible for the administrative management of this Agreement.

209 **“County Fees”** shall mean those fees described in Article 11 of this Agreement.

210 **“County Jurisdiction”** means those areas of the County wherein the County is obligated to protect
211 the public health and safety by provide arrangements for the collection of Solid Waste.

212 **"Customer"** means Person who is provided service by the Contractor.

213 **“Customer Type”** means the Customer’s sector category including, but not limited to, Single-
214 Family, Multi-Family, Commercial, and County Facilities.

215 **“Designated Collection Location”** refers to the location at each Collection Premises where
216 Discarded Materials Containers are customarily placed for Collection, in accordance with this
217 Agreement.

218 **“Designated Disposal Facility”** means the facility designated by the County Contract Manager to
219 which the Contractor shall transport Solid Waste and may transport Residual waste; which, as of
220 the Agreement Date, shall be as set forth in Exhibit A.

221 **“Designated Facilities”** means any combination of the Designated Disposal Facility and the
222 Designated Transfer Facility.

223 **“Discarded Materials”** means Recyclable Materials, Organic Materials, and Solid Waste/Mixed
224 Waste placed by a Generator in a receptacle and/or at a location for the purposes of Collection
225 by Contractor or acceptance at an Approved or Designated Facility, excluding Excluded Waste.

226 **“Dispose” or “Disposal” (or any variation thereof)** means the final disposition of Solid Waste at
227 a Disposal site.

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

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

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

241 **“Edible Food”** means food intended for human consumption. For the purposes of this Agreement,
242 Edible Food is not Solid Waste or Discarded Materials if it is recovered and not discarded. Nothing
243 in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food
244 safety requirements of the California Retail Food Code. If the definition in 14 CCR Section
245 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section
246 18982(a)(18) shall apply to this Agreement.

247 **“Electronic Waste (E-Waste)”** means discarded electronic equipment including, but not limited
248 to, televisions, computer monitors, central processing units (CPUs), laptop computers, computer
249 peripherals (including external hard drives, keyboards, scanners, and mice), printers, copiers,
250 facsimile machines, radios, stereos, stereo speakers, VCRs, DVDs, camcorders, microwaves,
251 telephones, cellular telephones, and other electronic devices. Some E-Waste or components
252 thereof may be Hazardous Waste and thus require special handling, Processing, or Disposal.

253 **“Emergency Services”** means Solid Waste Collection Services, other than those specified under
254 this grant of Agreement, provided during or as a result of an emergency which threatens the
255 public health or safety, as determined by the County Contract Manager.

256 **“Event of Default”** means only the events described in Section 14.1.

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

268 **“Flow Control”** has the meaning ascribed in Section 7.1.E.

269 **“Food Recovery”** means actions to collect and distribute food for human consumption which
270 otherwise would be disposed; or as otherwise defined in 14 CCR Section 18982(a)(24).

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

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

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

281 **“Food Recovery Service”** means a Person or entity that collects and transports Edible Food from
282 a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food
283 Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

284 **"Food Scraps"** means those discarded materials that will decompose and/or putrefy including: (i)
285 all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results
286 from the storage, preparation, cooking or handling of food stuffs; and, (iv) food items, such as,
287 but not limited to: fruits, vegetables, meat, poultry, seafood, shellfish, bones, grains, beans, pasta,
288 bread, dairy products, and eggshells. Food Scraps are a subset of Food Waste.

289 **"Food Soiled-Paper"** means compostable paper material that has come in contact with food or
290 liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza
291 boxes, and milk cartons. Food-Soiled Paper is a subset of Food Waste.

292 **"Food Waste"** means Source Separated Food Scraps, Food-Soiled Paper, and Compostable
293 Plastics. Food Waste is a subset of Organic Materials.

294 **"Franchise Zone 1-44"** means that portion of the unincorporated area of the County as described
295 in Section 5.36.030 of the County Code and as depicted in Exhibit J.

296 **"Generator"** means any Person whose act or process generates or produces Discarded Materials,
297 or whose act first causes Discarded Materials to become subject to regulation under the County
298 Code or federal, State, or local regulations.

299 **"Governmental Body"** means any federal, state, county including the County or regional
300 legislative, executive, judicial or other governmental board, agency, authority, commission,
301 administration, court or other body, or any officer thereof acting within the scope of their
302 authority.

303 **"Governmental Fee"** shall mean any fee or surcharge imposed by a governmental entity other
304 than the County including without limitation the State, County, or Local Enforcement Agency.
305 Governmental Fees are a component of the Tipping Fee.

306 **"Green Waste"** means grass, lawn clippings, shrubs, plants, weeds, small branches, and other
307 forms of Organic Waste generated from landscapes or gardens, separated from other Discarded
308 Materials. Green Waste is a subset of Organic Materials.

309 **"Gross Receipts"** shall mean total cash receipts actually received from Customers by the
310 Contractor or the County through the property tax roll, for the provision of services pursuant to
311 this Agreement, without any deductions. Gross Receipts do not include revenues from the sale of
312 Recyclable Materials.

313 **"Hazardous Waste"** means:

314 A. Any waste which by reason of its quality, concentration, composition, or physical,
315 chemical, or infectious characteristics may do either of the following: cause, or
316 significantly contribute to, an increase in mortality or an increase in serious irreversible,
317 or incapacitating reversible, illness, or pose a substantial threat or potential hazard to
318 human health or the environment when improperly treated, stored, transported, or
319 disposed of, or otherwise mismanaged, or any waste which is defined or regulated as a
320 Hazardous Waste, toxic substance, hazardous chemical substance or mixture, or asbestos
321 under Applicable Law, as amended from time to time, including, but not limited to:

- 322 1. The Resource Conservation and Recovery Act and the regulations contained in 40
323 CFR Parts 260-281.
- 324 2. The Toxic Substance Control Act (15 U.S.C. Section 2601 et seq.) and the
325 regulations contained in 40 CFR Parts 761-766.
- 326 3. The California Health & Safety Code Section 25117 (West 1992 & Supp. 1998).
- 327 4. The California Public Resources Code Section 40141 (West 1996).
- 328 5. Future additional or substitute federal, state or local laws pertaining to the
329 identification, treatment, storage, or disposal of toxic substances or Hazardous
330 Wastes.
- 331 B. Radioactive materials which are source, special nuclear, or by-product material as defined
332 by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) and the regulations
333 contained in 10 CFR Part 40.

334 **"Home-Generated Sharps Waste"** means hypodermic needles, pen needles, intravenous needles,
335 lancets, and other devices that are used to penetrate the skin for the delivery of medications
336 derived from a Residential household; or as otherwise defined by Section 117671 of the California
337 Health and Safety Code.

338 **"Household Hazardous Waste"** means waste materials determined by CalRecycle, the
339 Department of Toxic Substances Control, the State Water Resources Control Board, or the Air
340 Resources Board to be: (i) of a nature that they must be listed as hazardous in State statutes and
341 regulations; (ii) Toxic/ignitable/corrosive/reactive; and, (iii) Carcinogenic/mutagenic/teratogenic;
342 which are Generated and discarded from Residential Premises as opposed to Commercial
343 businesses.

344 **"Incompatible Material"** means human-made inert material, including, but not limited to, glass,
345 metal, plastic, and also includes Organic Waste that the receiving end-user, facility, operation,
346 property, or activity is not designed, permitted, or authorized to perform Organic Waste recovery
347 activities as defined in 14 CCR Section 18983.1(b); or as otherwise defined by 14 CCR Section
348 17402(a)(7.5).

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

353 **"Insurance Requirement"** means any rule, regulation, code, or requirement issued by any fire
354 insurance rating bureau or anybody having similar functions or by any insurance company which
355 has issued a policy with respect to the Operating Assets or the Collection Services.

356 **"Legal Proceeding"** means every action, suit, litigation, arbitration, administrative proceeding,
357 and other legal or equitable proceeding having a bearing upon this Agreement.

358 **“Line of Business”** means any of the following services provided by the Contractor: Residential
359 Solid Waste, Residential Recycling, Residential Organics, Commercial Solid Waste, Commercial
360 Recycling, or Commercial Organics.

361 **“Liquid Waste”** means watered or dewatered sewage or sludge.

362 **“Liquidated Damages”** means the amounts due by Contractor for failure to meet specific
363 quantifiable standards of performance as described in Section 14.2.

364 **“Medical Waste”** means waste capable of producing an infection or pertaining to or characterized
365 by the presence of pathogens, including without limitation certain wastes generated by medical
366 practitioners, hospitals, nursing homes, medical testing labs, mortuaries, taxidermists,
367 veterinarians, veterinary hospitals and medical testing labs, and waste which includes animal
368 wastes or parts from slaughterhouses or rendering plants.

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

372 A. Meets or exceeds the physical contamination, maximum metal concentration, and
373 pathogen density standards for land applications specified in 14 CCR Section
374 17852(a)(24.5)(A)(1) through (3).

375 B. Was produced at one or more of the following types of Facilities:

376 1. A Compostable material handling operation or facility as defined in 14 CCR
377 Section 17852(a)(12), that is permitted or authorized under Division 7 of Title 14
378 of the CCR, other than a chipping and grinding operation or facility as defined in
379 14 CCR Section 17852(a)(10); Guidance: Note that this criteria disallows Mulch
380 produced from chipping and grinding operations to count toward fulfillment of a
381 jurisdiction’s annual Organic Waste product procurement target.

382 2. A Transfer/Processing Facility or Transfer/Processing operation as defined in 14
383 CCR Section 17402(a)(30) and (31), respectively, that is permitted or authorized
384 under 14 CCR, Division 7, Chapter 12.

385 3. A Solid Waste landfill as defined in PRC Section 40195.1 that is permitted under
386 27 CCR, Division 2.

387 **“Multiple-Unit Dwelling”** means any building in the County, other than a Single-Unit Dwelling,
388 lawfully occupied for human shelter.

389 **“Multi-Family”** means any Multiple-Unit Dwelling with five (5) or more dwelling units and/or
390 refers to programs serving the Customers living in such properties. Multi-Family Premises include,
391 but are not limited to, apartment complexes, mobile home parks, senior housing/care facilities,
392 and condominium complexes.

393 **“Municipal Code”** means the County’s Codified Ordinances, as the same may be amended,
394 supplemented, or modified from time to time.

395 **"Non-Residential Premises"** means those parcels of real property located within the County
396 which are not classified under the use codes listed in the County's Schedule of Solid Waste
397 Management Program Service Charges (Land Use Fees) for Residential Real Property, and made a
398 part hereof, as amended by the County from time to time.

399 **"Occupant"** means the Person who occupies a Premises.

400 **"Operating Assets"** means all real and personal property of all kinds, which is owned, leased,
401 managed, or operated by or under contract to the Contractor for providing the Collection Services,
402 including without limitation the Containers, Vehicles, Transfer stations, maintenance and storage
403 facilities, administrative facilities, and other equipment, machinery, parts, supplies and tools.

404 **"Organic Materials"** means any combination of Food Waste and Green Waste. Organic Materials
405 is a subset of Organic Waste.

406 **"Organic Waste"** means Solid Wastes containing material originated from living organisms and
407 their metabolic waste products including, but not limited to, food, green waste, organic textiles
408 and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids,
409 digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Notwithstanding
410 the foregoing, paper products, printing and writing paper shall be collected as Recycled Materials.

411 **"Owner"** means the person holding the legal title or having a right to possession of the real
412 property constituting the Collection Premises to which Discarded Materials Collection Service is
413 provided or required to be provided hereunder.

414 **"Party or Parties"** refers to the County and Contractor, individually or together.

415 **"Person(s)"** means any individual, firm, association, organization, partnership, corporation, trust,
416 joint venture, or public entity.

417 **"Premises"** means any land or building in the County where Discarded Materials are generated
418 or accumulated.

419 **"Process" or "Processing"** refers to the controlled separation, recovery, volume reduction,
420 conversion, or Recycling of Recyclable Materials or Organic Waste prior to the delivery of such
421 material to the Designated Disposal Facility. Processing activities may include, but are not limited
422 to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of
423 waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or
424 volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

425 **"Processing Facility"** refers to any facility that removes Recyclable Materials or Organic Materials
426 from other Discarded Materials and Solid Waste, prior to the delivery of Discarded Materials to
427 the County Disposal System.

428 **"Prohibited Container Contaminants"** means the following: (i) Discarded Materials placed in the
429 Recyclable Materials Container that are not identified as acceptable Recyclable Materials for the
430 County's Collection program; (ii) Discarded Materials placed in the Organic Materials Container
431 that are not identified as acceptable Organic Materials for the County's Collection program; (iii)
432 Discarded Materials placed in the Solid Waste Container that are acceptable Recyclable Materials

433 and/or Organic Materials to be placed in the Recyclable Materials or Organic Materials
434 Containers, or otherwise managed under the County's Collection program; and, (iv) Excluded
435 Waste placed in any Container.

436 **"Proprietary Information" or "Proprietary"** means that information provided by Contractor to
437 the County which is protected from disclosure by the California Public Records Act and meets that
438 definition of Proprietary Information. Nothing shall be considered proprietary which is required
439 to be submitted to the County in any report described in this Agreement. Contractor's customer
440 lists for Customers served under this Agreement are specifically not considered proprietary for
441 the purposes of this Agreement, however, the County may protect such information from
442 disclosure consistent with the provisions of the Public Records Act.

443 **"Public Street"** means all County-owned and maintained paved areas between the normal Curb
444 line of a roadway, including public parking lots, roadway dividers, and medians.

445 **"Rate"** means the maximum amount, expressed as a dollar unit, approved by the County, that the
446 Contractor may bill a Customer for providing services under this Agreement. A Rate has been
447 established for each individual Service Level and the initial Rates for Rate Period One are
448 presented in Exhibit C. The Rates approved by County are the maximum Rate that Contractor
449 may charge a Customer and Contractor may, in its sole discretion, charge any amount up to and
450 including the maximum Rate approved by the County.

451 **"Rate Adjustment Factor"** shall mean the amount, expressed as a percentage, by which the fee
452 components of each Rate are adjusted. The Rate Adjustment Factor for each component shall be
453 calculated separately.

454 **"Rate Period"** means a twelve (12) month period, commencing July 1 and concluding June 30.

455 **"Rate Period One"** means the first Rate Period covered by this Agreement. Rate Period One shall
456 begin on July 1, 2023 and shall end on June 30, 2024.

457 **"Recovered Materials"** means the products, excluding Residual Waste, produced by the
458 Processing of Recyclable Materials, Organic Materials, and/or C&D.

459 **"Recyclable Materials"** means source separated materials that are intended for recycling or are
460 capable of being recycled. Such materials may include newspaper, cardboard, mixed color paper,
461 white paper, junk mail, magazines, telephone books, paper bags, cereal and food boxes, egg
462 cartons, plastic bottles and containers labeled #1-7, plastic milk containers, detergent containers,
463 clear, brown, and green food and beverage container glass, cans of aluminum, steel, tin, food
464 cans, empty aerosol cans, pipe tins or other materials having economic value contained within a
465 load of Recyclable Materials, and may also include any other type of recyclable waste material
466 agreed on by the Parties.

467 **"Recycle," "Recycled," or "Recycling"** means the process of sorting, cleansing, treating, and
468 reconstituting materials at a Recyclable Materials Processing Facility that would otherwise be
469 Disposed of at a landfill for the purpose of returning such materials to the economy in the form
470 of raw materials for new, reused, or reconstituted products. Recycling includes processes deemed
471 to constitute a reduction of landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2.

472 Recycling does not include gasification or transformation as defined in Public Resources Code
473 Section 40201.

474 **“Residential”** shall mean of, from, or pertaining to those Single-Family and Multi-Family Premises
475 that are parcels of real property located within the County, in accordance with the “Use Codes”
476 developed and maintained by, and on file with, the County and, as approved annually by the Board
477 of Supervisors, listed in the Schedule of Solid Waste management Program Service Charges (Land
478 Use Fees) for Residential Real Property.

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

482 **“Reusable Materials”** means items that are capable of being used again after minimal Processing,
483 if any. Reusable Materials may be Collected Source Separated or recovered through Processing.
484 Reusable Materials may include, but are not limited to, clothing, furniture, and/or sporting
485 equipment.

486 **“Roll-Off” or “Roll-Off Box”** means an open-top metal Container, roll-top Container, or closed
487 compactor Container serviced by a roll-off truck and with a Container capacity of 10 to 50 cubic
488 yards. Roll-Off Boxes are also known as drop boxes or debris boxes.

489 **“Route” or “Routes”** means the designated itinerary or sequence of stops for each segment of
490 Collection areas within the unincorporated areas of the County, or as otherwise defined by the
491 term “Hauler Route” in 14 CCR Section 18982(a)(31.5).

492 **“Routing and Collection System”** means the Routing and Collection System for Solid Waste and
493 Recyclable Materials which is in effect as of the effective date of this Agreement.

494 **“Rural Service Area”** means, for the purposes of this Agreement, that portion of the Contractor’s
495 Service Area that is not designated as the Urban Service Area, as described in Exhibits J and K.

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

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

505 **“SB 1383 Implementation Plan”** means the Contractor’s plan described in Section 8.8 and
506 attached hereto as Exhibit F.

507 **“Scrap Materials”** means any materials which are separated by type of Generator thereof from
508 materials which otherwise are discarded or rejected by the Generator as Discarded Materials and
509 which are sold or donated by the Generator to a private Recycler, scrap dealer, or salvager and

510 Recycled or Reused. Scrap Materials shall not include any materials which (i) are commingled with
511 Solid Waste/Mixed Waste, Recyclable Materials, or Organic Materials; or (ii) are not commingled
512 with Solid Waste/Mixed Waste, Recyclable Materials, or Organic Materials, but which are
513 collected by any Person other than the Contractor as part of any transaction or arrangement
514 involving such Discarded materials, irrespective of whether the Generator pays or receives
515 consideration in connection with such transaction or arrangement.

516 **“Self-Hauler” or “Self-Haul”** means a Person who hauls Discarded Materials, Recovered
517 Materials, or any other material to another Person; or as otherwise defined in 14 CCR Section
518 18982(a)(66). Self-Hauler also includes a Person who “back-hauls” waste, as defined in 14 CCR
519 Section 18982(a)(66)(A).

520 **“Service Area”** means the geographic area in the County set forth in Exhibit K which the County
521 has authority to provide for Collection services and for which the Contractor has been granted an
522 exclusive franchise to provide Discarded Materials Collection services.

523 **“Service Level”** refers to the size of a Customer’s Containers, number of Containers, frequency of
524 Collection, scheduled Collection day, and any ancillary services, which form the basis for provision
525 of and charges for service.

526 **“Sharps Container”** means a rigid puncture-resistant container that, when sealed, is leak resistant
527 and cannot be reopened without great difficulty; or as otherwise defined by Section 117750 of
528 the California Health and Safety Code.

529 **“Single-Family”** means, for the purposes of this Agreement, of, from, or pertaining to, any
530 detached or attached house or residence with four (4) or fewer distinct living units, provided that
531 Collection service feasibly can be provided to such Premises as an independent unit, and the
532 Owner or Occupant of such independent unit is billed directly for the Collection service. Single-
533 Family includes townhouses, and each independent unit of duplex, tri-plex, or quadruplex
534 Residential structures. Single-Family also refers to the programs and services for Customers living
535 in such properties.

536 **“Single-Unit Dwelling”** means a dwelling designed for or occupied exclusively for human shelter
537 by one (1) family.

538 **“Solid Waste”** means all garbage, refuse, rubbish, and other materials and substances discarded
539 by the Generator thereof at the time of such discard and which are normally discarded by or
540 collected from Single-Family Premises, Multi-Family Premises, Commercial Premises and
541 institutional establishments, which are acceptable at Class III landfills under Applicable Law, and
542 which are originally discarded by the first Generator thereof and have not been previously
543 Processed. Solid Waste does not include Hazardous Waste, Medical Waste, Liquid Waste, Scrap
544 Materials, construction and demolition debris, or self-hauled waste. Solid Waste includes only
545 those materials which were originally discarded by the first Generator thereof, prior to any
546 Processing at any Collection Premises within the County.

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

549 **"Special Circumstance"** means a circumstance which, when occurring, permits, but does not
550 require the Contractor or the County to seek an adjustment in the Rates for Service, and which
551 then requires County Contract Manager to review such application and make a recommendation
552 to the County Board of Supervisors as to whether the Base Rate should be adjusted up or down,
553 or remain unchanged. The continuing need for any and all previously approved Special
554 Circumstance Rate adjustments shall be reviewed at the time of each subsequent Rate
555 adjustment.

556 **"Special Service"** means a level of Solid Waste Collection Service in excess of that offered by the
557 Contractor as its basic level of service, at an additional cost to the Customer and may include, but
558 is not limited to, backyard pickup, additional Containers, or more frequent collections. The charge
559 for any Special Service shall be reviewed by the County Contract Manager.

560 **"SRRE"** means the County's Source Reduction and Recycling Element approved by CalRecycle, as
561 the element may be amended from time to time, all in accordance with AB 939 and regulations
562 related thereto, as they may be amended from time to time.

563 **"Subcontractor"** means every person (other than employees of the Contractor) employed or
564 engaged by the Contractor or any person directly or indirectly in privity with the Contractor
565 (including every Subcontractor of whatever tier) for any portion of the Collection Services,
566 whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise.

567 **"Term"** means the Term of this Agreement, including extension periods if granted, as provided
568 for in Section 4.1.

569 **"Tier One Commercial Edible Food Generator"** means a Commercial Edible Food Generator that
570 is one of the following, each as defined in 14 CCR Section 18982:

- 571 A. Supermarket.
- 572 B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- 573 C. Food Service Provider.
- 574 D. Food Distributor.
- 575 E. Wholesale Food Vendor.

576 If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator
577 differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this
578 Agreement.

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

- 581 A. Restaurant with 250 or more seats, or a total facility size equal to or greater than
582 5,000 square feet.
- 583 B. Hotel with an on-site food facility and 200 or more rooms.

- 584 C. Health facility with an on-site food facility and 100 or more beds.
- 585 D. Large Venue.
- 586 E. Large Event.
- 587 F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility
- 588 size equal to or greater than 5,000 square feet.
- 589 G. A local education agency with an on-site food facility.

590 If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator
591 differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this
592 Agreement.

593 **“Tipping Fee”** shall mean the Rate or Tipping Fee charged for each Ton or unit of material
594 delivered to the Designated Disposal Facility or the Approved Recyclable Materials Processing
595 Facility. The Parties acknowledge that the timing of changes to the Tipping Fees that are not
596 owned or operated by Contractor or their Subcontractor may not align with the review and
597 adjustment of Rates under this Agreement. In the event that the Contractor begins to pay new
598 Tipping Fees at another facility approved by the County, other than one owned and operated by
599 Contractor or their Subcontractor, prior to the adjustment of Rates under this Agreement, the
600 adjustment to the Rate Adjustment Factor may consider that period. Alternatively, the County
601 reserves the right to adjust Rates at any time during the year in order to address changes in
602 Tipping Fees alone without adjusting any other component of Rates. The “current approved”
603 Tipping Fees shall be the Tipping Fees in place on January 1 immediately preceding the submission
604 of the Rate Application.

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

607 **“Total Contractor’s Compensation”** shall mean the total amount to be used as a basis for
608 determining the Rate Adjustment Factor. The Total Contractor’s Compensation does not reflect
609 or in any way guarantee the Gross Receipts that are to be generated by Rates or retained by the
610 Contractor.

611 **“Trade Secret”** means information, including a formula, pattern, compilation, program, device,
612 method, technique, or process, that: (1) derives actual independent economic value from not
613 being generally known to the public or to other persons who can obtain economic value from its
614 disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to
615 maintain its secrecy.

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

619 **“Transport” or “Transportation” (or any variation thereof)** means the act of conveyance from
620 one place to another or state of being Transported.

621 **“Uncontrollable Circumstance”** means one (1) or more of the following specified acts, events, or
622 conditions, whether affecting the Operating Assets, the approved Processing Facility, the
623 Designated Disposal Facility, the County, or the Contractor, to the extent that it materially and
624 adversely affects the ability of the Contractor to perform any obligation under the Agreement
625 (except for payment obligations), if such act, event or condition is beyond the reasonable control,
626 and is not also the result of the willful or negligent act, error, or omission or failure to exercise
627 reasonable diligence on the part of the Contractor, provided however, that the contesting in good
628 faith or the failure in good faith to contest such action or inaction shall not be construed as willful
629 or negligent action or a lack of reasonable diligence of the Contractor:

630 A. An act of God or other catastrophic event (but not including reasonably
631 anticipated weather conditions for the County), including but not limited to
632 hurricane, landslide, lightning, pandemic, epidemic, earthquake, fire, explosion,
633 flood, sabotage or similar occurrence, acts of a public enemy, extortion, war,
634 blockade or insurrection, riot or civil disturbance.

635 B. Preemption of materials or services by a Governmental Body in connection with
636 a public emergency or any condemnation or other taking by eminent domain of
637 any portion of the Operating Assets.

638 C. The first seven (7) days of a strike, work stoppage, or other labor dispute or
639 disturbance occurring with respect to any activity performed or to be performed
640 by the Contractor or any of the Contractor's Subcontractors in connection with
641 the Operating Assets or the Collection Services, provided the Contractor has
642 implemented a contingency plan satisfactory to the County Contract Manager.

643 D. Any act, event, or circumstance occurring outside of the United States that is well
644 known and has a materially and significant impact on this Agreement.

645
646 It is specifically understood that only the acts or conditions specified above shall constitute
647 Uncontrollable Circumstances. Without limiting the generality of the foregoing, the Parties
648 acknowledge that none of the following acts or conditions shall constitute Uncontrollable
649 Circumstances:

650 A. General economic conditions, interest or inflation rates, currency fluctuations or
651 changes in the cost or availability of fuel, commodities, supplies, or equipment.

652 B. Changes in the financial condition of the County, the Contractor, or any of its
653 Affiliates, or any Subcontractor affecting their ability to perform their obligations.

654 C. The consequences of errors, neglect, or omission by the Contractor, any of its
655 Affiliates, or any Subcontractor of any tier in the performance of the Collection
656 Services.

657 D. The failure of the Contractor to secure patents or licenses in connection with the
658 technology necessary to perform its obligations hereunder.

- 659 E. Union work rules, requirements, or demands which have the effect of increasing
660 the number of employees employed in connection with the Operating Assets, or
661 otherwise increase the cost to the Contractor of operating and maintaining the
662 Operating Assets or providing the Collection Services.
- 663 F. Any strikes, work stoppages, or other labor disputes or disturbances occurring
664 with respect to any activity performed or to be performed by the Contractor or
665 any of the Contractor's Subcontractors in connection with the Operating Assets
666 or the Collection Services and which last beyond seven (7) days.
- 667 G. Any failure of any Subcontractor to furnish labor, materials, service, or equipment
668 for any reason.
- 669 H. Vehicle or equipment failure.
- 670 I. Any impact of prevailing wage law, customs, or practices on the Contractor's
671 construction or operating costs; or,

672

673 **"Universal Collection Area"** mean the area(s) established by the County Board of Supervisors
674 under Section 8.28.081 of the County Code where Generators are required to subscribe to
675 Collection service.

676 **"Universal Waste (U-Waste)"** means all wastes as defined by Title 22, Subsections 66273.1
677 through 66273.9 of the California Code of Regulations. These include, but are not limited to,
678 batteries, fluorescent light bulbs, mercury switches, and E-Waste.

679 **"Urban Service Area"** means that portion of the Contractor's Service Area generally with a
680 minimum of forty (40) Generators per square mile, or as otherwise determined by the County
681 based on serviceability, and as described in Exhibits J and K.

682 **"Vehicle"** means any truck, rolling stock, or other Vehicle used by the Contractor in connection
683 with Collection or Transportation Services.

684 **"Working Day"** means any day other than Sunday or a holiday designated as per Section 5.5.D.

685

686 **ARTICLE 2: GRANT AND ACCEPTANCE OF EXCLUSIVE FRANCHISE**

687 **Section 2.1: Grant and Limitations of Exclusive Franchise**

688 A. **General.** By the signing of this Agreement, the County grants to Contractor, and Contractor accepts,
689 an exclusive franchise within the County jurisdiction identified in Exhibits J and K (the "Service
690 Area"). Subject to the limitations provided by law and described in the County Code, the franchise
691 granted to Contractor shall provide the Contractor the right and privilege within the defined Service
692 Area to Collect, Transport, handle, Process, Recycle, and/or Dispose of Discarded Materials
693 (including Organic Materials, Recyclable Materials, Solid Waste, and Construction & Demolition

694 Debris) generated by Residential Premises and Non-Residential Premises, as specifically set out in
695 the scope of services described in Article 5 of this Agreement and subject to the limitations
696 described below in Section 2.1.B, and except where otherwise precluded by Federal, State, and local
697 laws and regulations.

698 **B. Limitations of Scope.** This Restated Exclusive Solid Waste Franchise Agreement shall not preclude
699 the categories of Solid Waste, Recyclable Materials, and Organic Materials listed below from being
700 delivered to and Collected and Transported by others; provided however, that nothing in this
701 Agreement is intended to, or shall be construed to, excuse any Person from obtaining any
702 authorization from the County which is otherwise required by law:

703 1. Recyclable Materials. Other Persons shall maintain the right to accept donated Recyclable
704 Materials and to compensate the service recipient for Recyclable Materials so long as there is
705 no net payment made by the service recipient to such other person.

706 2. Self-Hauled Materials. Persons whose Premise is outside of the Universal Collection Area may
707 self-haul, for Disposal or Processing, Discarded Materials generated in or on their own
708 Premises. Persons whose Premise is located within a Universal Collection Area may self-haul,
709 for Disposal or Processing, Discarded Materials generated in or on their own Premises
710 provided that they also shall be responsible for maintaining a minimum level of service from
711 a franchise hauler to ensure that the County's obligation to public health and safety is met.

712 3. Donated Materials. Any items which are donated by the Generator to youth, civic, or
713 charitable organizations.

714 4. Beverage Containers. Containers delivered for Recycling under the California Beverage
715 Container Recycling and Litter Reduction Act, Section 14500, et seq. California Public
716 Resources Code.

717 5. Materials Removed by Customer's Contractor as Incidental Part of Services. Discarded
718 Materials removed from a Premises by a contractor (e.g., gardener, landscaper, tree-trimming
719 service, construction contractor, property maintenance, and/or cleaning service), as an
720 incidental part of the service being performed.

721 6. Animal, Grease Waste, and Used Cooking Oil. Animal waste and remains from slaughterhouse
722 or butcher shops, grease, or used cooking oil.

723 7. Sewage Treatment By-Product. By-products of sewage treatment, including sludge, sludge
724 ash, grit, and screenings.

725 8. Excluded Waste. Excluded Waste regardless of its source.

726 9. Materials Generated by Exempted Generators or Facilities. Materials generated or collected
727 by those that are exempted by law from County regulation, including but not limited to, public
728 agencies, the State, and/or Federal facilities.

729 10. Edible Food. Edible food which is collected from a Generator by other Person(s), such as a
730 Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food
731 Recovery; or which is transported by the Generator to another Person(s), such as a Person

732 from a Food Recovery Organization or Food Recovery Service, for the purposes of Food
733 Recovery, regardless of whether the Generator donates, sells, or pays a fee to the other
734 Person(s) to collect or receive the Edible Food.

735 11. Food Scraps. Food Scraps that are separated by the Generator and used by the Generator or
736 distributed to other Person(s) for lawful use as animal feed, in accordance with 14 CCR Section
737 18983.1(b)(7). Food Scraps intended for animal feed may be Self-Hauled by Generator or
738 hauled by another party.

739 12. On-Site or Community Composting. Organic Waste that is composted or otherwise legally
740 managed at the site where it is generated or at a Community Composting site.

741 Contractor acknowledges and agrees that the County may permit other Persons besides the Contractor
742 to Collect any and all types of materials excluded from the scope of this Agreement, as set forth above,
743 without seeking or obtaining approval of Contractor. If Contractor can produce evidence that other
744 Persons are servicing Collection Containers or are Collecting and Transporting Discarded Materials that
745 are included under the scope of this Agreement in a manner that is not consistent with this Agreement or
746 the County Code, it shall report the location where the service is being provided, the name and phone
747 number of the Person or company providing the service, and the Contractor's evidence to the County
748 Contract Manager. In such case, the County may, but is not required, to notify the Generator and Person
749 providing service of Contractor's rights under this Agreement. Contractor acknowledges and agrees that
750 the County is under no legal or contractual duty to take any action against any Generator, and/or Person
751 providing the service, that the Contractor believes is infringing upon the provisions in this Agreement or
752 County Code and this Agreement does not provide an independent basis for any actions by the Contractor
753 against such a third party. It is likewise acknowledged that notwithstanding the provisions in this
754 Agreement, the County may, at its sole discretion, make a determination that the Generator and/or
755 Person is not operating in violation of County rules, regulations or Ordinances.

756 This Agreement shall be interpreted to be consistent with then Applicable Law, now and during the Term
757 of the Agreement as the Law may change from time to time. If future judicial interpretations of current
758 law or new laws, regulations, or judicial interpretations limit the ability of the County to lawfully charge
759 or contract for the scope of services in the manner and consistent with all provisions as specifically set
760 forth herein, Contractor agrees that the scope of the Agreement will be limited to those services and
761 materials which may be lawfully included herein and that the County shall not be responsible for any lost
762 profits and/or other losses claimed by Contractor to arise out of limitations to the scope or provisions of
763 the Agreement set forth herein. In such an event, it shall be the responsibility of Contractor to minimize
764 the financial impact of such future judicial interpretations or new laws and the Contractor may meet and
765 confer with County and may petition for the attempted processing of a Rate adjustment pursuant to
766 Article 12, but the Contractor is not guaranteed such a Rate adjustment.

767 **ARTICLE 3: REPRESENTATIONS AND WARRANTIES**
768 **OF THE PARTIES**

769 **Section 3.1: Representations and Warranties**

770 The Parties, by acceptance of this Agreement, represent and warrant that:

- 771 A. **Existence and Powers.** The Parties are duly organized and validly existing as a corporation under
772 the laws of the State of California, with full legal right, power, and authority to enter into and
773 perform their obligations under this Agreement.
- 774 B. **Due Authorization and Binding Obligation.** The Parties have duly authorized the execution and
775 delivery of this Agreement. This Agreement has been duly executed and delivered and constitutes
776 the legal, valid, and binding obligation of the Parties, enforceable against the Parties in accordance
777 with its terms, except insofar as such enforcement may be affected by bankruptcy, insolvency,
778 moratorium, and other laws affecting creditors' rights generally.
- 779 C. **No Conflict.** Neither the execution, nor the performance by the Parties of their obligations under
780 this Agreement: (1) conflicts with, violates, or results in a breach of any law or governmental
781 regulations applicable to either Party; or, (2) conflicts with, violates, or results in a breach of any
782 term or condition of any judgment, decree, franchise, agreement (including, without limitation, the
783 certificate of incorporation of the Contractor), or instrument to which the Contractor or any Affiliate
784 is a party or by which the Contractor or any Affiliate or any of their properties or assets are bound,
785 or constitutes a default under any such judgment, decree, agreement, or instrument. The
786 Contractor is aware of Conflicts of Interests laws including, but not limited to, the provisions and
787 regulations of common law and the Political Reform Act. Likewise, the Parties have read and are
788 aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the California
789 Government Code and the associated sections of the California Code of Regulations relating to
790 conflicts of interest for public officers and employees and the Contractor acknowledges that said
791 laws may change from time to time and at all times the Contractor shall abide by said laws and the
792 failure to do so would be a material breach of this Agreement. Contractor represents that it has
793 performed its due diligence in this regard and it is unaware of any financial or economic interest of
794 any public officer or employee of the County relating to this Agreement.
- 795 D. **No Litigation.** There is no action, suit, or other proceeding as of the Agreement Date, at law or in
796 equity, before or by any court or governmental authority, pending, or to the Parties' best
797 knowledge, threatened against either Party which is likely to result in an unfavorable decision,
798 ruling, or finding which would materially and adversely affect the validity or enforceability of this
799 Agreement or any such agreement or instrument entered into by either Party in connection with
800 the transactions contemplated hereby, or which would materially and adversely affect the
801 performance by that Party of its obligations hereunder or by the Contractor under any such other
802 agreement or instrument.
- 803 E. **No Legal Prohibition.** The Parties have no knowledge of any Applicable Law in effect on the
804 Agreement Date which would prohibit the performance by either Party of this Agreement and the
805 transactions contemplated hereby.

806

- 807 F. **Contractor's Investigation.** Contractor has made an independent investigation (satisfactory to it) of
808 the conditions and circumstances surrounding the Agreement and the work to be performed
809 hereunder. Contractor has taken such matters into consideration in entering this Agreement to
810 provide services in exchange for the compensation provided for under the terms of this Agreement.
- 811 G. **Ability to Perform.** Contractor possesses the business, professional, and technical expertise to
812 Collect, Transport, handle, Process, Recycle, and Dispose of all Discarded Materials (including Solid
813 Waste, Organic Materials, Recyclable Materials, and Construction & Demolition Debris); and
814 Contractor possesses the equipment, facility, and employee resources required to perform this
815 Agreement. If Contractor does not possess such resources, Contractor must have an agreement in
816 writing (a Subcontract) signed by the parties to be bound for such services necessary to insure
817 Contractor's full performance under this Agreement. Any and all Subcontracts shall be included in
818 Exhibit H or later approval shall be requested from County's Contract Manager for a change in
819 Subcontract or Subcontractor. Subcontractors shall be strictly held to the provisions of this
820 Agreement and any breach of said provisions shall be deemed a material breach by the Contractor.
- 821 H. **Voluntary Use of Designated Disposal Facilities.** The Contractor, without constraint and as a free-
822 market business decision in accepting this Agreement, agrees to use the Designated Disposal Facility
823 for the purposes of Disposing of all Solid Waste Collected in the County, and the other Designated
824 Facilities for the relevant Transfer, Transport, and Processing of Discarded Materials. Such decision
825 by Contractor in no way constitutes a restraint of trade notwithstanding any change in law regarding
826 Flow Control limitations or any definition thereof.

827

828

ARTICLE 4: TERM OF AGREEMENT

829 Section 4.1: Term of Agreement

830 The Term of this Agreement is from the Agreement Date through June 30, 2043, and shall continue in full
831 force during that period, unless earlier termination is initiated pursuant to this Agreement and/or the
832 operation of Federal or State law and/or any applicable statute.

833 Section 4.2: Reserved

834 Section 4.3: Termination for Failure to Implement Services

835 The Contractor has agreed herein, through either its own labor, equipment, and facilities or facilities
836 provided by others, to provide each and every one of the services set forth in this Agreement and to
837 implement each and every one of the various programs set forth in this Agreement. Moreover, it is
838 understood and agreed that the County may require the Contractor to provide additional services or
839 implement additional programs in accordance with changes in Applicable Law. Contractor's failure to
840 follow directions of the County Contract Manager and/or the Contractor's failure implement and maintain
841 provision of all the services described in this Agreement for any reason, shall constitute an Event of Default
842 in accordance with Section 14.1 hereof. Notwithstanding the foregoing, nothing in this Agreement shall
843 be construed to prohibit and or limit the County's legal ability to contract with others for the services
844 provided herein.

845

ARTICLE 5: SCOPE OF SERVICES

846 Contractor shall perform the services described in this Article 5. This Article 5 describes the requirements
847 for the services to be provided including the types and sizes of Containers to be provided by Contractor,
848 available Service Levels and frequencies, acceptable and prohibited materials, and any additional services
849 to be provided to Customers. Failure to specifically require an act necessary to perform the service does
850 not relieve Contractor of its obligation to perform such act.

851 **Section 5.1: Single-Family Services in a Universal Collection Area**

852 Contractor shall provide the services described in this Section 5.1 to any Single-Family Customer located
853 within a Universal Collection Area in the unincorporated area of the County. Container sharing between
854 Single-Family Customers will not be allowed. The rate for a three Container system will be approved by
855 the County and will include Solid Waste, Recyclable Materials and Organic Materials collection. Charges
856 for these services will be collected with residential property taxes as defined by the County Ordinance
857 and/or Resolution for the Service Area.

858 **Three-Container System**

859 A. **Solid Waste Collection.** Contractor shall Collect Solid Waste one (1) time per week in Contractor-
860 provided Containers from Single-Family Customers and Transport all Solid Waste to the Designated
861 Disposal Facility for Disposal.

| | | |
|-----|------------------------------|---|
| 862 | Containers: | Carts |
| 863 | Container Sizes: | 96-gallons (or similar size) |
| 864 | Service Frequency: | One (1) time per week |
| 865 | Service Location: | Curbside |
| 866 | Acceptable Materials: | Solid Waste |
| 867 | Prohibited Materials: | Recyclable Materials, Organic Materials, Excluded Waste |
| 868 | Additional Service: | Contractor shall provide additional Solid Waste Carts to Residential |
| 869 | | Customers upon request and may charge the "Additional Solid Waste |
| 870 | | Cart" Rate approved by the County. Payment for the additional cart will |
| 871 | | be direct billed by the Contractor. Contractor may provide Bin service |
| 872 | | upon Customer request and may charge the "Residential Bin" Rate |
| 873 | | approved by the County. Any incremental payment required for the Bin |
| 874 | | Rate will be direct billed by the Contractor. Contractor shall provide |
| 875 | | modified services for Disabled Customers, at no additional charge, in |
| 876 | | accordance with Section 5.8.A. |

877 B. **Recyclable Materials Collection.** Contractor shall Collect Recyclable Materials one (1) time every
878 other week in Contractor-provided Containers from Single-Family Customers and Transport all
879 Recyclable Materials to the Approved Recyclable Materials Processing Facility for Processing.
880 Contractor shall provide Recyclable Material Collection services at no additional charge to
881 Customers located in a Universal Collection Area.

| | | |
|-----|---------------------------|-------------------------------|
| 882 | Containers: | Carts |
| 883 | Container Sizes: | 96-gallons (or similar size) |
| 884 | Service Frequency: | One (1) time every other week |

885 **Service Location:** Curbside
886 **Acceptable Materials:** Recyclable Materials
887 **Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste
888 **Additional Service:** Contractor shall provide one (1) additional Recyclable Materials Cart to
889 Residential Customers upon request and may charge the “Additional
890 Recycling Cart” Rate approved by the County for any Carts requested by
891 a Residential Customer. Payment for the additional cart will be direct
892 billed by the Contractor. Contractor shall provide modified services for
893 Disabled Customers, at no additional charge, in accordance with Section
894 5.8.A.

895 C. **Organic Materials Collection.** Contractor shall Collect Organic Materials one (1) time per week in
896 Contractor-provided Containers from Single-Family Customers and Transport all Organic Materials
897 to the Designated Organic Waste Processing Facility for Processing.

898 **Containers:** Carts
899 **Container Sizes:** 96-gallons (or similar size)
900 **Service Frequency:** One (1) time every week
901 **Service Location:** Curbside
902 **Acceptable Materials:** Organic Materials
903 **Prohibited Materials:** Solid Waste, Recyclable Materials, Excluded Waste
904 **Additional Service:** Contractor shall provide additional Organic Materials Carts to Customers,
905 upon request, and may charge the “Additional Organic Materials Cart”
906 Rate approved by the County. Payment for the additional cart will be
907 direct billed by the Contractor. Contractor shall provide modified services
908 for Disabled Customers, at no additional charge, in accordance with
909 Section 5.8.A.
910 **Other Requirements:** Single-Family Customers shall be permitted to place Compostable Plastics
911 and Organic Materials contained in Compostable Plastic Bags in the
912 Organic Materials Container for Collection. Contractor shall Collect these
913 materials and submit the required Compostable Plastic Processing
914 notification and education plan, if applicable, as required under Section
915 6.2.2.

916 **Section 5.2: Commercial and Multi-Family Services in a Universal Collection**
917 **Area**

918 Contractor shall provide the services described in this Section 5.2 to any Commercial or Multi-Family
919 Customer located within a Universal Collection area in the unincorporated area of the County. Charges
920 for the Multi-Family Services may be collected on the property tax rolls as determined by the County and
921 defined by ordinance for the Service Area. Charges for Commercial Customers will be direct billed by the
922 Contractor.

923 **Three-Container System**

924 A. **Solid Waste Collection.** Contractor shall Collect Solid Waste not less than one (1) time per week in
925 Contractor-provided Containers from Commercial and Multi-Family Customers and Transport all
926 Solid Waste to the Designated Disposal Facility for Disposal.

927 **Containers:** Carts, Bins, Roll-Off Containers
928 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5- 2-, 3-, 4-, and 6- cubic yard Bins;
929 and Roll-Off Containers. Container size to be negotiated between the
930 Customer and the Contractor based on Customer need and Container
931 availability.
932 **Service Frequency:** Up to six (6) times per week but not less than one (1) time per week, as
933 requested by Customer
934 **Service Location:** Curbside; or other Customer-selected service location at the Commercial
935 or Multi-Family Premises.
936 **Acceptable Materials:** Solid Waste
937 **Prohibited Materials:** Recyclable Materials, Organic Materials, Excluded Waste
938 **Additional Service:** Upon Customer request and to accommodate periodic additional service
939 needs, Contractor shall provide collection service at a greater frequency
940 than the Customer’s regularly scheduled service, up to the maximum
941 Service Level and Contractor may charge the appropriate rate for the
942 higher Service Level.
943 Contractor shall not schedule County Solid Waste Collection service on
944 Sunday, except as authorized by the County.
945 **Other Requirements:** Contractor shall, at Customer’s request and for an additional charge
946 approved by the County, open and close gates, lock or unlock customer
947 enclosures, or perform other services as reasonably necessary to access
948 and empty and Containers. Contractor shall establish a minimum
949 combined Service Level of 150-gallons per dwelling unit per week for
950 Multiple-Unit Dwellings.

951 B. **Recyclable Materials Collection.** Contractor shall Collect Recyclable Materials not less than one (1)
952 time every other week in Contractor-provided containers from Commercial and Multi-Family
953 Customers and Transport all Recyclable Materials to the Approved Recyclable Materials Processing
954 Facility for Processing.

955 **Containers:** Carts, Bins, Roll-Off Containers
956 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5-,2-, 3-, 4-, and 6- cubic yard Bins;
957 and Roll-Off Containers. Container size to be negotiated between the
958 Customer and the Contractor based on Customer need and Container
959 availability.
960 **Service Frequency:** Up to six (6) times per week but not less than one (1) time per week, as
961 requested by Customer, unless the Customer has been granted a
962 Collection frequency waiver pursuant to Section 8.6.
963 **Service Location:** Curbside or other Customer-selected service location at the Customer’s
964 Premises
965 **Acceptable Materials:** Recyclable Materials
966 **Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste
967 **Additional Service:** Upon Customer request and to accommodate periodic additional service
968 needs, Contractor shall provide Collection service at a greater frequency
969 than the Customer’s regularly scheduled service, up to the maximum
970 Service Level and Contractor may charge the appropriate Rate for the
971 higher Service Level.

972 Contractor shall not schedule County Solid Waste Collection service on
973 Sunday, except as authorized by the County.

974 **Other Requirements:** Contractor shall, at Customer's request and for an additional charge
975 approved by the County, open and close gates, lock and unlock
976 enclosures, or perform other services as reasonably necessary to access
977 and empty Containers.

978 C. **Organic Materials Collection.** Contractor shall collect Organic Materials not less than one (1) time
979 per week in Contractor-provided Containers from Commercial and Multi-Family Customers and
980 Transport all Organic Materials to the Approved Organic Waste Processing Facility for Processing.

981 **Containers:** Carts, Bins, Roll-Off Containers
982 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5-, 2-, and 3-cubic yard Bins; and
983 Roll-Off Containers. Container size to be negotiated between the
984 Customer and the Contractor based on Customer need and Container
985 availability.

986 **Service Frequency:** Up to six (6) times per week but not less than one (1) time per week, as
987 requested by Customer

988 **Service Location:** Curbside or other Customer-selected service location at the Customer's
989 Premises.

990 **Acceptable Materials:** Organic Materials

991 **Prohibited Materials:** Solid Waste, Recyclable Materials, Excluded Waste.

992 **Additional Service:** Upon Customer request and to accommodate periodic additional
993 service needs, Contractor shall provide Collection service at a greater
994 frequency than the Customer's regularly scheduled service, up to the
995 maximum Service Level and Contractor may charge the appropriate
996 Rate for the higher Service Level.

997 **Other Requirements:** Commercial and Multi-Family Customers shall be permitted to place
998 Compostable Plastics and Organic Materials contained in Compostable
999 Plastic Bags in the Organic Materials Container for Collection.
1000 Contractor shall Collect these materials and submit the required
1001 Compostable Plastic Processing notifications and education plan, if
1002 applicable, as required under Section 6.2.2.

1003
1004 D. **Mixed C&D Collection and Processing.** Contractor shall Collect mixed C&D material from Customers
1005 requesting such service on an on-call basis during the course of permitted construction and/or
1006 demolition projects within the County.

1007 Contractor recognizes that non-franchised haulers are also permitted to haul C&D wastes where
1008 the waste is being removed as part of the abatement of a public nuisance or dangerous condition
1009 at the direction of the County or if the waste is being removed as part of remodeling, repair,
1010 demolition, cleanup or construction project for a property owner and/or the contractor and/or
1011 subcontractor is using his own equipment and employees.

1012 Contractor shall deliver mixed C&D Collected from Customers to the Approved C&D Processing
1013 Facility where the mixed materials will be sorted for Recycling. Such Processing Facility shall be
1014 selected by the Contractor; however, the Contractor must demonstrate to the satisfaction of the
1015 County that the Processing Facility consistently Recycles a minimum of sixty-five percent (65%) of

1016 all mixed C&D Processed under this Agreement. Contractor shall ensure that the Approved C&D
1017 Processing Facility is able to recover Organic Waste from the C&D in a manner deemed not to
1018 constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a). Contractor shall comply with
1019 CalRecycle and California Building Standards Code including Part 11 California Green Building
1020 Standards Code (CALGreen) requirements for the Processing and Recycling of C&D including Organic
1021 Waste, and Chapter 17.10 of the County Code.

1022 In the event that the Approved C&D Processing Facility does not meet these performance standards,
1023 County may direct Contractor to use a different facility and such direction shall not constitute a
1024 County-directed Change in Scope. Contractor shall deliver all C&D loads to the new Approved C&D
1025 Processing Facility for Processing.

| | | |
|------|------------------------------|---|
| 1026 | Containers: | Roll-Off Containers |
| 1027 | Container Sizes: | 10 – 50 cubic yard Roll-Off Containers |
| 1028 | Service Frequency: | As requested by Customer |
| 1029 | Service Location: | Customer-selected service location |
| 1030 | Acceptable Materials: | Mixed Construction and Demolition Debris |
| 1031 | Prohibited Materials: | Excluded Waste, Solid Waste, Recyclable Materials, Organic Materials 1032 (excluding wood waste) |
| 1033 | Additional Service: | Upon request, Contractor shall provide Customers and/or the County 1034 with certification of the Recycling of mixed C&D load(s), including the 1035 types of materials in the load and the percentage of the total load that 1036 was Recycled versus Disposed, and any other information required by 1037 Applicable Law. |
| 1038 | Other Requirements: | Contractor shall, at Customer’s request and for an additional charge 1039 approved by the County, open and close gates, lock or unlock enclosures, 1040 or perform other services as reasonably necessary to access and empty 1041 Containers. |

1042 **Section 5.3: Single-Family Services in all areas other than Universal**
1043 **Collection Areas**

1044 Contractor shall provide the services described in this Section 5.3 to any Single-Family Customer not
1045 located within a Universal Collection Area or an Alternate Universal Collection Area in the unincorporated
1046 area of the County that chooses to subscribe to their service. Contractor may allow, but is prohibited
1047 from requiring Container sharing between Single-Family Customers. Rates for service will be set and
1048 approved by the County on an annual basis and will be direct billed by the Contractor.

1049 **Voluntary One-Container System**

1050 A. **Solid Waste Collection.** Contractor shall Collect Solid Waste one (1) time per week in Contractor-
1051 provided Containers from Single-Family Customers that choose to subscribe to their service and
1052 Transport all Solid Waste to the Designated Disposal Facility for disposal.

| | | |
|------|---------------------------|------------------------------|
| 1053 | Containers: | Carts |
| 1054 | Container Sizes: | 96-gallons (or similar size) |
| 1055 | Service Frequency: | One (1) time per week |
| 1056 | Service Location: | Curbside |

1057 **Acceptable Materials:** Solid Waste
1058 **Prohibited Materials:** Recyclable Materials, Organic Materials, Excluded Waste
1059 **Additional Service:** Contractor shall provide additional Solid Waste Carts to Residential
1060 Customers upon request and may charge the "Additional Solid Waste
1061 Cart" Rate approved by the County. Contractor may provide Bin service
1062 upon Customer request and may charge the "Residential Bin" Rate
1063 approved by the County.

1064 B. **Optional Recyclable Materials Collection.** At the Contractor's option, the Contractor shall Collect
1065 Recyclable Materials one (1) time every other week in Contractor-provided Containers from Single-
1066 Family Customers that subscribe to Solid Waste services and choose to also participate in Recyclable
1067 Materials Collection. Contractor shall Transport all Recyclable Materials to the Approved Recyclable
1068 Materials Processing Facility for Processing. Contractor may charge the "Recyclable Materials Cart"
1069 Rate approved by the County.

1070 **Containers:** Carts
1071 **Container Sizes:** 96-gallons (or similar size)
1072 **Service Frequency:** One (1) time every other week
1073
1074 **Service Location:** Curbside
1075 **Acceptable Materials:** Recyclable Materials
1076 **Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste
1077 **Additional Service:** Contractor shall provide one (1) Recyclable Materials Cart to Residential
1078 Customers upon request and may charge the "Recyclable Materials Cart"
1079 Rate approved by the County.

1080 C. **Optional Organic Materials Collection.** At the Contractor's option, the Contractor shall Collect
1081 Organic Materials one (1) time per week in Contractor-provided Containers from Single-Family
1082 Customers that subscribe to Solid Waste services and choose to also participate in Organic Materials
1083 Collection. The Contractor shall Transport all Organic Materials to the Designated Organic Waste
1084 Processing Facility for Processing. Contractor may charge the "Organic Materials Cart" Rate
1085 approved by the County.

1086 **Containers:** Carts
1087 **Container Sizes:** 96-gallons (or similar size)
1088 **Service Frequency:** One (1) time every week
1089 **Service Location:** Curbside
1090 **Acceptable Materials:** Organic Materials
1091 **Prohibited Materials:** Solid Waste, Recyclable Materials, Excluded Waste
1092 **Additional Service:** Contractor shall provide additional Organic Materials Carts to Customers,
1093 upon request, and may charge the "Organic Materials Cart" Rate
1094 approved by the County.
1095 **Other Requirements:** Single-Family Customers shall be permitted to place Compostable Plastics
1096 and Organic Materials contained in Compostable Plastic Bags in the
1097 Organic Materials Container for Collection.

1098 **Section 5.4: Commercial and Multi-Family Services in all Areas other than**
1099 **Universal Collection Areas**

1100 Contractor shall provide the services described in this Section 5.4 to any Commercial or Multi-Family
1101 Customer not located within a Universal Collection area or an Alternate Universal Collection Area in the
1102 unincorporated area of the County that chooses to subscribe to their service.

1103 **Voluntary One-Container System**

1104 A. **Solid Waste Collection.** Contractor shall Collect Solid Waste in Contractor-provided Containers as
1105 requested by the Customer from Commercial and Multi-Family Customers that choose to subscribe
1106 to their service and Transport all Solid Waste to the Designated Disposal Facility for Disposal.

1107 **Containers:** Carts, Bins and Roll-Off Containers
1108 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5-, 2-, 3-, 4-, and 6- cubic yard Bins;
1109 and Roll-Off Containers. Container size to be negotiated between the
1110 Customer and the Contractor based on Customer need and Container
1111 availability
1112 **Service Frequency:** Up to six (6) times per week, as requested by Customer
1113 **Service Location:** Curbside; or other Customer-selected Service Location at the Commercial
1114 or Multi-Family Premises
1115 **Acceptable Materials:** Solid Waste
1116 **Prohibited Materials:** Recyclable Materials, Organic Materials, Excluded Waste
1117 **Additional Service:** Contractor shall not schedule County Solid Waste Collection service on
1118 Sunday, except as authorized by the County.
1119 **Other Requirements:** Contractor shall, at Customer’s request and for an additional charge
1120 approved by the County, open and close gates, lock or unlock Customer
1121 enclosures, or perform other services as reasonably necessary to access
1122 and empty containers.

1123 B. **Optional Recyclable Materials Collection.** Contractor shall Collect Recyclable Materials in
1124 Contractor-provided Containers as requested from Commercial and Multi-Family Customers that
1125 subscribe to Solid Waste Collection service and choose to also participate in Recyclable Materials
1126 Collection. Contractor shall Transport all Recyclable Materials to the Approved Recyclable Materials
1127 Processing Facility for Processing.

1128 **Containers:** Carts, Bins, Roll-Off Containers
1129 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5-, 2-, 3-, 4-, and 6- cubic yard Bins;
1130 and Roll-Off Containers. Container size to be negotiated between the
1131 Customer and the Contractor based on Customer need and Container
1132 availability
1133 **Service Frequency:** Up to six (6) times per week, as requested by Customer
1134 **Service Location:** Curbside or other Customer-selected service location at the Customer’s
1135 Premises
1136 **Acceptable Materials:** Recyclable Materials
1137 **Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste
1138 **Additional Service:** Upon Customer request and to accommodate periodic additional service
1139 needs, Contractor shall provide Collection service at a greater frequency

1140 than the Customer’s regularly scheduled service, up to the maximum
 1141 Service Level and Contractor may charge the appropriate Rate for the
 1142 higher Service Level.
 1143 Contractor shall not schedule County Solid Waste Collection service on
 1144 Sunday, except as authorized by the County.
 1145 **Other Requirements:** Contractor shall, at Customer’s request and for an additional charge
 1146 approved by the County, open and close gates, lock and unlock
 1147 enclosures, or perform other services as reasonably necessary to access
 1148 and empty Containers.

1149 C. **Optional Organic Materials Collection.** Contractor shall Collect Organic Materials in Contractor-
 1150 provided Containers as requested from Commercial and Multi-Family Customers that subscribe to
 1151 Solid Waste Collection service and choose to also participate in Organic Materials Collection.
 1152 Contractor shall Transport all Organic Materials to the Approved Organic Waste Processing Facility
 1153 for Processing.

1154 **Containers:** Carts, Bins, Roll-Off Containers
 1155 **Container Sizes:** 96-gallon Carts (or similar size); 1-, 1.5-, 2-, and 3-cubic yard Bins; and
 1156 Roll-Off Containers. Container size to be negotiated between the
 1157 Customer and the Contractor based on Customer need and Container
 1158 availability
 1159 **Service Frequency:** Up to six (6) times per week
 1160 **Service Location:** Curbside or other Customer-selected Service Location at the Customer’s
 1161 Premises
 1162 **Acceptable Materials:** Organic Materials
 1163 **Prohibited Materials:** Solid Waste, Recyclable Materials, Excluded Waste.
 1164 **Additional Service:** Upon Customer request and to accommodate periodic additional
 1165 service needs, Contractor shall provide Collection service at a greater
 1166 frequency than the Customer’s regularly scheduled service, up to the
 1167 maximum Service Level and Contractor may charge the appropriate
 1168 Rate for the higher Service Level.
 1169 **Other Requirements:** Commercial and Multi-Family Customers shall be permitted to place
 1170 Compostable Plastics and Organic Materials contained in Compostable
 1171 Plastic Bags in the Organic Materials Container for Collection.
 1172

1173 **Section 5.5: Collection Service Operating Requirements**

1174 A. **Regular Hours of Service.** The Contractor shall schedule no Collections from any Premises on any
 1175 day earlier than 5:00 a.m. or later than 7:00 p.m. provided, however, that the County may, at its
 1176 sole discretion, change the Collection time as required by the needs of the Customers or the
 1177 Contractor.

1178 B. **Emergency Service.** Collection of Solid Waste necessitated by an emergency, which the County
 1179 Contract Manager determines threatens the public health and safety within the County, will be
 1180 made by the Contractor at the direction of the County Contract Manager. Such Emergency Services
 1181 may be required outside of the regular Collection hours and schedule. If the County requests the
 1182 Contractor to provide Emergency Services, the Contractor will use the Contractor's good faith best

1183 efforts to respond to such a request. The County shall reimburse the Contractor for all actual,
1184 documented, and necessary additional costs incurred in order to comply with the provisions of this
1185 Section 5.5.B provided that Contractor maintains and supplies complete and proper documentation
1186 for said costs.

1187 C. **Noise Levels.** The Contractor shall perform the Collection Services in a manner that minimizes the
1188 noise resulting from its equipment and personnel and shall ensure that it is in compliance with
1189 Applicable Law and the County Code.

1190 D. **Holidays.** Collection of Discarded Materials shall not be required on the following legal holidays:
1191 New Year's Day, Easter Sunday, Independence Day, Thanksgiving Day, and Christmas Day, except in
1192 case of emergency or as otherwise required by the County Contract Manager. Whenever a regular
1193 Collection falls on such a holiday, the Collection shall be made on the following working day, and
1194 Collections throughout the County shall become current within one (1) week thereafter. Written
1195 notice of this policy shall be provided to Customers no more than thirty (30) days prior to such
1196 alternative service day. Collection shall not be rescheduled when the holiday falls on a Saturday or
1197 Sunday, unless otherwise agreed to by the County and the Contractor.

1198 E. **Preservation of Public Health and Safety.** The Contractor shall at all times operate in such a manner
1199 as to protect the public health and safety. The Contractor agrees to establish procedures and
1200 educate its employees as to such procedures regarding proper methods for the protection of the
1201 general public, including, but not limited to, arranging for the proper and legal Disposal of hazardous
1202 substances encountered during its performance under this Agreement.

1203 F. **Routing.** The County has a legal duty and obligation to ensure that the Contractor is performing the
1204 required services in an efficient and cost-effective manner. As such, the Contractor shall establish
1205 and maintain Collection Routes in such a manner as to provide for the uniform and efficient
1206 Collection of Discarded Materials from all Customers. The Contractor shall provide the County with
1207 its Collection Routes for approval by the County Contract Manager within 45 days of entering into
1208 this Agreement. The Collection Routes submission shall at a minimum show the geographical area
1209 to be covered by the route, the estimated timeframe for collections, and the number and types of
1210 services that will be collected.

1211 Once approved, the Contractor may make adjustments to the approved Collection Routes provided
1212 that the Contractor provides written notice the County Contract Manager at least 45 days prior to
1213 the change. Written notice shall be provided to those effected by the change at least 30 days prior
1214 to the change effecting their service. If the Contractor changes service days for over five percent
1215 (5%) of Customers on a given Route over a cumulative twelve (12) month period, the Contractor
1216 shall seek County approval for such a change and in doing so the Contractor shall provide no less
1217 than ninety (90) days' advance written notice to the County and the County may require Contractor
1218 to perform additional outreach prior to County approval of such service day changes.

1219 G. **Commingling Prohibition.**

1220 The Contractor shall not commingle County Collection Routes with Routes serving incorporated
1221 Cities and/or local agency waste management jurisdictions. However, if for reasons of efficiency,
1222 economy, or regulatory compliance it is impractical to keep Collection Routes separate, the
1223 Contractor may seek written approval to commingle County Collection Routes BUT may only
1224 commingle the routes after receiving said approval from the County Contract Manager. If the

1225 Routes are commingled, the Contractor shall submit to the County a detailed report setting forth
1226 accurate account information from each Customer (both County and non-County) on the
1227 commingled Routes, upon County request and in accordance with Exhibit D and/or any other
1228 reports and submittals required in the County Contract Manager’s written approval. The County
1229 Contract Manager’s written approval may be modified, amended, and/or rescinded from time to
1230 time at the sole discretion of the County Contract Manager.

1231 **Section 5.6: Other Discarded Materials Services**

1232 A. **Bulky Waste Collection.** Contractor shall offer curbside Bulky Waste Collection Services to all Single-
1233 Family and Multi-Family Customers at no additional charge in the Contractor’s Discarded Materials
1234 Service Area at least one time per month on a call-in basis. Contractor shall collect bulky waste
1235 within one week of the call to request the service.

1236 Contractor shall Collect Bulky Waste from the Customer’s curbside location and Transport the Bulky
1237 Waste to the specified processing area at the Designated Disposal Facility.

- 1238 **Containers:** Not applicable
- 1239 **Service Level:** Call-in curbside pick-up service for Bulky Waste items
- 1240 **Service Frequency:** Up to twelve (12) pickups per year on a call-in basis for Single-Family
1241 and Multi-Family Customers.
- 1242 **Service Location:** Curbside; side of street if no curb; at the normal Discarded Materials
1243 Collection location; or other agreed-upon location if impractical to place
1244 items curbside.
- 1245 **Acceptable Materials:** Two large items per pickup of Bulky Waste- which may include E-Waste.
1246 Bulky items that have multiple pieces (such as a sectional couch or a
1247 dining set) will be considered to be a single item.
- 1248 **Prohibited Materials:** Excluded Waste, C&D, Green Waste, liquid waste, manure, tires, vehicle
1249 parts, pressurized containers, or any single item that exceeds five
1250 hundred (500) lbs. in weight.
- 1251 **Additional Service:** Contractor shall host up to four (4) Bulky Waste Collection events per
1252 year, at multiple sites within the unincorporated area of the County at
1253 the request of the County Contract Manager.
1254 The Contractor shall provide an annual tracking report of locations and
1255 tonnage of Bulky Items Collected.
- 1256 **Other Requirements:** The Contractor shall coordinate Bulky Waste Collection services for Multi-
1257 Family complexes directly with the property manager and provide the
1258 pick-up service for monthly pre-scheduled Bulky Waste Collection days.

1259 B. **Illegal Dumping.** County shall accept any illegally dumped waste Collected by the Contractor at the
1260 Designated Disposal Facility, whereby Contractor shall place Discarded Materials in such location(s)
1261 as identified by County staff, at no additional charge to the Contractor. County Contract Manager
1262 will supply Contractor with a Gate Fee Waiver that must be presented at the Designated Disposal
1263 Facility with any illegal dumping.

1264 C. **County Facilities.** Contractor may Collect Discarded Materials from specified County facilities in the
1265 Contractor’s Service Area in the same manner as those services are provided to Commercial
1266 Customers and as requested by the County.

1267 D. **Holiday Trees.** The Contractor shall Collect all Holiday trees properly placed curbside by Residential
1268 Premises on the first two (2) regularly scheduled Collection days after December 25, or such other
1269 days as agreed by the County Contract Manager and the Contractor, free of any additional charge
1270 to any Customer. Contractor shall also accept any Holiday trees that have been properly placed in
1271 an Organic Materials Cart at any time.

1272 E. **Special Services.** The Contractor shall have the right, but not the obligation, to provide additional
1273 Special Services requested by any Customer which are directly related or ancillary to any of the
1274 other Collection Services authorized hereunder, upon County approval. The nature and terms of
1275 any such Special Services shall be negotiated with the Customer and compensation therefore shall
1276 be paid by the requesting Customer. Prior to commencing the Special Services, the Contractor shall
1277 submit a written request, providing supporting information for the Special Services Rates or charges
1278 requested by the Contractor, to the County Contract Manager for review and approval. Upon
1279 receipt and review of such information, the County Contract Manager may set the Rate, which shall
1280 become binding on the Contractor.

1281 F. **Roll-Off Collection Services.** The Contractor shall provide Roll-Off Collection Services within the
1282 Service Area. Such Roll-Off services may be provided by the Contractor directly or indirectly through
1283 a Sub-contractor that holds a Solid Waste franchise in Kern County or who has been otherwise
1284 approved by the County. In either case, the Contractor in whose Service Area the services are
1285 performed shall be accountable to the County for the manner in which the Roll-Off Collection
1286 Services are provided; the Rate charged, as designated in Exhibit C; and compliance with all other
1287 relevant rules of the County and Applicable Law.

1288 G. **Home-Generated Sharps Program.** Where applies, the Contractor shall provide a free program that
1289 is available to all residents who generate Home-Generated Sharps Waste. Contractor shall provide
1290 and maintain a minimum of two (2) secured kiosks for residents to safely deposit Home-Generated
1291 Sharps Waste. All Home-Generated Sharps Waste must be placed in a Sharps Container no larger
1292 than two (2) quarts, prior to being deposited into the kiosk. The Contractor will contract with a
1293 licensed Medical Waste company to Collect, Transport, and properly Dispose of all Home-Generated
1294 Sharps Waste from each kiosk at a minimum of one (1) time per month. Commercial Generators of
1295 Sharps Waste are prohibited from utilizing the program at any time.

1296 **Section 5.7: Standard of Performance**

1297 Contractor shall at all times comply with then Applicable Law and provide services in a manner that is safe
1298 to the public and the Contractor's employees. Contractor shall perform services in accordance with
1299 Discarded Materials best management practices common to California, except to the extent that a higher
1300 performance standard is specified in this Agreement.

1301 A. **Clean Up and Avoiding Damage to Property.** The Contractor shall use due care to prevent littering,
1302 spills, or leaks of material placed for Collection. If any materials are littered, spilled, or leaked during
1303 Collection or Transportation, the Contractor shall clean up all material before leaving the site or as
1304 soon as practical thereafter. Failure to comply with the provisions of this Section may result in
1305 Liquidated Damages, subject to the provisions of Article 14.

1306 B. **Protection of Public and Property.** The Contractor shall exercise best judgement in the protection
1307 of the public and property. The Contractor shall close all gates after making collections and shall

1308 not damage or trespass upon private or public property. Failure to comply shall be considered an
1309 Event of Default and shall result in assessment of Liquidated Damages pursuant to Article 14.

1310 C. **Hazardous Waste.** The Contractor acknowledges its obligation to arrange for the disposal of
1311 Hazardous Waste that inadvertently comes into its possession or control. The Contractor agrees to
1312 establish all reasonable practices for the screening and elimination of Hazardous Waste from the
1313 waste stream including, but not limited to, the training of personnel and the revision of such
1314 practices as necessary to reflect prudent waste screening considered to be good practice in the Solid
1315 Waste Collection and Disposal industry at the time.

1316 If the Contractor finds what reasonably appears to be discarded Hazardous Waste or Household
1317 Hazardous Waste at a Designated Collection Location, the Contractor, in addition to the procedure
1318 outlined in the previous paragraph, shall either:

- 1319 1. Notify the Owner or Generator, if such can be determined, that the Contractor may not
1320 lawfully Collect such waste and leave a tag specifying the nearest location available for such
1321 appropriate Disposal; or,
- 1322 2. Follow other such procedure(s) as approved by the County Contract Manager.

1323 In the event of a threat to the public health and safety, the Contractor shall immediately contact
1324 the local fire department. The Contractor shall notify the County Contract Manager of such incident
1325 within one (1) calendar day.

1326 D. **Employees:**

1327 1. **Conduct and Uniform.** The Contractor shall take all steps necessary to ensure that its
1328 employees performing Collection Services conduct themselves in a safe, proper, and
1329 professional manner, and that they work as quietly as possible. All such employees shall at all
1330 times of employment be dressed in uniforms with suitable identification. Additionally, any
1331 time the employee exits their vehicle at a Designated Disposal Facility, a high visibility vest or
1332 jacket must also be worn.

1333 2. **Driver Qualifications.** All drivers must have in effect a valid license, of the appropriate class,
1334 issued by the California Department of Motor Vehicles. Contractor shall use the Class II
1335 California Department of Motor Vehicles employer "Pull Notice Program" to monitor its
1336 drivers for safety.

1337 3. **Safety Training.** Contractor shall provide suitable operational and safety training for all of its
1338 employees who operate Collection Vehicles or equipment. Contractor shall train its
1339 employees involved in Collection to identify, and not to Collect, Excluded Waste. Upon the
1340 County Contract Manager's request, Contractor shall provide a copy of its safety policy and
1341 safety training program, the name of its safety officer, and the frequency of its trainings.

1342 E. **Improper Loading of Containers.** The Contractor may decline to Collect any Discarded Materials
1343 that have been left for Collection in any manner which would prohibit its safe Collection.

1344 F. **Record of Non-Collection.** When any Discarded Materials placed for Collection are not Collected by
1345 the Contractor, the Contractor shall leave a tag on the Customer's Container, including the reasons

1346 the materials were not Collected, the date the tag was left and the contact information for the
1347 Contractor, and photographic evidence of the reasons for non-Collection (if available). If the non-
1348 Collection is a result of observed Prohibited Container Contaminants during a Route review, the
1349 Contractor shall follow the noticing protocol specified in Section 8.4. The Contractor shall maintain,
1350 at its place of business, a log book (which may be electronic) listing all such circumstances in which
1351 Collection is denied. The log book shall contain the names and/or addresses of the Collection
1352 Premises involved, the date of such tagging, the reason for non-Collection, and the date and manner
1353 of disposition of each case. The log book shall be kept so that it may be conveniently inspected by
1354 the County Contract Manager upon request.

1355 G. **Fees and Gratuities.** The Contractor shall not, nor shall it permit any agent, employee, or
1356 Subcontractor employed by it, to accept, request, solicit, or demand, either directly or indirectly,
1357 any compensation for the Collection of Discarded Materials or other Collection Services, except such
1358 compensation as is specifically provided for herein as approved by the County.

1359 H. **Compliance with Applicable Law.** The Contractor shall comply with all Applicable Law relating to
1360 any aspect of the Contractor's services and this Agreement, shall obtain and maintain all legal
1361 entitlements required for the Operating Assets and the Collection Services, shall comply with all
1362 valid acts, rules, regulations, orders, and directions of any governmental body applicable to the
1363 Operating Assets and the Collection Services provided hereunder, and shall pay all taxes in
1364 connection therewith.

1365 I. **Taxes and Utility Charges.** The Contractor shall pay all taxes lawfully levied or assessed upon or in
1366 respect of the Operating Assets or the Collection Services, or upon any part thereof or upon any
1367 revenues of the Contractor there from and shall provide and pay the cost of all utilities necessary
1368 for the operation of the Operating Assets and the provision of the Collection Services, when the
1369 same shall become due.

1370 **Section 5.8: Collection Locations**

1371 A. **Alternative Service Location for Disabled Customers.** Residential walk-in service will be provided
1372 at no charge to any Customer that provides a medical exemption authorized by a licensed
1373 healthcare provider or facility.

1374 **Section 5.9: Other Wastes**

1375 The Parties acknowledge that this Agreement is granted only with respect to the Collection Services and
1376 does not include the Collection, Transportation, Processing, or Disposal of Hazardous Waste, Medical
1377 Waste, and Liquid Waste. If the Contractor elects to provide any such services with respect to Hazardous
1378 Waste, Infectious Waste, or any other waste regulated by the Department of Toxic Substances Control,
1379 such services shall only be performed by a separate legal entity separately insured and liable, and
1380 according to Applicable Law. Failure to comply shall be considered an Event of Default pursuant to Article
1381 14.

1382 **Section 5.10: Changes in Scope of Collection Services**

1383 As the stated above, the County is obligated to protect the public health and safety within its jurisdiction
1384 and provide arrangements for the collection of Solid Waste in the County Jurisdiction. As a result, the

1385 County may modify the scope of services performed by the Contractor pursuant to this Agreement from
1386 time to time in its sole discretion and/or the County may seek to have others provide the modified service.
1387 The Contractor acknowledges the County's rights and obligations to modify the scope of services
1388 performed under this Agreement and the Contractor agrees that the failure to comply with such changes
1389 shall be considered an Event of Default pursuant to Article 14.

1390 The County shall provide written notice of any requested modification to the scope of services provided
1391 by Contractor pursuant to this Agreement, and the Contractor shall provide the County with any
1392 information requested by the County in connection with the proposed changes. The Contractor shall,
1393 within sixty (60) days after receipt of such notice by the County, respond to the County's order. The
1394 Contractor may seek, but the County is not required to provide, additional compensation in the event the
1395 scope of services is modified in accordance with this Section 5.10. Likewise, the County may reduce the
1396 Compensation provided to the Contractor if circumstances so warrant. The need for, and amount of,
1397 additional compensation shall be calculated following a change in scope Rate review pursuant to Section
1398 12.2. Further, the parties acknowledge their understanding that the compensation to be paid to
1399 Contractor under this Agreement is the result of arms-length negotiations that must ultimately be
1400 approved by the rate payers and is based upon the agreed level and scope of services existing at the
1401 commencement of the term hereof. Neither party intends that a change in scope of collection services
1402 shall result in the Contractor suffering losses which are substantially outside the commercially reasonable
1403 expectations of the parties. The obligation of the parties in such event is to act reasonably toward each
1404 other and to cooperate in arriving at an appropriate adjustment in rates. If Contractor can demonstrate
1405 that its cost of service would meaningfully increase as a result of providing such additional or modified
1406 services, Contractor shall be entitled to request an adjustment in its compensation. If County and
1407 Contractor cannot agree on compensation adjustment for new or modified services, then the dispute will
1408 be handled according to the procedures set forth in Article 15. If Contractor cannot receive an adjustment
1409 in compensation due to application of Proposition 218, 26, judicial order and/or any other legal or
1410 contractual restrictions, County will not require that Contractor implement the additional service or
1411 change in scope and the County may exercise any, and all, legal options to have the service provided by
1412 others regardless of any exclusivity provided in this Agreement and/or any County Ordinance.

1413 **Section 5.11: Billing**

1414 A. **General.** The Contractor shall perform the responsibilities and duties described in this
1415 Agreement in consideration of the right to charge and collect fees from Generators of County
1416 Solid Waste for Collection and Disposal services rendered at Rates set by the County on an
1417 annual basis. The Contractor does not look to the County for payment of any sums in this
1418 Agreement unless expressly and specifically included in this Agreement.

1419 B. **Billing for Residential Customers for the Service Area in Universal Collection Areas.** The County
1420 shall be responsible for collecting payment from Residential Customers in the form of a charge
1421 on the property tax roll in Universal Collection Areas specific to the Contractor's Service Area,
1422 excepting Alternate Universal Collection Areas. In some Universal Collection Areas, this may
1423 include Multi-Family properties. The County shall remit to Contractor, on a monthly basis, the
1424 actual receipts from such parcel assessments within 15 days for Collection Services provided
1425 during the prior month and shall have no liability to Contractor beyond the amounts actually
1426 collected from Customers. Any amounts refunded to property owners of parcels for which the
1427 County has paid the Base Rate to Contractor or any amounts paid to Contractor for parcels
1428 where Collection Services were not provided shall be deducted from future payments to the

1429 Contractor. For all fees in excess of the Base Rate, i.e., Special Services or requests for Bin
1430 service instead of Cart service, the Contractor shall collect fees as provided below. If a parcel is
1431 added to a Universal Collection Area at such time where the charge has not been included on
1432 the property tax roll, then Contractor will bill the parcel owner directly until the start of the
1433 following fiscal year. The County Contract Manager shall be notified of any such additions prior
1434 to Contractor beginning service to the added parcel.

1435 C. **Billing for Commercial Customers in Universal Collection Areas and for all Customers not**
1436 **located within a Universal Collection Area, excepting Alternate Universal Collection Areas.**
1437 The Contractor shall be responsible for collecting payment and conducting billing as described
1438 herein for Commercial Customers located in a Universal Collection Area and all Customers that
1439 are not located in a Universal Collection Area. For any separate services not billed through the
1440 property tax roll, the Contractor may bill up to the maximum service rates. Billing shall be
1441 performed on the basis of services rendered and this Agreement shall create no obligation on
1442 the part of any person on the sole basis of the ownership of property.

1443 1. **Payment Methods and Location.** Contractor’s website shall provide Customers with the
1444 ability to pay their bills through an electronic check or credit card and include the ability
1445 for Customer billings to be automatically charged on a recurring basis. Contractor shall
1446 prepare, mail, and collect bills from Customers who decline to use such internet-based
1447 billing system. Contractor shall make arrangements to allow Customers to pay bills by
1448 cash, check, electronic check, money order, and credit card at Contractor’s office at a
1449 location within the County (or in near proximity to) which shall be available to Customers
1450 during normal business hours as set forth in Section 10.1.B.

1451 2. **Billing Records.** Contractor shall maintain copies of all billings and receipts, each in
1452 chronological and type of service order, for the Term of this Agreement, for inspection
1453 and verification by the County Contract Manager at any reasonable time but in no case
1454 more than thirty (30) calendar days after receiving a request to do so.

1455 3. **Responsible Parties.** For the purposes of determining the parties ultimately responsible
1456 for the purposes of billing, the Customer shall be determined to be the Owner of the
1457 property. The only exceptions shall be for Single-Unit Dwellings or single businesses
1458 where the tenant or occupant of that property, rather than the Owner, subscribes to
1459 service and such service is not billed using the property taxes.

1460 D. **Bad Debt and Collections Procedures.** Contractor shall be responsible for collection of payment
1461 from Customers with past due accounts (“bad debt”). Contractor shall make reasonable efforts to
1462 obtain payment from delinquent accounts through issuance of late payment notices, telephone
1463 requests or other electronic means for payments, and assistance from collection agencies.

1464 Invoices shall be provided and collected in accordance with then Applicable Law. At a minimum,
1465 invoices are due no earlier than thirty (30) days following the date of the invoice’s mailing. The date
1466 of the invoice shall not be prior to the first day of the service period for the billing. In the event that
1467 any account becomes more than ten (10) calendar days past due, Contractor shall notify such
1468 Customer of the delinquency via written correspondence and telephone contact. Should any
1469 account become more than thirty (30) calendar days past due, Contractor shall provide notice to
1470 the Customer via written correspondence, with a copy to the County Contract Manager, that service

1471 may be discontinued if the account becomes more than forty-five (45) calendar days past due.
1472 Should any account become more than forty-five (45) calendar days past due, Contractor may
1473 discontinue providing service to the Customer. No less than seven (7) calendar days prior to
1474 discontinuing service to a Customer, Contractor shall notify the County Contract Manager of the
1475 address, Service Level, service frequency, and delinquent billing amount. If and to the extent
1476 permitted by Applicable Law, Contractor may withhold service from a delinquent account until past
1477 delinquencies are paid in full. Upon restoring service to a previously delinquent account, Contractor,
1478 if and to the extent permitted by Applicable Law, may require a deposit from the Customer not to
1479 exceed one (1) month's billings at the Customer's Service Level. Contractor may charge interest at
1480 a rate of 1 percent (1%) per month on the delinquent amount, or the highest rate of interest
1481 allowable under law, whichever is less, on account balances that are more than forty-five (45)
1482 calendar days past due.

1483 E. **Enrollment Verification.** Contractor recognizes that the County will need to verify that all
1484 Generators that are not exempted via waiver within the County jurisdiction are enrolled in
1485 Collection Service, in order to comply with the requirements of SB 1383. Contractor shall maintain
1486 records of Customer account and billing information necessary for the County to verify the County-
1487 wide enrollment of Generators for Collection Service and report this information in accordance with
1488 Exhibit D and promptly upon County request.

ARTICLE 6: PROCESSING AND TRANSFER

1489

1490 Section 6.1: Processing and Transfer Arrangements

1491 A. **General.** Contractor shall Transport all Discarded Materials collected under this Agreement to the
1492 appropriate Designated Facilities or Approved Facilities (Exhibit A) as applicable for each material
1493 type, in accordance with Articles 5, 6, and 7 of this Agreement. If Contractor Transports Discarded
1494 Materials to a facility other than the applicable Designated Facility(ies) or Approved Facility(ies),
1495 without prior County approval, Contractor's failure to comply shall be considered an Event of
1496 Default pursuant to Article 14.

1497 B. **Approved Facilities.** The Contractor shall make its own Processing arrangements, except as
1498 otherwise designated in this Article, for Recyclable Materials and C&D, so long as such arrangements
1499 are in full compliance with this Agreement, State regulations (including SB 1383 requirements), and
1500 other Applicable Law. The County may order the Contractor to modify or terminate its Processing
1501 arrangements if, in the opinion of the County, full compliance with this Agreement is not being
1502 achieved or the following circumstances exist:

- 1503 1. The County determines that such arrangements threaten public health or safety, or
- 1504 2. The County determines that the County is not adequately protected from liability for the
1505 activities of the Processing entities, or
- 1506 3. The County determines that the diversion levels or other performance metrics of the
1507 particular facility cause the County to be out of compliance with AB 939, AB 341, AB 1826, SB
1508 1383, or any other rule or regulation regarding Discarded Materials management, and/or the
1509 Contractor is handling Discarded Materials in a manner which does not constitute a reduction
1510 in landfill Disposal pursuant to SB 1383 and does not result in significant diversion credit to
1511 the County.

1512 Contractor may request a change in one or more of the selected Approved Facility(ies). County
1513 Contract Manager may, but is not required to make such an approval, and if so approved, approval
1514 may be conditioned on various factors, including, but not limited to: the performance of the current
1515 versus proposed Facility, the permitting status of and LEA inspection records related to the
1516 proposed Facility, the location and distance of the Facility from the Contractor's Service Area, the
1517 Facility's compliance status with SB 1383 standards and other Applicable Law, and any other factor
1518 that may reasonably degrade the value received by the County, and/or its constituents. If Contractor
1519 elects to use a Facility(ies) that is(are) not defined as Approved Facility(ies), as defined in this
1520 Agreement, Contractor shall submit a written request for approval to the County thirty (30) days
1521 prior to the desired date to use the Facility and shall obtain the County Contract Manager's written
1522 approval prior to use of the Facility.

1523 C. **Designated Facilities.** Contractor shall Transport Discarded Materials collected in accordance with
1524 this Agreement that are required to be delivered to Designated Facilities to the relevant Designated
1525 Facility(ies) for each Discarded Material type. Once Collected materials are deposited by Contractor
1526 at the appropriate Designated Facility(ies), ownership of such materials shall transfer from the
1527 Contractor to the owner or operator of the Designated Facility, which as of the Commencement
1528 Date of this Agreement shall be the County or the County's Subcontractor, subject to the limitations

1529 of that Facility. The Contractor is not responsible for providing Transfer or Disposal services unless
1530 otherwise provided for in this Agreement. Contractor may not initiate a change in Facility for any
1531 Designated Facility.

1532 The Contractor's general manager shall have e-mail capabilities to enable the County Facility
1533 operator and the Contractor's general manager to communicate via e-mail. Contractor's general
1534 manager shall respond to the County's email correspondence within one (1) working day.
1535 Contractor shall plan its Routes to be compatible with the Designated Facility(ies)' receiving hours.
1536 Contractor shall deliver Collected materials to the Designated Facility(ies) during the receiving hours
1537 of the Designated Facility(ies).

1538 Contractor shall cooperate with Facility operator and comply with Facility operator's requirements
1539 as those may change from time to time, including, but not limited to: (i) how and where to unload
1540 Collection Vehicles; (ii) respecting operations and construction of new Facilities; and (iii) the Facility
1541 operator's Excluded Waste screening and exclusion or other load checking program(s). Contractor
1542 shall also comply with the procedures and schedule for any waste evaluations, capacity planning
1543 studies, contamination assessments, or similar studies conducted by the County.

1544 Within thirty (30) days prior to the commencement date, Contractor shall coordinate with the
1545 County to ensure that all Collection Vehicles used by Contractor to Transport Discarded Materials
1546 to Designated Facilities are weighed to determine unloaded ("tare") weights. Contractor shall work
1547 with the Designated Facility operators to electronically record the tare weight, identify vehicle as
1548 Contractor's, and provide a distinct vehicle identification number for each vehicle. Contractor shall
1549 provide the County with a report listing the vehicle tare weight information, upon request.
1550 Contractor shall promptly coordinate with the Designated Facility operator to weigh additional or
1551 replacement Collection Vehicles prior to Contractor placing them into service. Contractor shall
1552 check tare weights at least annually, or within fourteen (14) days of a County request, and shall re-
1553 tare vehicles immediately after any major maintenance service that could impact the weight of the
1554 vehicle by more than fifty (50) pounds.

1555 While not currently required, it is acknowledged that given the term length of this agreement and
1556 improvements in technology that will undoubtedly occur during the term of this agreement, the
1557 County may deem it necessary and/or prudent to require additional tracking and/or monitoring
1558 devices to be installed on all, or some, Collection Vehicles. Contractor shall abide by that request
1559 within the time frame established by the County Contract Manager and Contractor's failure shall be
1560 deemed an Event of Default pursuant to Section 14.1.

1561 If Contractor Transports Discarded Materials to a facility other than the Designated Facility or an
1562 Approved Facility without prior County approval, Contractor's failure shall be deemed an Event of
1563 Default pursuant to Section 14.1.

1564 D. **Separate Handling Requirements.** Contractor shall Collect and Transfer Organic Materials,
1565 Recyclable Materials, Solid Waste, C&D, and Bulky Items separately from each other and from other
1566 Solid Waste streams; and shall process Recyclable Materials and C&D at the Approved Processing
1567 Facilities separately from each other and from other Solid Waste streams.

1568 **Section 6.2: Recovered Materials Processing**

1569 **Section 6.2.1: Recyclable Materials Processing**

1570 A. **Transfer.** Contractor shall Transport Recyclable Materials to the Approved Recyclable Materials
1571 Processing Facility. Contractor shall keep all existing permits and approvals necessary for use of the
1572 facility in full regulatory compliance.

1573 B. **Processing.** Contractor shall Transport and deliver all Recyclable Materials placed by Customers in
1574 Recyclable Material Containers to the Approved Recyclable Materials Processing Facility. The
1575 Contractor’s approved Recyclable Materials Processing Facility shall be able to recover materials
1576 designated for Collection in the Recyclable Materials Container, and in a manner deemed not to
1577 constitute Landfill Disposal pursuant to 14 CCR Section 18983.1(a).

1578 The Contractor has title to and liability for all Recyclable Materials and shall indemnify and hold
1579 harmless the County from any property damage, personal injury, or consequential damages
1580 suffered by any person from exposure to or as a result of Processing any Recyclable Materials or
1581 subsequent product made from the Recyclable Material based on any theory of liability. The
1582 Contractor shall promptly notify the County of any claim by any person arising out of the marketing,
1583 Disposal, or reuse of Recyclable Materials.

1584 All tipping fees and other costs associated with Transporting to and Processing of such Recyclable
1585 Materials at the Approved Recyclable Materials Processing Facility and Disposing of the residue, in
1586 accordance with Section 6.2.1.E below, shall be paid by the Contractor. Contractor shall keep and
1587 Process Recyclable Materials separately from any other Discarded Materials or other Solid Waste
1588 streams.

1589 The Contractor is entitled to all revenues or other consideration derived from its sale of Recyclable
1590 Materials; conversely, the Contractor shall bear the entire risk of and have the responsibility of
1591 disposing of Recyclable Materials.

1592 C. **Marketing.** The Contractor shall be responsible for marketing Recyclable Materials collected in the
1593 County. Contractor’s marketing strategy shall make reasonable business efforts to promote the
1594 highest and best use of materials presented in the waste management hierarchy established by AB
1595 939. Where practical and cost-effective, the marketing strategy should include use of local, regional,
1596 and domestic markets for Recyclable Materials. Contractor shall make available to the County
1597 Contract Manager any and all documentation of the final disposition of marketed Recyclable
1598 Materials as well as certification that such materials have not been Disposed or incinerated.

1599 The parties acknowledge that recycling markets are volatile and are often a matter of global
1600 concern, such that no single Contactor has the ability to guaranty the sustained availability of
1601 adequate markets for all of the potentially recyclable materials it collects, processes, or delivers to
1602 others for processing. It is further understood that in the absence of a market for processed
1603 Recyclable Materials, storing the material may be infeasible due to space limitations or facility
1604 permit constraints, or may lead to material degradation or to a public health risk necessitating
1605 disposal. Accordingly, and notwithstanding any other term or provision of this Agreement to the
1606 contrary, the disposal of Recyclable Materials by the Contractor shall not constitute a failure to
1607 implement service, a failure to implement a program, or an Event of Default under this Agreement
1608 if (i) CalRecycle has determined that there are no commercially viable markets available for a

1609 specific type of Recyclable Material, or (ii) where, with written notice to the County, Contractor is
1610 unable to identify a market for one or more types of Recyclable Materials despite the exercise of
1611 commercially reasonable efforts to process and market the material.

1612 D. **Residue Disposal.** Residue from the processing of Recyclable Materials Collected under this
1613 Agreement at the Contractor’s Approved Recyclable Materials Processing Facility, which cannot be
1614 marketed, may be Disposed of by Contractor at the Designated Disposal Facility or other facility, in
1615 accordance with Article 6. Residue delivered for Disposal shall not include any Excluded Waste.

1616 Upon request of the County, Contractor shall provide a certified statement documenting the
1617 Approved Facility’s Residue level. The Residue level calculation method shall be reviewed and
1618 approved by the County.

1619 **Section 6.2.2: Organic Materials Processing**

1620 Contractor shall Transport all Organic Materials Collected in accordance with this Agreement to the
1621 Approved Organic Waste Processing Facility. Once Collected Organic Materials are deposited by
1622 Contractor at the Approved Organic Waste Processing Facility, ownership of such materials shall transfer
1623 from the Contractor to the County, subject to the provisions or limitations of that Facility.

1624 Customers may place Compostable Plastics in the Organic Materials Container for Collection, including
1625 Compostable Plastic Bags used by Customers to contain Organic Materials, such as Food Waste, prior to
1626 placement in the Organic Materials Container for Collection. Contractor shall Collect and Transport such
1627 materials for Processing to the Approved Organic Waste Processing Facility.

1628 **Section 6.3: Title to Recovered Materials**

1629 As between the Parties, the Contractor has title to and liability for all Recovered Materials Processed at
1630 Contractor’s owned or operated Approved Processing Facilities, and shall indemnify, defend, and hold
1631 harmless the County from any property damage, personal injury, or consequential damages suffered by
1632 any Person from exposure to or as a result of Processing any Recovered Materials or subsequent product
1633 made from Recovered Materials based on any theory of liability. The Contractor shall promptly notify the
1634 County of any claim by any Person arising out of the marketing, Disposal, or reuse of Recovered Materials.

1635 **Section 6.4: Rejection of Excluded Waste**

1636 A. **Inspection.** Contractor will use standard industry practices to detect and reject Excluded Waste in
1637 a uniform and non-discriminatory manner and will not knowingly accept Excluded Waste during
1638 Collection. Contractor will comply with the inspection procedure contained in its permit
1639 requirements. Contractor will promptly modify that procedure to reflect any changes in permits or
1640 Applicable Law.

1641 **Section 6.5: Facility Evaluations**

1642 A. **General.** Contractor shall conduct the following waste evaluations (if applicable) at relevant
1643 Approved Facilities owned and/or operated by the Contractor:

1644 1. **Organic Waste Recovery Efficiency Evaluations.** Contractor shall conduct evaluations to
1645 measure the efficiency of Organic Waste recovered, including Organic Waste subject to

- 1646 Collection in the Recyclable Materials Container (e.g., paper products), at the Approved
1647 Recyclable Materials Processing Facility in accordance with the applicable protocols specified
1648 in 14 CCR Sections 17409.5.1 and 17409.5.4.
- 1649 2. **Incompatible Material Limits.** Contractor shall conduct evaluations at the Approved
1650 Recyclable Materials Processing Facility to measure the amount of Incompatible Materials in
1651 accordance with the protocols set forth in 14 CCR Section 17409.5.8.
- 1652 3. **Evaluation of Organic Waste in Residuals.** Contractor shall conduct evaluations at the
1653 relevant Approved Recyclable Materials Processing Facility to measure the amount of Organic
1654 Waste in Residual material sent for Disposal in accordance with the requirements and
1655 protocols set forth in 14 CCR Sections 17409.5.5.
- 1656 B. **Record Keeping and Reporting.** For each of the evaluations described above, Contractor shall
1657 maintain records and submit reports to CalRecycle as described in 14 CCR Division 7, Chapter 3,
1658 Article 6.3, as applicable. Contractor shall report this information to the County on a bi-monthly
1659 basis in accordance with Exhibit D.
- 1660 C. **Scheduling and Observance of Studies.** The Contractor shall conduct the facility evaluations in
1661 accordance with a County-provided schedule. The Contractor acknowledges that, upon request, a
1662 representative of the County and/or CalRecycle may oversee its next scheduled evaluation at the
1663 Approved Facility(ies); and the Contractor shall make modifications to evaluation schedule to
1664 accommodate such observance.

ARTICLE 7: SOLID WASTE DISPOSAL

1665

1666 Section 7.1: Solid Waste and Residue Disposal

1667 A. **General.** The Contractor shall Transport and Dispose of all Solid Waste Collected in the Service Area
1668 and may Transport all Residue from Contractor's Approved Processing Facilities at the Designated
1669 Disposal Facility in accordance with the requirements of Applicable Law, and shall comply with the
1670 requirements, rules and regulations of the County for operation of the Designated Disposal Facility.
1671 The Failure to do so shall be an Event of Default pursuant to Article 14 of this Agreement.

1672 B. **Designated Disposal Facilities.** The County shall have the right during the Term of the Agreement
1673 to designate, and/or change, the Designated Disposal Facility, or multiple concurrent Designated
1674 Disposal Facilities, in its sole and absolute discretion. The initial Designated Disposal Facilities shall
1675 be as set forth in Exhibit A as directed by the County Contract Manager based on the geographic
1676 area where Collection is performed. The County shall notify the Contractor in writing of any changes
1677 in or additions to the Designated Disposal Facility. It is acknowledged that, if the circumstances so
1678 warrant, Rate adjustments, both increases and decreases, may need to be considered as the result
1679 of a change in the Designated Disposal Facility.

1680 C. **Disposal Records.** The Contractor shall keep and maintain such logs, records, manifest, bills of lading
1681 or other documents as the County Contract Manager may, from time to time, deem to be necessary
1682 or appropriate to confirm compliance by the Contractor with this Agreement. At a minimum, the
1683 Contractor shall keep and maintain a log of all material disposed in any type of Designated Facility
1684 not owned by and/or not located in the County. This log will include type of material, weight of
1685 material, location disposed and proof of disposal. This information will be provided to the County
1686 Contract Manager upon request. At all times, Contractor shall retain all weight slips or other call
1687 information provided to the Contractor's drivers by the Owner or operator of the Designated
1688 Disposal Facility. The Failure to abide by these provisions shall be an Event of Default pursuant to
1689 Article 14 of this Agreement.

1690 D. **Failure to Transport to Designated Disposal Facility.** The Contractor's failure to properly Transport,
1691 or cause to be Transported, Solid Waste Collected in the Service Area and Residue from Approved
1692 Processing Facilities or Diversion activities shall be an Event of Default pursuant to Article 14 of this
1693 Agreement, unless the failure is the result of an Uncontrollable Circumstance or such waste has
1694 been diverted by means of alternative technology that has been approved by the County, allows for
1695 AB 939 diversion credit to the County, and is deemed a reduction in Landfill Disposal under SB 1383.
1696 Likewise, Contractor shall not Dispose of Solid Waste or Residue by depositing it on any public or
1697 private land, in any river, stream, or other waterway, in any sanitary sewer or storm drainage
1698 system, or in any other manner which violates Applicable Law and to do so shall be an Event of
1699 Default pursuant to Article 14 of this Agreement.

1700 E. **Flow Control Covenant.** The Contractor hereby waives any right which it may possess under
1701 Applicable Law to contest on any ground, constitutional, statutory, case law, administrative or
1702 otherwise: (a) the right, power, or authority of the County to engage in the practice of legal Solid
1703 Waste Flow Control or to enter into or perform obligations under this Agreement; or, (b) the right,
1704 power, or authority of the County to deliver or cause the delivery of all Discarded Materials
1705 Collected within the County to the relevant Designated Facilities, in accordance with this
1706 Agreement.

1707 **Section 7.2: Gate and Bin Fees**

1708 A. **Gate Fees.**

1709 1. **General.** To the extent that the Contractor delivers for the purpose of Disposal or Processing
1710 of Commercially generated Discarded Materials or residential sourced C&D at the Designated
1711 Facilities, it shall pay the Bin Fees and/or Gate Fees as approved by the County Board of
1712 Supervisors. Contractor shall maintain an account with the County for the payment of Gate
1713 Fees at County Discarded Materials facilities. Such account shall be kept in good standing and
1714 Contactor’s failure to keep current with payments on such account may be grounds for
1715 termination of this Agreement under Section 14.1.

1716 2. **Method of Calculation.** Gate Fees shall be based on either the actual weight of the material
1717 being delivered, as measured by a scale; the estimated weight of the material being delivered
1718 based on the type of material and its volume in cubic yards; the type of vehicle hauling the
1719 material being delivered; the number of units being delivered; and/or, the special nature of
1720 the load. The method used for a given load or material at a given facility shall be at the
1721 County’s sole discretion. The schedule of Gate Fees shall be as approved by the Board of
1722 Supervisors. Contractor may charge Customers for the direct cost of such Gate Fees based on
1723 the actual charge to the Contractor by the County, without any mark-up.

1724 B. **Bin Fees.**

1725 1. **General.** A Bin Fee shall be charged for all Commercial Solid Waste and Organic Materials
1726 Containers that are Collected by the Contractor for Disposal or Processing at a County
1727 Discarded Materials Facility. The Bin Fee shall be based on the basic per ton Gate Fee for
1728 Commercial Solid Waste, as approved by the Board of Supervisors. Bin Fees will not apply to
1729 any type of Residential units including Multi-Family Dwellings with any number of units.

1730 2. **Verification of Weight.** The average weight of a cubic yard of County Solid Waste from
1731 Commercial Discarded Materials Containers shall be confirmed by the County Contract
1732 Manager by performing waste volume/weight studies, or other calculation(s) deemed
1733 accurate by the County Contract Manager. The County Contract Manager shall report the
1734 results of the waste volume/weight studies to the Board of Supervisors on an as-needed basis
1735 and shall recommend modifications to the Bin Fee as may be appropriate.

1736 3. **Records and Reporting.** The Contractor shall maintain adequate and accurate records of the
1737 number of Commercial Containers, the cubic yard capacity of each Commercial Container,
1738 and the number of times each Commercial Container has been Collected for each Commercial
1739 Customer served by the Contractor. The Contractor shall prepare a Commercial Bin Fee report
1740 in accordance with Exhibit D. The information in the Commercial Bin Fee report shall match
1741 the information that appears on the Contractor's invoices, statements, or other records, and
1742 any information required in the Bin Fee reports may be audited by the County.

1743 4. **Commercial Customer Billing.** The Contractor shall calculate the amount owed by each
1744 Commercial Customer for the Bin Fee for the Contractor's current billing period and shall
1745 include that Bin Fee, in a separate line, or column, on the invoice or statement sent to each
1746 Commercial Customer for that billing period. The Contractor's invoice or statement for a Bin
1747 Fee shall become delinquent forty (40) days after it is due. Customers delinquent in Bin Fees

1748 shall be charged interest at a rate of 1 percent (1%) per month on the delinquent amount, or
1749 the highest rate of interest allowable under law, whichever is less, on account balances that
1750 are more than forty-five (45) calendar days past due.

1751 5. **Payment of Bin Fee.** In recognition of the Contractor’s billing and keeping any penalties and
1752 interest related thereto, the Contractor shall forward all amounts actually received from the
1753 billing of Bin Fees. The Contractor shall forward amounts due to the County within thirty (30)
1754 days from the last day of the prior month or thirty (30) days from the date that appears on
1755 the invoices or statements sent by the Contractor to their customers with Commercial
1756 Containers.

1757 6. **Exemption from payment of Bin Fee.** A Bin Fee shall not be charged for any Commercial
1758 Containers that are Collected by the Contractor if (i) the materials from those Containers is
1759 Transported to a Material Recovery Facility prior to Disposal at a County Waste Facility, and
1760 (ii) the Contractor and the Material Recovery Facility have entered into a written agreement
1761 with the County, approved by the Board of Supervisors, to use an alternate method of
1762 payment for the service charges of those Containers.

1763 7. **Fidelity Bond.** The Contractor shall maintain a Fidelity Bond as per Section 13.2 covering each
1764 of the Contractor's employees who has the responsibility or power to handle any Bin Fees
1765 which are to be paid by the Contractor to the County pursuant to this Section. An approved,
1766 equivalent Commercial Crime insurance policy may be substituted for this bond with the
1767 approval of the County Contract Manager at its sole discretion.

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1769

ARTICLE 8: OTHER PROGRAMS AND SERVICES

1770

1771 Section 8.1 Public Education and Outreach

1772 A. **General.** The Contractor agrees to provide public education and outreach information to
1773 Customers, at its own expense unless otherwise specified, at least as frequently as specified in this
1774 Section and Exhibit E, on such topics including but not limited to: the Contractor's Collection
1775 services; service and operational information updates (e.g., holiday schedules, facility hours and
1776 operations, billing updates, etc.); requirements of Applicable Law, including, but not limited to, AB
1777 341, AB 1826, and SB 1383; proper Household Hazardous Waste Disposal; waste reduction,
1778 Recycling, and Composting; notices of service changes; notices of violation; proper separation of
1779 Discarded Materials for Collection; topics included as part of the Contractor's SB 1383
1780 Implementation Plan (Exhibit F); and, any other information necessary to keep Customers informed
1781 of services and requirements in relation to the services provided under this Agreement. All public
1782 education and outreach materials must be approved in advance by the County Contract Manager.
1783 To insure consistency of the messaging to the public, the County will develop information for the
1784 Contractor's use on topics that apply to all customers such as, but limited to: requirements of
1785 current and future Applicable Laws, proper Household Hazardous Waste Disposal, waste reduction,
1786 Recycling, Composting, proper separation of Discarded Materials for Collection or any other topics
1787 that the County deems appropriate. To the extent reasonably possible, the Contractor shall
1788 accommodate the inclusion of any County-directed information on its regular billing statements
1789 upon the request of the County Contract Manager, without cost to the County. For Customers that
1790 do not receive a billing statement from the Contractor, the Contractor shall send a written notice
1791 by direct mailing or use other electronic means. If the County requests the distribution of
1792 information on a topic other than that required for compliance with this section or required by the
1793 SB 1383 Implementation Plan in a form that cannot be printed, delivered by electronic means, or
1794 included with the Contractor's regular bill, the County and Contractor will share in the cost of
1795 printing (as applicable) and distribution.

1796 Contractor shall distribute instructional information, public education, and promotion materials in
1797 advance of commencement of services, to any new Customers that subscribe for Contractor's
1798 service during the Term of the Agreement, and on a regular basis as set forth in this Section and
1799 Exhibit E. Contractor's education materials shall be made available using multiple media sources
1800 including print and digital media; shall be available in English as well as Spanish, upon request; and
1801 shall be consistent with the County in accordance with Section 8.1.C.

1802 B. **Multi-Family Recycling and Organics Toolkit.** Contractor shall distribute public education and
1803 outreach materials for both building managers and residents of Multi-Family Premises on Recycling
1804 and Organics programs. Materials distributed to tenants shall be full color, graphically-based, and
1805 available in Spanish upon request. Materials shall include, at a minimum: i) a personal recycling
1806 container and a kitchen compost container for each unit within the Multiple-Family Premises; ii) an
1807 introductory letter about the Recycling and Organics programs; iii) a guide for the property manager
1808 with information on how to manage a Multi-Family Recycling and Organics program; iv) door
1809 hangers (of any type); v) Recyclable Materials and Organic Materials container labels; and, vi)
1810 workshops at community outreach events. Contractor shall contact each individual property
1811 manager during the first six months of this Agreement, and once annually thereafter, to introduce
1812 the program, provide the Multi-Family Recycling and Organics Toolkit, and determine the best

1813 Recycling and Organic program for each Customer. Multi-Family property owners may request
1814 these materials on a more frequent basis as needed to comply with the distribution requirements
1815 of SB 1383.

1816 C. **Collaboration with County.** When developing outreach, educational, and promotional materials,
1817 Contractor shall work with the County to understand the County’s goals and objectives and ensure
1818 coordinated messaging. All outreach and educational materials shall be thematically branded with
1819 consistent color, font, and graphic style; produced in English and other language(s) as requested by
1820 County; and photo-oriented to appeal to varied language and literacy levels. Printed materials shall
1821 be printed double-sided on at least 30% postconsumer recyclable paper and shall also be available
1822 in digital form. Prior to finalizing any materials, and no fewer than four (4) weeks prior to the
1823 deadline for distribution, the draft shall be provided to the County for a final review. The draft shall
1824 then be sent for printing and distribution.

1825 Upon request from the County Contract Manager, the Contractor’s Contract Manager and/or the
1826 Public Education and Outreach Coordinator(s) shall meet up to one (1) time per month to discuss
1827 the status of the Contractor’s public education and outreach activities, upcoming education and
1828 outreach campaigns, or other topics deemed appropriate by the County for the public education
1829 and outreach program.

1830 D. **County Facilities.** All County facilities that receive service from the Contractor shall receive any and
1831 all public education and outreach materials and services provided to Commercial Customers. Upon
1832 County request, Contractor shall provide additional copies of all printed public education materials
1833 to County offices and facilities to be made available to the public that visit those facilities, and shall
1834 replenish the materials as requested by the County Contract Manager.

1835 E. **Contractor Website.** Contractor shall develop a website or webpage specific to its operations in the
1836 County, that shall include, at a minimum: a comprehensive listing of the Contractor’s services and
1837 maximum Rates; acceptable materials and Prohibited Container Contaminants for each Container
1838 type; the facilities used by the Contractor; the Contractor’s Customer Service contact information,
1839 digital copies of Contractor-produced and/or County-produced educational materials for download;
1840 and, upon request, links to pages of the County’s website where further information can be found.

1841 F. **Public Education and Outreach Staff.** The Contractor shall designate staff member(s) to serve as
1842 Public Education and Outreach Coordinator(s). The number of staff members serving as Public
1843 Education and Outreach Coordinator(s) shall be adequate to perform the functions described in this
1844 Section at the scale relative to the Contractor’s Customer base.

1845 The Contractor shall provide thorough training for the Public Education and Outreach
1846 Coordinator(s) on the requirements of the County’s Discarded Materials collection program and
1847 relevant regulations (including, but not limited to, SB 1383, AB 1826, and AB 341) such that they are
1848 able to accurately communicate information to the public, including, but not limited to: Customers’
1849 requirements under the County’s Collection program and SB 1383, AB 1826, AB 341, and other
1850 Applicable Law; the accepted materials and Prohibited Container Contaminants for each material
1851 stream; facility and Collection operations information; upcoming events and programs; and, other
1852 information necessary to answer Customer questions and promote the County’s education and
1853 outreach program.

1854 G. **Failure to provide Public Education.** The Contractor agrees and acknowledges outreach efforts
1855 provided in this Article 8 are integral in meeting the County’s obligations to the public and as such
1856 any failure to meet these provisions shall be an Event of Default pursuant to Article 14.

1857 **Section 8.2: Technical Assistance**

1858 A. **Contractor-Conducted Technical Assistance.** Contractor shall conduct technical assistance for
1859 Customers upon first account set-up, and upon request of the Customer or County thereafter.

1860 At least ninety (90) days prior to the Commencement Date, Contractor will provide an outreach and
1861 technical assistance plan to County for approval including a site visit schedule identifying when a
1862 Contractor representative shall visit each Multi-Family and Commercial Customer’s Premises for the
1863 purpose of assessing the amount of Recyclable Materials and Organic Materials being disposed of;
1864 evaluating the Recyclable Materials and Organic Materials Collection Service Level needed to meet
1865 the requirements of SB 1383 and Section 5.36 of the County Code; notifying Generators of their
1866 requirements to subscribe to Recyclable Materials and Organic Materials Collection service under
1867 SB 1383; and, providing educational materials to each Customer. In addition to conducting site visits
1868 in accordance with the County-approved schedule, the Contractor shall also provide site visits upon
1869 Customer request.

1870 B. **County-Conducted Technical Assistance.** The requirement for the Contractor to conduct technical
1871 assistance pursuant to this Section does not preclude the County from conducting additional or
1872 alternative technical assistance. Contractor shall cooperate with and support the technical
1873 assistance efforts conducted by the County. Based on the results of County’s technical assistance
1874 efforts, if any, the County may recommend and request a change in Service Level for certain
1875 Customers. Within fourteen (14) business days of Contractor’s receipt of a request for a Service
1876 Level change, Contractor shall adjust the Customer’s Service Level by updating the Customer’s
1877 account records; revising the Customer’s billing information to reflect the Rate corresponding to
1878 the updated Service Level; and, providing and/or removing any containers needed to reflect the
1879 updated Service Level.

1880 **Section 8.3: Food Recovery Program Support**

1881 A. **General.** Pursuant to the requirements of SB 1383, 14 CCR, Division 7, Chapter 12, Article 10, the
1882 County is responsible for developing and implementing a Food Recovery program in the
1883 unincorporated areas of the County. The Contractor shall cooperate with and shall not impede,
1884 interfere, or attempt to impede or interfere with the implementation, expansion, or operation of
1885 Food Recovery program efforts in the County.

1886 B. **Identification of Commercial Edible Food Generators.** Contractor shall assist the County with
1887 identifying Commercial Edible Food Generators for the purposes of the Food Recovery program. No
1888 later than six (6) months after the Effective Date of the Agreement, and annually thereafter, the
1889 Contractor shall identify and provide a list to the County of Commercial Customers that qualify, or
1890 appear to qualify, as Tier One Commercial Edible Food Generators or Tier Two Commercial Edible
1891 Food Generators, as defined. The list shall include, at a minimum: the Customer name; service
1892 address; contact information; Tier One or Tier Two classification, or “Non-Covered” classification if
1893 neither; and, type of business, as it relates to the categories of entities specified under the
1894 definitions of Tier One Commercial Edible Food Generator and Tier Two Commercial Edible Food

1895 Generator. The Contractor shall update this information annually, maintain an up-to-date database,
1896 and include a summary of this information in the Contractor's annual report, in accordance with
1897 Exhibit D.

1898 **Section 8.4: Contamination Monitoring in Universal Collection Areas**

1899 A. **Annual Route Reviews.** The Contractor shall, at its sole expense, conduct Route Reviews of
1900 Containers for Prohibited Container Contaminants in a manner that meets the requirements of this
1901 Section and 14 CCR Section 18984.5(b); is approved by the County; and results in all Routes being
1902 reviewed at least annually.

1903 The Contractor's Route Review shall include inspection of all Discarded Materials Container types
1904 in service for all Customer types. The Containers shall be randomly selected prior to beginning the
1905 route review through use of a random number generator; and the minimum number of Containers
1906 to be sampled shall be based on weekly Route size, as follows:

- 1907 1. For weekly Routes with less than 1,500 Generators, the Contractor shall sample a minimum
1908 of 25 Containers.
- 1909 2. For weekly Routes with 1,500-3,999 Generators, the Contractor shall sample a minimum of
1910 30 Containers.
- 1911 3. For weekly Routes with 4,000-6,999 Generators, the Contractor shall sample a minimum of
1912 35 Containers.
- 1913 4. For weekly Routes with 7,000 or more Generators, the Contractor shall sample a minimum of
1914 40 Containers.

1915 The County shall, no later than January 15 of each calendar year, submit a Route Review
1916 methodology and schedule to the Contractor, if different from the previous year's methodology
1917 and schedule. The County or the County's designated third party maintain the right to observe all
1918 aspects of the Route Review, and the Contractor shall modify timing or other aspects of the Route
1919 Review, as reasonably requested, to accommodate observance by the County.

1920 B. **Contamination Notification.** Upon the first instance of Contractor's identification of Prohibited
1921 Container Contaminants in a Customer's Container, Contractor shall not collect the materials and
1922 shall attach a non-collection notice to the contaminated cart in accordance with Section 8.4.C.

1923 C. **Non-Collection Notices**

1924 1. **Non-Collection Notice.** Upon the first and any subsequent instance of identification of
1925 Prohibited Container Contaminants in a Customer's Container in excess of standards agreed
1926 upon by the Parties, Contractor shall provide a non-collection notice to the Customer. The
1927 non-Collection notice shall, at a minimum: (i) inform the Customer of the reason(s) for non-
1928 Collection and specific material(s) of issue; (ii) include the date and time the notice was left
1929 or issued; (iii) inform the Customer of their requirement to remove the Prohibited Container
1930 Contaminants prior to return for Collection (iii) include information on the Customer's
1931 requirement to properly separate materials into the appropriate Containers for future set-
1932 outs, and the accepted and prohibited materials for collection in each Container and, (iv) may

1933 include photographic evidence of the violation(s). The format of the non-Collection notice
1934 shall be designed by the Contractor and submitted to the County Contract Manager for review
1935 and approval.

1936 2. **Contractor Return for Collection.** Upon request from the Customer, Contractor shall Collect
1937 Containers that received non-Collection notices within three (3) Working Days of Customer's
1938 request if the Customer has removed the Prohibited Container Contaminants. Upon the first
1939 instance of a notification of non-Collection due to Container contamination, the Contractor
1940 will provide a courtesy pick-up at no charge. For any subsequent instance of contamination,
1941 the Contractor may bill the Customer for the extra Collection service event at the applicable
1942 County-approved rates only if Contractor notifies Customer of the premium Rate for this
1943 service at the time the request is made by Customer. The payment for this service will be
1944 directly payable to the Contractor in all Collection Areas. Contractor shall notify the County in
1945 its bi-monthly report of Customers to whom this Rate was assessed and the total dollar
1946 amount Collected.

1947 D. **Reporting Requirements.** The driver or other Contractor representative shall record each event of
1948 identification of Prohibited Container Contaminants in a written log or in the on-board computer
1949 system including: date, time, Customer's address, type of Container, and photographic evidence of
1950 the Contamination. Additionally, on no less than a daily basis, the Contractor shall update the
1951 Customer's account records to note the contamination event(s), if any, as identified by the driver(s)
1952 or other Contractor representative. Contractor shall maintain records and report to the County bi-
1953 monthly on contamination monitoring activities and actions taken, consistent with the
1954 requirements of Exhibit D.

1955 **Section 8.5: Studies, Capacity Planning, and Pilot Programs**

1956 Contractor acknowledges that County, CalRecycle, or other governmental agencies may wish to perform
1957 waste generation and characterization studies periodically with respect to materials covered under this
1958 Agreement. Contractor agrees to participate and cooperate with County and its agents and to perform
1959 studies and data collection exercises, as needed, to determine weights, volumes, and composition of
1960 materials generated, Disposed, Diverted, or otherwise Processed. If County requires Contractor to
1961 participate in such a study, Contractor and County shall mutually agree on the scope of services to be
1962 provided by Contractor. In any event, Contractor shall permit and in no way interfere with the Collection
1963 and handling of the subject materials by other Persons for such purposes.

1964 Contractor acknowledges that the County is required by SB 1383 to conduct Organic Waste and Food
1965 Recovery capacity planning studies. The Contractor shall provide information and/or participate in studies
1966 in order for the County to comply with such requirements; which may include, but is not limited to:
1967 conducting or supporting waste characterization studies; providing information regarding existing and
1968 potential new or expanded capacity in the Contractor's operations for the Collection, Transport, and/or
1969 Processing of Recyclable Materials and/or Organic Materials; and, any other information deemed
1970 necessary by the County for the purposes of the studies. The Contractor shall respond to any request for
1971 information from the County within thirty (30) days, unless another timeframe is otherwise specified or
1972 authorized by the County Contract Manager.

1973 Contractor acknowledges that the County may wish to conduct and/or participate in pilot studies related
1974 to the Customers and materials that are the subject of this Agreement. If the County requires Contractor

1975 to participate in such pilot study(ies), Contractor and County shall mutually agree on the scope of services
1976 to be provided by Contractor. In any event, Contractor shall permit and in no way interfere with the
1977 Collection and handling of the subject materials by other Persons for purposes of the pilot studies.

1978 **Section 8.6: Waivers and Exemptions**

1979 **8.6.1: Customer Waivers**

1980 A. **General.** The County may, at its sole discretion, grant waivers to Customers as described in this
1981 Section that may impact aspects of the Contractor’s provision of service to those Customers.
1982 Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR
1983 Section 18984.11, or other requirements specified by the County.

1984 B. **Potential Generator Waivers.**

1985 1. **De Minimis Waivers.** The County may waive a Commercial business property’s obligation to
1986 comply with some or all of the Recyclable Materials and Organic Materials service
1987 requirements set forth in Chapter 5.36 of the County Code, SB 1383, and this Agreement, if
1988 the Generator provides documentation and/or the County has evidence demonstrating one
1989 of the following de minimis conditions:

1990 a. The Commercial or Multi-Family Generator’s total Discarded Materials Collection service
1991 is two (2) cubic yards or more per week, and Organic Waste subject to Collection in a
1992 Recyclable Materials Container or an Organic Materials Container comprises less than
1993 twenty (20) gallons per week, per applicable Container, of the Generator’s total waste;
1994 or,

1995 b. The Commercial or Multi-Family Generator’s total Discarded Materials Collection service
1996 is less than two (2) cubic yards per week, and Organic Waste subject to Collection in a
1997 Recyclable Materials Container or an Organic Materials Container comprises less than
1998 ten (10) gallons per week, per applicable Container, of the Generator’s total waste.

1999 2. **Physical Space Waivers.** The County may waive a Commercial or Multi-Family Generator’s
2000 obligation to comply with some or all of the Recyclable Materials and Organic Materials
2001 service requirements set forth in Chapter 5.36 of the County Code, SB 1383, and this
2002 Agreement if the Commercial or Multi-Family Generator provides documentation, or the
2003 County has evidence from its staff, the Contractor, licensed architect, engineer, or similarly
2004 qualified source demonstrating that the Premises lacks adequate space for Recyclable
2005 Materials Containers and/or Organic Materials Containers.

2006 3. **Collection Frequency Waivers.** The County may allow the Contractor to provide Collection of
2007 Recyclable Materials Containers and/or Solid Waste Containers once every fourteen (14)
2008 days, rather than once per week, for Customers that have been granted a Collection
2009 frequency waiver from the County.

2010 C. **Service Level Updates.** When the County grants a waiver to a Customer, or the Customer’s waiver
2011 status changes after a reverification determination, the County shall notify the Contractor within
2012 seven (7) days of the waiver approval or status change with information on the Customer and any

2013 necessary Service Level changes for the Customer. Contractor shall have seven (7) days to modify
2014 the Customer's Service Level, Customer account data, database, and billing statement, as needed.

2015 D. **Waiver Reverification.** The County shall be responsible for reverification of waivers. Upon request
2016 of the County, the Contractor shall support the County in the waiver reverification process by
2017 providing requested Customer information and/or inspecting the Customer's Premises. In the event
2018 that a waiver status changes, Contractor shall update the Customer's information and Service Level
2019 in accordance with Section 8.6.1.C above.

2020 E. **Recordkeeping.** Contractor shall maintain records of all Customers granted each type of waiver by
2021 the County and documentation of waiver reverification inspections, if any, in accordance with
2022 Exhibit D.

2023 **8.6.2: Contractor Service Exemptions**

2024 A. **Low Population Area Waivers.**

2025 As of the Commencement Date, certain census tracts of the County qualify as low-population areas,
2026 as permitted by SB 1383, 14 CCR 14 CCR Section 18984.12(a). If approved by CalRecycle and based
2027 on administrative direction from the County Contractor Manager, some Collection service
2028 requirements may be waived for such low-population areas. Low-population waivers granted by
2029 CalRecycle are reviewed periodically; therefore, the qualifying low-population areas are subject to
2030 change. If during the Term of this Agreement the County is granted a waiver that expands the low-
2031 population areas, or if the County's waiver(s) are no longer valid or certain census tracts no longer
2032 qualify, any resulting Collection service changes shall be addressed based on administrative
2033 direction from the County Contract Manager and shall not be considered a change in scope in
2034 accordance with Section 5.

2035 B. **Disaster Waivers.** In the event of a disaster, the County may grant Contractor a waiver of some or
2036 all Discarded Materials Collection requirements under this Agreement and 14 CCR, Division 7,
2037 Chapter 12, Article 3 in the disaster-affected areas for the duration of the waiver, provided that such
2038 waiver has been approved by CalRecycle. In such case, the County and Contract shall meet and
2039 confer on resulting Collection requirements for the duration of the waiver.

2040 C. **Removal of Material from Illegal Disposal Sites.** The Contractor may, but is not required to,
2041 separate and recover Organic Waste that Contractor removes from illegal disposal sites as part of
2042 an abatement activity to protect public health and safety. Contractor shall report the amount of
2043 Discarded Materials removed for disposal from illegal disposal sites, in accordance with Exhibit D.

2044 D. **Processing Facility Temporary Equipment or Operational Failure Waiver.**

2045 1. **Notification to the County.** For facilities owned or operated by the Contractor, the
2046 Contractor, or their Subcontractor (such as a Facility operator), shall notify the County of any
2047 unforeseen operational restrictions that have been imposed upon an Approved Facility by a
2048 regulatory agency or any unforeseen equipment or operational failure that will temporarily
2049 prevent such Facility from Processing and recovering the relevant Discarded Materials at that
2050 facility. The Contractor or Subcontractor shall notify the County as soon as possible and no
2051 later than two (2) days from the time of the incident. The notification shall include the
2052 following: (i) name of Approved Facility; (ii) the Recycling and Disposal Reporting System

2053 Number of the Approved Facility; (iii) date the Approved Facility became unable to Process
2054 the specific Discarded Materials; (iv) description of the operational restrictions that have been
2055 imposed upon the Approved Facility by a regulatory agency or unforeseen equipment failure
2056 or operational restriction that occurred; (v) the period of time the Contractor anticipates the
2057 temporary inability of the Approved Facility to Process Discarded Materials; (vi) Contractor's
2058 proposed action plan to deliver materials to an alternative Facility for Processing or
2059 Contractor's request for a waiver to deliver materials to the Designated Disposal Facility.

2060 2. **Use of Alternative Facility or Waiver for Disposal of Materials.** Upon notification by
2061 Contractor or Subcontractor of an Approved Facility's inability to Process materials, the
2062 County shall evaluate the notification and determine if the County shall require Contractor to
2063 use an alternative Facility or allow the Contractor to Transport the Discarded Materials to the
2064 Designated Disposal Facility for Disposal on a temporary basis for a time period specified by
2065 the County. Upon County's decision, the County shall notify the Contractor of its requirement
2066 to use an alternative Facility for Processing or to use the Designated Disposal Facility for
2067 Disposal, and the period of time that the County will allow the materials to be redirected to
2068 the alternative Facility or Designated Disposal Facility. Pursuant to 14 CCR Section 18984.13,
2069 the approved Disposal period shall not exceed ninety (90) days from the date the Approved
2070 Facility's Processing restriction or failure commenced. In such case, the Contractor must
2071 receive written permission from the County Contract Manager prior to depositing any
2072 Discarded Materials in a Landfill.

2073 3. **Record Keeping and Reporting.** For Facilities owned or operated by the Contractor, the
2074 Contractor shall maintain a record of any Approved Facility incidents and report this
2075 information to the County in accordance with Exhibit D.

2076 E. **Quarantined Waste.** If approved by the County, the Contractor may Dispose of, rather than Process,
2077 specific types of Organic Waste that are subject to quarantine and meet the requirements described
2078 in 14 CCR Section 18984.13(d) for a period of time specified by the County or until the County
2079 provides notice that the quarantine has been removed and directs Contractor to Transport the
2080 materials to the Approved Facilities for such material.

2081 In accordance with Exhibit D, the Contractor shall maintain records and submit reports regarding
2082 compliance agreements for quarantined Organic Waste that are Disposed of pursuant to this
2083 subsection.

2084 **Section 8.7: Compliance and Enforcement Program**

2085 The County shall implement an inspection and enforcement program that is designed to monitor overall
2086 compliance with SB 1383, AB 1826, AB 341, Chapters 5.36 and 8.28 of the County Code, and other
2087 Applicable Law, which may include, but is not limited to, desk review of records, annual Route Reviews,
2088 and inspections of applicable regulated entities.

2089 Contractor shall cooperate with all Route Reviews, Customer inspections, or compliance reviews
2090 conducted by the County, or its third-party designee. Contractor recognizes that the Route Reviews,
2091 inspections, and compliance reviews may conflict with normal working operations or Route times
2092 otherwise set out in this Agreement. Contractor shall make adjustments to its normal working operations
2093 or Route times as reasonably requested by the County, and shall comply with the process, regardless of

2094 those impacts. Upon County request, Contractor shall support with the compliance and enforcement
2095 process by providing data or equipment; conducting inspections; revising route sequencing or timing;
2096 and/or, providing training or information necessary for County staff on Route safety. Upon County request
2097 for information or support, Contractor shall provide a response to County requests in a timely manner,
2098 not to exceed fifteen (15) days from receipt of the request.

2099 Upon County request, the Contractor shall generate a written and/or electronic record and maintain
2100 documentation for each inspection or compliance review conducted, if any have been requested by the
2101 County and performed by the Contractor. Each record shall include: i) the account name and service
2102 address of Customer inspected; ii) the date of the inspection; and iii) copies of any written notices or
2103 educational materials provided to noncompliant Generators or a description of direct outreach
2104 conducted.

2105 The County shall provide educational materials to Generators in response to violations identified during
2106 County-conducted reviews and inspections. Upon County request, the Contractor shall distribute
2107 additional educational materials and/or conduct direct technical assistance for noncompliant Customers,
2108 in accordance with Sections 8.1 and 8.2.

2109 **Section 8.8: The Contractor's Responsibility for Implementation**

2110 The Contractor shall implement the services and requirements in this Agreement in a manner approved
2111 by the County Contract Manager, including the SB 1383 Implementation Plan submitted by the Contractor
2112 in accordance with Section 8.9. Failure to implement services required under this Agreement shall
2113 constitute an Event of Default and is subject to assessment of Liquidated Damages in accordance with
2114 Article 14.

2115 In the event that the State of California's Diversion, Recycling, or Organic Waste Disposal reduction goals
2116 or regulations are expanded or otherwise modified after the Effective Date of this Agreement, the
2117 Contractor shall, at the request of the County Contract Manager, develop and submit revisions to its SB
2118 1383 Implementation Plan or submit an additional plan for any requirements that extend beyond the
2119 scope of SB 1383. After approval by the County Contract Manager, the Contractor shall implement such
2120 revised plan(s). The County acknowledges that the Contractor shall nonetheless be entitled to recover,
2121 through the Rates to be charged and authorized to be imposed hereunder, the reasonable costs of the
2122 Contractor incurred as the result of implementation of the revised plan(s).

2123 **Section 8.9: SB 1383 Implementation Plan**

2124 A. **General.** The Contractor has developed, and the County Contract Manager has approved an SB 1383
2125 Implementation Plan that describes the Contractor's strategy for providing the necessary Collection
2126 services and programs required by SB 1383. The Contractor's SB 1383 Implementation Plan which
2127 is an essential part of the Contractor's and County's regulatory compliance strategy is attached
2128 hereto as Exhibit F. Any amendment to the SB 1383 Implementation Plan must be approved by the
2129 County Contract Manager. Failure to abide by the provisions of the Implementation Plan shall be
2130 an Event of Default pursuant to Article 14.

2131 B. **SB 1383 Implementation Plan.** Topic areas covered under the Contractor's SB 1383 Implementation
2132 plan shall include, but are not limited to, the following.

- 2133 1. **Transition to new Collection system.** A description of how the Contractor plans to roll out
 2134 Collection service of Organic Materials, Recyclable Materials, and Solid Waste to all Single-
 2135 Family, Multi-Family, and Commercial Customers; and to ensure proper Transfer, Transport,
 2136 and Processing of such materials.
- 2137 2. **Acquiring or modifying any necessary equipment.**
- 2138 a. **Containers.** Contractor shall describe its plan to ensure that Customers receive Organic
 2139 Materials, Recyclable Materials, and Solid Waste Containers that are compliant with the
 2140 requirements of SB 1383 and Section 9.3 of this Agreement. The plan shall include
 2141 information including, but not limited to: proposed method for designing and ordering
 2142 Containers that meet the color and labeling requirements of Section 9.3; a sample of the
 2143 proposed colors for the Container lids and bodies; a sample of the proposed label design,
 2144 labeling method, and location(s) for label placement on each type of container; the
 2145 timeline for removing non-compliant Containers and delivering new Containers to
 2146 Customers; and, the process for notifying Customers of the change in Containers both
 2147 before and after Containers have been delivered, including a copy of the proposed
 2148 Customer notifications to be distributed.
- 2149 b. **Fuel.** Contractor, if planning to use RNG fuel, shall include a plan for how the Contractor
 2150 plans to transition to this fuel type, including: number of vehicles, vehicle type(s), the
 2151 estimated amount of RNG that will be necessary, and where such fuel will be procured
 2152 from.
- 2153 c. **Other equipment.** Contractor shall describe any other necessary equipment to be
 2154 ordered or modified in order to implement the required programs and services.
- 2155 3. **Hiring and training personnel.** Contractor is responsible for hiring and training all personnel
 2156 needed in order to perform the duties required by this Agreement and shall describe its plan
 2157 for hiring and training new personnel as needed for the implementation of expanded
 2158 programs and services. All personnel that interface with the public shall be trained on the
 2159 requirements of SB 1383 such that they are able to provide accurate information to the public
 2160 on these programs and requirements.
- 2161 4. **Customer education and outreach materials.** Contractor shall describe its plan to educate
 2162 Customers on the new Collection services and other programs provided under this
 2163 Agreement. Contractor shall include, at a minimum, its proposal for education material types
 2164 to be used for each Customer Type, topics to be covered, method of distribution, and
 2165 schedule of distribution by material type or campaign.
- 2166 C. **Termination for Failure to Implement Strategies.** Failure to implement any one of the programs
 2167 listed in the SB 1383 Implementation Plan (Exhibit F) shall be deemed an Event of Default in
 2168 accordance with Article 14, unless Contractor can demonstrate to the satisfaction of the County
 2169 Contract Manager that implementation of such programs is beyond the reasonable scope of their
 2170 control despite their best efforts. For example, and not by way of limitation, it is beyond the
 2171 reasonable scope of the Contractor’s control to affect ordinances adopted by the County Board of
 2172 Supervisors.

ARTICLE 9: OPERATING ASSETS

2173

2174 Section 9.1: Operating Assets

2175 A. **Obligation to Provide.** The Contractor shall acquire and maintain at its own cost and expense,
2176 Operating Assets which in number, nature, and capacity shall be sufficient to enable the Contractor
2177 to provide the Collection Services in accordance with the terms hereof and such assets shall be
2178 subject to inspection by the County at any time.

2179 B. **Vehicle and Equipment Identification.** The Contractor's name, phone number, and vehicle or
2180 equipment number shall be visibly displayed in letters not less than three (3) inches in height on
2181 both sides of its vehicles or other Collection equipment used by the Contractor.

2182 C. **Vehicle Specifications, Maintenance, and Appearance.** All Vehicles shall be properly registered
2183 with the Department of Motor Vehicles of the State of California, shall be properly insured, shall be
2184 of a type approved by the County, shall be kept clean and in good repair, and shall be continuously
2185 maintained in a watertight condition. Vehicles used to Collect or Transport Discarded Materials shall
2186 be kept covered at all times, except when such material is actually being loaded or unloaded or
2187 when the Vehicles are moving along a Collection Route in the course of Collection. All Vehicles shall
2188 carry a broom, shovel, and operable ABC fire extinguisher. Discarded Materials Collection Vehicles
2189 shall be washed at least once every seven (7) days and cleaned and painted as required to maintain
2190 a clean appearance.

2191 All Vehicles must be made available for inspection upon reasonable notice by the County Contract
2192 Manager.

2193 D. **Spillage.** Any cover or screen shall be so constructed and used that Discarded Materials shall not
2194 blow, fall, or leak out of the Vehicle onto the street. In the event of a spill, leak, or loss of payload
2195 during transit, the Contractor shall immediately arrange for the clean-up and transportation of the
2196 payload to the appropriate Facility at the Contractor's sole cost and expense, shall pay any resulting
2197 fines, assessments, penalties, or damages resulting therefrom, and shall indemnify and hold
2198 harmless the County in accordance with the procedures provided in Section 13.1 hereof from all
2199 loss-and-expense resulting therefrom. Failure to clean-up may result in Liquidated Damages
2200 (Section 14.2).

2201 E. **Computer System Compatibility.** The Contractor shall maintain records and data in an electronic
2202 format compatible with the versions of Microsoft Word and Excel currently in use by the County at
2203 any given time during the Term of this Agreement. The Contractor will, at its cost and expense, if
2204 requested by the County Contract Manager, provide any reports or data required by this Agreement
2205 via email, on computer media device, through a shared database such as a cloud-based software
2206 platform, or through another electronic format specified by the County. Raw or printed data may
2207 not be submitted as a substitute to the Contractor's obligation to provide various reports under this
2208 Agreement. Failure to abide by these shall be an Event of Default and result in assessment of
2209 Liquidated Damages pursuant to Article 14.

2210 **Section 9.2: Operation and Maintenance of the Operating Assets**

2211 The Contractor, at its cost and expense, shall at all times: 1) operate the Operating Assets properly and in
2212 a safe, sound, and economical manner; 2) maintain, preserve, and keep the Operating Assets in good
2213 repair, working order, and condition; 3) staff the Operating Assets with the appropriate number of
2214 licensed employees consistent with good management practice; and, 4) make all necessary and proper
2215 repairs, replacements, and renewals, so that at all times the operation of the Operating Assets may be
2216 properly and advantageously conducted. The Contractor shall maintain the safety of the Operating Assets
2217 at a level consistent with Applicable Law, the Insurance Requirements, and prudent Solid Waste
2218 management practices.

2219 The County shall have no obligation to Contractor related to the remaining value of any Operating Assets
2220 at the expiration or earlier termination of this Agreement.

2221 **Section 9.3: Containers**

2222 A. **County Regulations.** The County Contract Manager shall approve the number, type, size, color,
2223 labeling, and other specific physical requirements for Containers. The Contractor shall not be
2224 required to Collect Discarded Materials from Containers which have not been approved by the
2225 County.

2226 B. **General Requirements.** The Contractor shall supply Containers for each Customer free of charge
2227 upon inception of Collection Services. After emptying any Container, the Contractor shall replace
2228 the Container in an upright position at the place where such Container was placed for Collection.
2229 The Contractor shall handle Containers in a manner so as to prevent damage or spillage, and shall
2230 not throw, drop, or otherwise mishandle Containers during or after emptying them. The Contractor
2231 shall repair or replace, at its own expense and within five (5) days, any Container which is damaged
2232 by the Contractor, and which is no longer serviceable (e.g., broken wheels, cracked or missing lid,
2233 broken axle, cracked or leaking body, etc.).

2234 C. **Containers for Residential Customers.** The Contractor shall supply all Containers required for the
2235 services provided under this Agreement. The Containers shall be sturdy, watertight, and equipped
2236 with heavy-duty wheels and closeable lids. Each Container shall be identified with the Contractor's
2237 name and phone number. The Contractor shall maintain the Containers in good repair, shall bear
2238 the cost of normal wear and tear, and shall replace the lids, wheels or the entire Container as
2239 needed or upon request of the County Contract Manager. The Contractor may charge a fee to
2240 Customers that have Containers that must be repaired or replaced due to other than normal wear
2241 and tear and shall notify the County Contract Manager if such fee may be charged. If repairs require
2242 removal of the Container from a Customer's Premises, the Contractor shall supply the Customer
2243 with a replacement Container or "loaner" Container. The Contractor shall, within seven (7) days,
2244 repair or replace damaged or dilapidated Containers. The Contractor shall provide the Containers
2245 required pursuant to this Section at its own cost and expense and any such Containers shall
2246 constitute Operating Assets. The Contractor shall promptly replace stolen Containers, provided that
2247 the Contractor shall only bear the cost of a replacement Container the first time it is stolen, and
2248 thereafter such cost shall be borne by the Customer. If the stolen Container is later recovered and
2249 the Contractor has charged the Customer a fee, then the Contractor will refund the Customer the
2250 same fee. Contractor shall replace any residential Container, upon Customer request, once every
2251 ten years, free of charge.

2252 D. **Containers for Bin Customers.** The Contractor shall provide, as an Operating Asset the Containers
2253 required pursuant to Section 9.3 at its own cost and expense. Each such Container shall be identified
2254 with the Contractor's name and phone number and be equipped with heavy-duty casters and
2255 closeable lids. Each such Container shall be watertight. The Contractor shall be responsible for the
2256 general maintenance and repair of Containers so provided and shall provide an equivalent
2257 Container as replacement during repairs and maintenance. If repairing, maintenance, steam
2258 cleaning, and/or repainting is required as a result of abuse, neglect, or misuse on the part of any
2259 Customer, the Contractor may charge the Customer a fee, to compensate for the cost thereof. The
2260 Contractor shall, within seven (7) days, repair or replace any damaged, or dilapidated Container.
2261 The Contractor shall promptly replace stolen Containers provided that the Contractor shall only bear
2262 the cost of a replacement Container the first time it is stolen, and thereafter such cost shall be borne
2263 by the Customer. If the stolen Container is later recovered and the Contractor has charged the
2264 Customer a fee, then the Contractor will refund the Customer the same fee.

2265 E. **Container Colors.** On July 1, 2023, all new Containers provided by the Contractor shall comply with
2266 the Container color requirements specified in this Section 9.3, or as otherwise specified in 14 CCR
2267 Section 18984; 14 CCR, Division 7, Chapter 12, Article 3. Notwithstanding the requirements of this
2268 Section, Contractor shall not be required to replace existing Containers, including Containers
2269 purchased prior to January 1, 2022, that do not comply with the color requirements of this Section
2270 prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes
2271 first.

2272 1. Recyclable Materials Containers shall have a lid and body that comply with one of the
2273 following options:

2274 a. Blue body with blue lid.

2275 b. Blue body with gray lid.

2276 c. Blue lid with any color body.

2277 2. Organic Materials Containers shall have a lid and body that comply with one of the following
2278 options:

2279 a. Green body with green lid.

2280 b. Green body with gray lid.

2281 c. Green lid with any color body.

2282 3. Solid Waste Containers shall have a lid and body that comply with one of the following
2283 options:

2284 a. Gray body with gray lid.

2285 b. Gray lid with any color body.

2286 For the purposes of this Agreement, "gray" means any shade of gray, including black.

2287 4. Containers used for the collection of C&D may be in any color, provided that the colors do not
2288 conflict with the Container color requirements of this Section 9.3 and provided that the C&D
2289 Container colors are consistent for all C&D Containers. The C&D Container color shall be
2290 reviewed and approved by the County Contract Manager.

2291 5. Hardware such as hinges and wheels on the Containers may be a different color than
2292 prescribed above.

2293 6. Prior to ordering or purchasing any Containers or repainting any metal Containers, Contractor
2294 shall present the proposed colors to the County Contract Manager for review and approval.

2295 F. **Container Labels.** Commencing on or before July 1, 2023, Contractor shall label each new Container
2296 body or lid with clear text indicating the Container type (e.g., Recyclable Materials, Organic
2297 Materials or Solid Waste), and text and/or graphic images that indicate the primary materials
2298 accepted and prohibited in that Container. Labels shall clearly indicate items that are Prohibited
2299 Container Contaminants for each Container. Contractor may label Containers using paint, adhesive
2300 label, hot-stamped lettering, in-mold design, or other County-approved method. In the event that
2301 the County identifies during the Term of the Agreement that the Contractor's labeling method
2302 results in excessive wear or rapid aging, the County may require the Contractor to use a different,
2303 more durable technology for future purchases of labels or Containers. At all times, the labeling shall
2304 be positioned and maintained on each Container such that it is easily visible to the Customer. Prior
2305 to ordering any labels or Container components with in-mold labels, Contractor shall submit a
2306 sample of its proposed label design, labeling method, and placement location on each type of
2307 Container to the County Contract Manager for approval.

2308 Contractor shall label or install signs on Bins and Roll-Off Boxes used for Collection of C&D
2309 identifying non-allowable materials for Collection in the C&D Containers. The Contractor shall
2310 submit its proposed design and labeling method for the labels or signs for approval by the County
2311 Contract Manager prior to purchase and installation.

2312 G. **New Container Distribution.** Beginning July 1, 2023, all new Containers shall comply with the color
2313 and labeling requirements specified in subsections 9.3.E and 9.3.F above; however, the Contractor
2314 shall not be required to replace existing Containers, including Containers purchased prior to January
2315 1, 2022, that do not comply with such requirements prior to end of the useful life of those
2316 Containers, or prior to January 1, 2036, whichever comes first.

2317 Contractor shall develop a detailed plan and timeline for distribution of new Containers to
2318 Customers and the emptying and removal of existing Containers, which may involve coordination
2319 with the County's current contractor, if applicable. In addition to the timeline and proposed process,
2320 the plan shall also include: the proposed Container colors and labeling, as specified in subsections
2321 9.3.E and 9.3.F above; and a description and copy of the notices that will be given to Generators
2322 prior to removing or delivering Containers, and adhered to the new Containers, and the timeline for
2323 such noticing process. Contractor shall submit the plan to the County Contract Manager at a
2324 minimum of one hundred twenty (120) days prior to the Commencement Date for review and
2325 approval and include this information in the Contractor's SB 1383 Implementation Plan in
2326 accordance with Section 8.9.

2327 **Section 9.4: Vehicle Requirements**

2328 Contractor shall provide a fleet of Collection Vehicles sufficient in number and capacity to efficiently
2329 perform the work required by the Agreement in strict accordance with its terms. Contractor shall have
2330 available sufficient back-up Vehicles for each type of Collection Vehicle used to respond to scheduled and
2331 unscheduled maintenance, service requests, complaints, and emergencies. All such Vehicles shall have
2332 watertight bodies designed to prevent leakage, spillage, or overflow. All such Vehicles shall comply with
2333 all Federal, State, and local laws and regulations including, without limitation, safety and emissions
2334 requirements, and such compliance shall come at no additional cost to the County or Customers during
2335 the Term of this Agreement.

2336 Collection Vehicles shall present a clean appearance while providing service under this Agreement.
2337 Contractor shall inspect each Vehicle daily to ensure that all equipment is operating properly. Vehicles
2338 that are not operating properly shall be taken out of service until they are repaired and operate properly.
2339 Contractor shall repair, or arrange for the repair of, all of its Vehicles and equipment for which repairs are
2340 needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and
2341 operable condition.

2342 All Vehicles must be made available for inspection upon reasonable notice by the County Contract
2343 Manager. While not currently required, it is acknowledged that given the term length of this Agreement
2344 and improvements in technology that will undoubtedly occur during the term of this Agreement, the
2345 County may deem it necessary and/or prudent to require additional tracking and/or monitoring devices
2346 to be installed on all, or some, Collection Vehicles. Contractor shall abide by that request within the time
2347 frame established by the County Contract Manager and the failure to do so Contractor's failure is deemed
2348 an Event of Default pursuant to Section 14.1.

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ARTICLE 10: GENERAL REQUIREMENTS

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Section 10.1: Public Access to the Contractor

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A. **Office Facilities.** The Contractor shall establish and maintain an office within the County (or in the near proximity) through which the Contractor's representatives may be contacted by the public during normal office hours.

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B. **Office Hours.** The Contractor's office hours shall be, at a minimum, from 8:00 a.m. to 4:00 p.m. daily except Saturdays, Sundays, and Holidays. Saturday hours shall be, at a minimum, from 8:00 a.m. to 12:00 noon for Contractors servicing non-residential accounts. These hours may be altered with the written approval of the County Contract Manager.

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C. **Emergency Telephone Number.** The Contractor shall provide the County with an emergency telephone number for use by the County Contract Manager outside normal business hours. The Contractor shall have a representative, or an answering service to contact such representative, available at the emergency telephone number during all hours other than normal office hours.

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Section 10.2: Service Complaints

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A. **Complaints to Contractor.** The Contractor shall maintain during office hours a complaint service and telephone answering system having an answering capacity satisfactory to the County Contract Manager. All service complaints and billing complaints will be directed to the Contractor. The Contractor shall record all complaints in a log, including date, complainant name and address, and nature and resolution of complaint. This log shall be available for inspection by the County Contract Manager during the Contractor's regular office hours. Copies thereof shall be furnished to the County Contract Manager upon request. Complaints regarding non-compliance with SB 1383 shall be maintained separately, in accordance with Section 10.2.C below.

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B. **Required Response to Complaints.** The Contractor, within one (1) Business Day of its receipt of notice from a Customer or the County Contract Manager of a failure to provide any service(s) as required by the terms of this Agreement, shall provide such service in a manner consistent with the requirements of this Agreement.

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C. **SB 1383 Noncompliance Complaints.** For complaints received in which the complainant alleges that an entity is in violation of SB 1383 requirements, Contractor shall document the information listed in Exhibit D.2.D and provide the complainant with the contact information for the County Contract Manager for further handling of the complaint. Contractor shall notify in writing the County within three (3) days of receipt of such complaint, including a brief complaint report with the information collected during the call. Contract shall maintain a record of all complaints received in the calendar month and submit this information in accordance with Exhibit D.

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Section 10.3: Accounting and Records

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A. **Maintenance and Audit of Accounting Records.** The Contractor shall maintain in its principal office in the County full and complete financial statements and accounting records for the operations under this Agreement. Said financial statements and accounting records shall only pertain to the

2386 operations under this Agreement and they may not contain any information from an ancillary
2387 business. Contractor shall account for the specific revenues received and expenses incurred as a
2388 result of this Agreement separate from the accounting for other operations performed by
2389 Contractor or its affiliates. Revenues and expenses shall be broken down in a manner approved by
2390 the County Contract Manager in writing and at a minimum the break down shall clearly show the
2391 expenses and revenues to provide solid waste residential service and commercial services. The
2392 gross receipts derived from the Collection Services under this Agreement, whether such services
2393 are performed by the Contractor or by a Subcontractor, shall be recorded as revenues in the
2394 accounts of the Contractor. Upon demand, the Contractor shall permit the County Contract
2395 Manager to examine and audit the books of account of the Contractor at any and all reasonable
2396 times for the purpose of verifying Contractor's performance under this Agreement. Upon request,
2397 the Contractor shall allow the County Contract Manager to examine the reports of gross receipts
2398 and the invoices pertaining to any fee or charge approved by the County Board of Supervisors for
2399 services provided under this Agreement. Such request shall be made at reasonable times and with
2400 reasonable notice and at a minimum said information shall be provided at least once every five
2401 years.

2402 Upon County request and within one hundred twenty (120) calendar days after the close of an
2403 Agreement Year, Contractor shall deliver to the County one (1) hard copy of the reviewed
2404 consolidated financial statements of Contractor for the preceding Agreement Year. Financial
2405 statements shall include a supplemental combining schedule (Exhibit L) showing Contractor's results
2406 of operations, including the specific revenues and expenses in connection with the operations
2407 provided for in this Agreement separate from others included in such financial statements. The
2408 financial statements and footnotes shall be prepared in accordance with Generally Accepted
2409 Accounting Principles (GAAP) consistently applied and fairly reflecting the results of operation and
2410 Contractor's financial condition. Annual financial statements shall be reviewed, in accordance with
2411 Generally Accepted Auditing Standards (GAAS) by a Certified Public Accountant (CPA) licensed (in
2412 good standing) to practice public accounting in the State as determined by the State Department of
2413 Consumer Affairs Board of Accountancy.

2414 B. **Confidentiality.** The County agrees to hold financial statements delivered pursuant to this Section
2415 as confidential and shall not disclose the same unless and to the extent disclosure is required
2416 pursuant to Applicable Law.

2417 **Section 10.4: Record Keeping and Reporting**

2418 A. **Record Keeping.** In addition to the financial records maintained in accordance with Section 10.3,
2419 Contractor shall maintain on file at its business premises documentation setting forth its Routing
2420 and Collection System; list of all its Collection Premises in the County, organized alphabetically or
2421 by address, and the identification of all services each receives; Customer account information and
2422 contact information; Customer service information; and, all other statistical, operational, and
2423 programmatic records and associated documentation related to the Contractor's performance of
2424 the services under this Agreement. This information shall be updated and provided at no additional
2425 cost to the County along with Contractor's monthly, bi-monthly and annual reports (as required in
2426 Exhibit D). Contractor's records shall be stored in one central database that can be readily accessed
2427 by Contractor. Upon request, any such records shall be retrieved in a timely manner, not to exceed
2428 ten (10) Business Days of a request by the County Contract Manager and made available to the
2429 County Contract Manager; including any record or documentation necessary for the County to fulfill

2430 obligations under applicable law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB
2431 901, SB 1383, and other current or future federal, State, or local regulations, as amended from time
2432 to time. Records and data shall be in chronological and organized form that is readily and easily
2433 interpreted to facilitate the flexible use of data to structure reports. From time to time during the
2434 term of this Agreement the County Contract Manager may prescribe a particular format to be
2435 followed for said data collection, organization and reporting. The Contractor's failure to abide by
2436 these requirements or change prescribed thereto by the County Contract Manager shall be deemed
2437 an Event of Default pursuant to Section 14.1.

2438 Contractor shall retain all records and data required by this Agreement in a database that is in an
2439 accessible location for the Term of this Agreement plus five (5) years after its expiration or earlier
2440 termination, unless another timeframe is otherwise specified in this Article, or the County agrees in
2441 writing to an earlier disposition.

2442 Contractor shall maintain adequate record security to preserve records from events that can be
2443 reasonably anticipated such as a fire, theft, and an earthquake. Electronically-maintained data and
2444 records shall be protected and backed-up. The County reserves the right to require the Contractor
2445 to maintain the records required herein through the use of a County-selected web-based software
2446 platform, at Contractor's expense. The Contractor will utilize its computer system to comply with
2447 record keeping and reporting requirements under this Agreement, and shall, on a monthly basis,
2448 save all system-generated reports supporting those record keeping and reporting requirements in
2449 an electronic format and submit the data to the County Contract Manager on a bi-monthly basis in
2450 a manner prescribed by the County Contract Manager. It is acknowledged that said manner may
2451 change from time to time during the term of this Agreement.

2452 Contractor shall permit the County, or its designee, to audit, inspect, examine, and make excerpts
2453 or transcripts from data and records, including Customer-specific records, and make copies of all
2454 data relating to all matters covered by this Agreement and the County Code. Such inspection and
2455 copying by the County shall occur during regular business hours with reasonable advance notice.

2456 Contractor agrees that all data regarding business operations, customer lists, Routing, tonnage,
2457 Service Levels, work orders issued from dispatch, Customer service logs and account notes, and
2458 workforce and bargaining agreements do not constitute proprietary information or Trade Secrets
2459 and shall be made available to the County Contract Manager or their designee upon request and
2460 within the timelines required by this Section.

2461 The County views its ability to defend itself against any actions related to rates and charges as well
2462 as the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as a
2463 matter of great importance. For this reason, the County regards its ability to prove the costs
2464 associated with and where Collected Discarded Materials are taken for Transfer, Processing, and/or
2465 Disposal of great importance and the failure of the Contractor to abide by any provisions related
2466 thereto in this Agreement shall be deemed an Event of Default pursuant to Section 14.1. Contractor
2467 shall maintain records which can establish where Discarded Materials Collected were Transferred,
2468 Processed, and/or Disposed. This provision shall survive the expiration or earlier termination of this
2469 Agreement. Contractor shall maintain these records for a minimum of ten (10) years beyond
2470 expiration or earlier termination of the Agreement. Contractor shall provide these records to County
2471 upon request or at the end of the record retention period in an organized and indexed manner.

2472 B. **Reporting.** Contractor shall maintain records and submit reports in accordance with Exhibit D.
2473 County reserves the right to require Contractor to provide additional reports or documents as
2474 County Contract Manager determines at their sole discretion to be required for the administration
2475 of this Agreement or compliance with Applicable Law.

2476 Information in the Contractor's reports relating to Customers and services provided shall match the
2477 information that appears on the Contractor's invoices or statements, where applicable, which is
2478 subject to review and audit by the County.

2479 **Section 10.5: CalRecycle Regulatory Compliance**

2480 The Contractor shall provide on a bi-monthly basis all necessary reporting data requested by the County
2481 relating to compliance requirements detailed in Exhibit D pertaining to AB 939, AB 341, AB 1826, AB 901,
2482 and SB 1383 as it affects the County's Integrated Waste Management Plan, the County's SRRE, or other
2483 reports required of the County by the State. Such reports shall be provided to the County within thirty
2484 (30) days after the end of the appropriate month. The Contractor shall cooperate in activities requested
2485 by the County to measure Diversion of Solid Waste from Landfills including, but not limited to, providing
2486 a location for conducting waste sorting at the Contractor's Facility, and re-routing trucks on a temporary
2487 basis to facilitate composition analysis, or other support for County-conducted activities as described in
2488 Section 8.5. Such report shall include, but not necessarily be limited to, throughput, recovery rates per
2489 material type, Residue, costs, Recyclable Material commodity values, final disposition of Recyclable
2490 Materials or Organic Materials, or other information required in Exhibit D. The Contractor shall also supply
2491 any other information reasonably requested by the County Contract Manager to meet State or Federal
2492 regulatory requirements as those requirements may be amended from time to time.

2493 **Section 10.6: Personnel and Subcontractors**

2494 A. **Employment Practices.** The Contractor shall at all times maintain and follow employment practices
2495 in accordance with all state and federal laws and regulations and shall indemnify the County for any
2496 legal proceeding relating to its noncompliance with such laws or regulations.

2497 B. **Non-Discrimination.** In the performance of the Terms of this Agreement, the Contractor agrees that
2498 it will not engage in nor permit such Subcontractors as it may employ to engage in discrimination
2499 against any employee or applicant for employment on the basis of race, sex, color, religion, ancestry,
2500 national origin, marital status, age or as a qualified individual with a disability. This prohibition shall
2501 pertain to employment, upgrading, demotion, or transfer; recruitment advertising; layoff or
2502 termination; rates of pay and other forms of compensation; selection for training, including
2503 apprenticeship, and any other action or inaction pertaining to employment matters.

2504 C. **Personnel.** The Contractor shall employ personnel sufficient in number, training, experience, and
2505 capability to ensure that the Collection Services required to be performed under this Agreement
2506 are properly carried out.

2507 D. **Subcontractors.** The Contractor shall not utilize any Affiliates or Subcontractors for the performance
2508 of any Services under this Agreement, except with the written consent of the County Contract
2509 Manager, which may be withheld or delayed if the County Contract Manager determines, in their
2510 sole discretion, that such consent is not in the best interest of the public health, safety, or general
2511 welfare. In the event Subcontractors are utilized, the Contractor shall provide the County with direct

2512 access to a designated representative from the Subcontractor, such designation not to be changed
2513 without prior approval of the County Contract Manager, except in cases of termination of the
2514 employee. The Parties acknowledge the County's direct contact with any Subcontractors in no way
2515 eliminates the Contractor's responsibility to fulfill its obligations under this Agreement.

2516 E. **Contract Administrator Designation.** The Contractor shall designate in writing on or immediately
2517 following the Agreement Date, a person ("Contract Administrator") to transmit instructions, receive
2518 information, and otherwise coordinate service matters arising pursuant to this agreement. The
2519 Contractor may designate a successor or substitute Contract Administrator at any time by written
2520 notice to the County. The Contract Administrator will be the primary point of contact for the County
2521 Contract Manager.

2522 **Section 10.7: County Contract Manager**

2523 The County has designated the County Contract Manager (which may be changed time to time by the
2524 County) to be responsible for the monitoring and administration of this Agreement. Contractor shall meet
2525 and confer with the County Contract Manager to resolve differences of interpretation and implement and
2526 execute the requirements of this Agreement in an efficient and effective manner that is consistent with
2527 the stated objectives of this Agreement.

2528 From time to time, the County Contract Manager may designate other agents at the County to work with
2529 Contractor on specific matters. In such cases, those individuals should be considered designees of the
2530 County Contract Manager for those matters to which they have been engaged. Such designees shall be
2531 afforded all of the rights and access granted thereto. In the event of a dispute between the County
2532 Contract Manager's designee and Contractor, the County Contract Manager's determination shall be
2533 conclusive.

2534 In the event of dispute between the County Contract Manager and the Contractor regarding the
2535 interpretation of, or the performance of services under, this Agreement, the County Contract Manager's
2536 determination shall be conclusive. If the Contractor can demonstrate a significant and material impact to
2537 the Contractor's cost of operations, then they may seek review under Article 15. For the purposes of this
2538 section, "material impact" is an amount equal to or greater than one percent (1%) of Contractor's annual
2539 Gross Receipts under this Agreement.

2540 County Contract Manager or their designate shall have the right to observe and review Contractor
2541 operations and Processing Facilities and enter Premises for the purposes of such observation and review,
2542 including review of Contractor's records, during reasonable hours with reasonable notice. In no event
2543 shall Contractor prevent access to such Premises for a period of more than one (1) Business Day after
2544 receiving such a request.

2545 **Section 10.8: Performance and Financial Reviews**

2546 The County may conduct and Contractor shall cooperate with up to two (2) performance reviews every
2547 five years and detailed financial reviews at any point during the Term of this Agreement in the County
2548 Contract Manager's sole discretion, to verify Contractor has fulfilled its financial and operational
2549 obligations under this Agreement. The purpose of such reviews shall be, without limitation, to review
2550 complaints, billings, and fee payments to County, and to determine if Contractor has met the performance
2551 standards described in this Agreement (including, without limitation, direct services provided to

2552 Customers, Processing services, public education and outreach, recordkeeping and reporting,
2553 contamination monitoring, and other performance standards established under this Agreement). County,
2554 at its sole discretion, may choose to enlist third-party professional service providers to perform such
2555 reviews. Contractor may not influence or control the County’s selection of third-party professional service
2556 providers nor the specific review items covered by the review. Contractor shall cooperate with the County
2557 and its agents during the review process. If any noncompliance with the Agreement is found, the County
2558 may direct the Contractor to correct the inadequacies in accordance with Article 14 of this Agreement.

2559 At the County’s sole option, with at least thirty (30) calendar days written notification to the Contractor,
2560 the County may conduct a public hearing at which time the Contractor shall be present and be given the
2561 opportunity to participate, to review the Contractor's performance and quality of service and provide for
2562 evaluation of technological and regulatory changes. The reports required by Exhibit D to this Agreement
2563 regarding Customer complaints may be utilized as a basis for review as well as any findings from
2564 performance reviews and/or audits. Performance and service quality review hearings may be scheduled
2565 by the County at its discretion throughout the Term of the Agreement.

2566 **ARTICLE 11: COUNTY FEES AND REIMBURSEMENTS**

2567 **Section 11.1: County Payments**

- 2568 A. **Administration Fee.** The Contractor shall pay an Administration Fee to the County in accordance
2569 with Kern County Code, as amended, supplemented, superseded, and replaced from time to time.
- 2570 B. **Other Payments.** The County shall reserve the right to set other fees or reimbursement payments
2571 as it deems necessary.

2572 **Section 11.2: Adjustment to County Payments**

2573 Pursuant to the County Code and Applicable Law, the County Board of Supervisors may adjust the
2574 payments established in this Article from time to time during the Term of this Agreement.

2575 **Section 11.3: Payment Schedule and Late Fees**

2576 Within thirty (30) days of the end of each payment cycle, during the Term of this Agreement and including
2577 the final month or portions thereof at the end of the Term of this Agreement, Contractor shall remit to
2578 County all payments as described in this Article 11 and Article 7 unless specified otherwise. Such payments
2579 shall be payable to County and sent or delivered to the County Contract Manager or their designee. Any
2580 Solid Waste Administration Fee payments due to the County for all Universal Collection Area residential
2581 properties will be deducted monthly from the amounts due to the Contractor that are collected on the
2582 tax rolls. Solid Waste Administration Fee payments due to the County for all other areas and types of
2583 properties shall be paid as set forth in the ordinance for the Solid Waste Administration Fee.

2584 All payments due shall become delinquent forty-five (45) days after it is due. All payments due shall be
2585 subject to a delinquency penalty of three percent (3%), which attaches on the first day of delinquency.
2586 The delinquency penalty shall be increased an additional three percent (3%) and applied to both the
2587 original amount due as well as any delinquency penalties previously applied for each additional month
2588 the payment remains delinquent. For example, if the amount of the original payments owed equals one
2589 hundred thousand dollars (\$100,000), the initial delinquency amount applied on the first day of

2590 delinquency will be three thousand dollars (\$3,000), bringing the total amount to one hundred three
2591 thousand dollars (\$103,000). If that amount becomes past due for an additional month, the additional
2592 delinquency penalty shall be applied to the one hundred three thousand dollars (\$103,000) therefore, the
2593 new total amount due would be one hundred six thousand ninety dollars (\$106,090). Failure to submit
2594 payment within ninety (90) days after the due date shall be an Event of Default under this Agreement,
2595 unless the County Contract Manager agrees in writing to extend the time for payment.

2596 Each remittance to the County shall be accompanied by a statement listing the amount of each payment
2597 submitted; calculation of each payment; and, if appropriate, a statement of Gross Receipts, by line of
2598 business for the period collected from all operations conducted or permitted by this Agreement. The
2599 County Contract Manager may, at any time during the term, request a detailed calculation of Gross
2600 Receipts which may include, but is not necessarily limited to, the number of Customers charged at each
2601 Service Level and Rate for each billing period for all properties including those properties included within
2602 a Universal Collection Area, residential non-tax roll billed area, or non-residential non-tax roll billed area.

2603 The County Contract Manager may, at any time during the Term or within five (5) years following the
2604 expiration or early termination of this Agreement, perform an audit of Contractor's billings and payment
2605 of fees. Contractor shall fully cooperate with the County Contract Manager in any such audit. Should the
2606 County or its agent perform this review and identify billing errors or other errors in payment of fees valued
2607 at one (1%) percent or more of Gross Receipts, Contractor shall, in addition to compensating the County
2608 for lost payments and applicable delinquency penalties, reimburse the County's cost of the review.

2609 **ARTICLE 12: CONTRACTOR'S COMPENSATION AND RATE**
2610 **SETTING**

2611 **Section 12.1: General**

2612 The Contractor's compensation for the performance of all its obligations under this Agreement shall be
2613 Gross Receipts collected on the tax rolls for residential properties located in the appropriate universal
2614 collection areas or Gross Receipts paid directly to the Contractor from all other customers and there shall
2615 be no other compensation provided for by the County. Contractor's compensation provided from those
2616 Gross Receipts shall be the full, entire and complete compensation due Contractor pursuant to this
2617 Agreement for any, and all, things necessary to perform all the services required by this Agreement in the
2618 manner and at the times prescribed. This Agreement is the complete and full agreement between the
2619 Parties and nothing herein shall obligate the County, in any way, to provide any compensation to
2620 Contractor beyond Gross Receipts from customers.

2621 It is understood and acknowledged that if Contractor's actual costs, including fees due to the County, are
2622 more than the Gross Receipts, Contractor shall not seek and shall not be compensated for the difference
2623 in actual costs and actual Gross Receipts. If Contractor's actual costs, including fees due to the County,
2624 are less than the actual Gross Receipts, Contractor shall retain the difference to the extent provided by
2625 Applicable Law.

2626 It is also readily understood and acknowledged that at the time of entering into this Agreement,
2627 Applicable Law is such that the conservative approach is to assume that the rates and charges to
2628 customers for the majority of items herein are subject to Article XIII D of the California Constitution
2629 (commonly referred to as Proposition 218). Pursuant to the provisions of Article XIII D Section 4, it is also
2630 readily understood and acknowledged that the County bears the risk if the rates and charges to customers
2631 were not adopted in accordance with Article XIII D of the California Constitution. It is also understood and
2632 agreed that some could argue that the provisions of Proposition 26 would apply if Proposition 218 did not
2633 apply. Given these circumstances, and the sole risk falling upon the County, it is readily understood and
2634 acknowledged that the rates and charges to customers provided for in this Agreement shall be subject to
2635 the provisions of Article XIII D of the California Constitution at the time this agreement is entered into.
2636 Moving forward, it is readily understood and acknowledged that other changes in the law may occur. As
2637 a result, it is readily understood and acknowledged that the County shall be entitled to, and the Contractor
2638 shall, in the time frame requested, provide any, and all, information which the County Contract Manager
2639 deems, in their sole discretion, to be necessary to meet the requirements of Applicable Law.

2640 Should a court of competent jurisdiction determine that the County and/or Contractor cannot charge
2641 and/or increase its Rates for charges related to any new or increased fees and charges, the Contractor
2642 shall reduce the Rates it charges Customers a corresponding amount and shall discontinue collection
2643 and/or payment of any new or increased fees and/or charges which have been invalidated by the court.
2644 Likewise, if a Rate, or Rate increase, is rejected during the Proposition 218 process (or if applicable the
2645 Proposition 26) the Contractor shall retain or reduce the Rates as the case may be. If Contractor
2646 discontinues providing a service, the County may exercise any, and all, legal options to have the service
2647 provided by others regardless of any exclusivity provided in this Agreement and/or any County Ordinance.

2648 Under this Agreement, Contractor shall have the right and obligation to charge and collect from
2649 Customers Rates that are approved by the County for provision of services to Customers. The Rates for

2650 Rate Period One are set forth in Exhibit C. The Rates established by the County are maximum Rates and
2651 Contractor may, in its sole discretion, charge Customers any amount up to and including the approved
2652 maximum Rate for a given level of service provided that the Rate is charged on a uniform basis to all
2653 accounts.

2654 **Section 12.2: Rates and Annual Adjustments**

2655 A. **General.** The County shall be responsible for processing and seeking customer approval of Rates
2656 and memorializing those Rates on the County-approved Rate schedule. If at any time during the
2657 Term of the Agreement, the Contractor comes to believe there is a need for an increase to a Rate,
2658 or a new Rate that does not appear on the County-approved Rate schedule in Exhibit C, Contractor
2659 shall immediately notify the County Contract Manager and request establishment of such Rate.
2660 The Contractor may, in its sole discretion, charge Customers a rate lower than the established
2661 Rate on the County-approved Rate schedule provide that the lower rate is charged on a uniform
2662 basis to all accounts provided that same level of service. If the Contractor believes there is
2663 sufficient grounds to deviate from this uniformity requirement, the Contractor may seek written
2664 approval for such deviation from the County Contract Manager. It is readily understood and
2665 agreed that provisions described in Section 12.1 have a material impact on the establishment of,
2666 and increases to, the Rates and Contractor acknowledges that regardless of the Contractor’s belief
2667 in the justification, Rates are to be processed by the County at its sole discretion and approved by
2668 the appropriate customer base.

2669 B. **Rates.** Rates may be set annually by ordinance and/or resolution in accordance with Applicable
2670 Law. Notwithstanding judicial intervention, the Rates set forth in Exhibit C shall remain in force
2671 commencing with the Agreement Date and continuing until a new rate is approved by the Board
2672 of Supervisors. The Contractor may request, but is not entitled to an annual adjustment of Rates.
2673 Each Rate, excluding Special Charges, will be subject to a “Rate Adjustment Factor” that is based
2674 on a Consumer Price Index for Trash and Garbage as set forth in Exhibit B, provided that the rate
2675 payers have approved the “Rate Adjustment Factor” in accordance with applicable law, including
2676 the Proposition 218 Omnibus Act and any subsequently applicable law. For direct bill customers,
2677 the Contractor shall be required to meet the rate increase notice provision provided by law
2678 including those found in the Proposition 218 Omnibus Act.

2679 C. **Charges for Special Services.** If a Special Service is required and at that time the service does not
2680 have a Rate established for the service in the County-approved Rate schedule, the Contractor and
2681 Customer shall agree upon the requested terms of service and an appropriate Rate for said
2682 service. Before commencing the Special Service, Contractor shall submit to the County Contract
2683 Manager, a written request for review and approval of the terms of service and the Rate to be
2684 billed for the Special Service. Any applicable Special Service charges will be billed directly by the
2685 Contractor and will not be billed on property taxes in any type of Collection Area. Contractor may
2686 request, but is not entitled to, an annual adjustment using the Rate Adjustment Factor of any of
2687 the rates for these Special Services, if appropriate. Contractor will provide any documentation
2688 required supporting the request for an adjustment.

2689 D. **Special Circumstances Rate Review.** The parties acknowledge that there may be infrequent
2690 extraordinary events which, although they do not prevent either party from performing,
2691 nevertheless increase the cost of providing service such that Contractor’s compensation and the
2692 rate adjustment mechanisms elsewhere provided in this Agreement result in the Contractor’s

2693 suffering losses that are outside the commercially reasonable expectations of the parties.
2694 Accordingly, at its option, the Contractor may apply to the County at any time, but not more
2695 frequently than once annually, for an extraordinary rate adjustment should an event or
2696 circumstance arise, including without limitation a change in law, which negatively impacts the
2697 economic operation of Contractor, and which is in excess of the rate adjustment resulting from
2698 the application of the annual adjustment formula set forth above. An interim adjustment in rates
2699 may be deemed justified if it is necessary for the Contractor to make a substantial change in
2700 operations, or a substantial capital expenditure or investment in order to perform its obligations
2701 under this Agreement due to the occurrence of an event or circumstance which is beyond the
2702 reasonable control of Contractor. In the event Contractor makes application for an extraordinary
2703 rate increase, the Contractor shall bear the burden of demonstrating to the reasonable
2704 satisfaction of the County the basis for the request.

2705 **Section 12.3: Publication of Rates**

2706 The Contractor shall provide written notice to Customers of any Rate changes in accordance with
2707 Applicable Law and in particular the provisions of Proposition 218 and any, and all, statutes pertaining to
2708 Proposition 218, such as the Proposition 218 Omnibus Implementation Act. Additionally, Contractor shall
2709 provide written notice to all Customers as part of billing statement the Contractor sends to Customers
2710 and such written notice shall be provided at least 30 days prior to the Effective Date of the Rate change.
2711 Contractor shall also publish current Rates in a convenient and easily found location on its website and
2712 Rate changes notices shall be published on the website at least 30 days prior to the Effective Date of the
2713 Rate change.

2714 **ARTICLE 13: INDEMNITY, INSURANCE, AND PERFORMANCE**
2715 **BOND**

2716 **Section 13.1: Indemnification**

2717 A. **General.** Contractor shall indemnify, defend with counsel acceptable to and approved by the
2718 County Counsel, and hold harmless (to the full extent permitted by law) County and its officers,
2719 officials, employees, volunteers, and agents from and against any and all claims, liability, loss,
2720 injuries, damage, expense, and costs (including without limitation costs and fees of litigation,
2721 including attorneys' and expert witness fees) (collectively, "Damages") of every nature arising out
2722 of or in connection with Contractor's performance under this Agreement, or its failure to comply
2723 with any of its obligations contained in the Agreement, except to the extent such loss or damage
2724 was caused by the sole negligence or willful misconduct of the County.

2725 B. **Excluded Waste.** Contractor acknowledges that it is responsible for compliance during the entire
2726 Term of this Agreement with all Applicable Laws. Contractor shall not store, Transport, use, or
2727 Dispose of any Excluded Waste except in strict compliance with all Applicable Laws.

2728 In the event that Contractor negligently or willfully mishandles Excluded Waste in the course of
2729 carrying out its activities under this Agreement, Contractor shall at its sole expense promptly take
2730 all investigatory and/or remedial action reasonably required for the remediation of such
2731 environmental contamination. Prior to undertaking any investigatory or remedial action,
2732 however, Contractor shall first obtain the County's approval of any proposed investigatory or
2733 remedial action. Should Contractor fail at any time to promptly take such action, the County may
2734 undertake such action at Contractor's sole cost and expense, and Contractor shall reimburse the
2735 County for all such expenses within thirty (30) calendar days of being billed for those expenses,
2736 and any amount not paid within that thirty (30) calendar day period shall thereafter be deemed
2737 delinquent and subject to the delinquent fee payment provision of Section 11.3. These obligations
2738 are in addition to any defense and indemnity obligations that Contractor may have under this
2739 Agreement. The provisions of this Section shall survive the termination or expiration of this
2740 Agreement.

2741 Notwithstanding the foregoing, Contractor's duties under this subsection shall not extend to any
2742 claims arising from the disposal of Solid Waste at the Designated Disposal Facility, including, but
2743 not limited to, claims arising under Comprehensive Environmental Response, Compensation and
2744 Liability Act (CERCLA) unless such claim is a direct result of Contractor's negligence or willful
2745 misconduct.

2746 C. **Environmental Indemnity.** Contractor shall defend, indemnify, and hold the County harmless
2747 against, and from, any and all actions, claims, suits, losses, penalties, damages, and liability for
2748 damages of every name, kind and description, including attorneys' fees and costs incurred,
2749 attributable to the negligence or willful misconduct of Contractor in handling Excluded Waste.

2750 D. **Related to State Regulations.** Contractor's duty to defend and indemnify herein includes all fines
2751 and/or penalties imposed by CalRecycle (or its successor) and/or the County's costs for
2752 compliance with associated compliance orders or plans, if the requirements of AB 939, AB 341,
2753 AB 1826, SB 1383, or other current or future State regulations applicable to this Agreement are

2754 not met by the Contractor with respect to the waste stream collected under this Agreement
2755 and/or Contractor's other obligations under this Agreement, and such failure is: (i) due to the
2756 failure of Contractor to meet its obligations under this Agreement; or, (ii) due to misreporting by
2757 the Contractor or Contractor delays in providing information that prevents Contractor or the
2758 County from submitting accurate reports to regulators in a timely manner.

2759 E. **Third Parties.** These indemnification provisions are for the protection of the County only and shall
2760 not create, of themselves, any liability to third parties. The provisions of the subsection shall
2761 survive termination of this Agreement.

2762 **Section 13.2: Insurance**

2763 **General Requirements.** Contractor shall, at its sole cost and expense, maintain in effect at all times during
2764 the Term of this Agreement not less than the following coverage and limits of insurance:

2765 A. **Coverages and Requirements.** During the Term of this Agreement, Contractor shall at all times
2766 maintain, at its expense, the following coverages and requirements. The comprehensive general
2767 liability insurance shall include broad form property damage insurance.

2768 1. Insurance coverage shall be with limits not less than the following:

2769 **Comprehensive General Liability** – \$10,000,000 combined single limit per occurrence
2770 for bodily injury, personal injury, and property damage.

2771 **Automobile Liability** – \$10,000,000 combined single limit per accident for bodily injury
2772 and property damage (include coverage for hired and non-owned Vehicles).

2773 **Workers' Compensation – Statutory Limits/Employers' Liability** - \$1,000,000/accident
2774 for bodily injury or disease.

2775 **Employee Blanket Fidelity Bond** – \$500,000 per employee covering dishonesty, forgery,
2776 alteration, theft, disappearance, and destruction (inside or outside). An approved,
2777 equivalent Commercial Crime insurance policy may be substituted for this bond with the
2778 approval of the County Contract Manager, said approval is in their sole discretion.

2779 **Pollution Legal Liability** – \$1,000,000 per claim and \$2,000,000 aggregate for bodily
2780 injury, property damage, and remediation of contaminated site.

2781 2. The County, its officers, agents, employees, and volunteers shall be named as additional
2782 insured on all but the workers' compensation and professional liability coverages.

2783 3. Said policies shall remain in force through the life of this Agreement and, with the exception
2784 of professional liability coverage, shall be payable on a "per occurrence" basis unless the
2785 County Contract Manager specifically consents in writing to a "claims made" basis. For all
2786 "claims made" coverage, in the event that the Contractor changes insurance carriers
2787 Contractor shall purchase "tail" coverage or otherwise provide for continuous coverage
2788 covering the Term of this Agreement and not less than three (3) years thereafter. Proof of
2789 such "tail" or other continuous coverage shall be required at any time that the Contractor
2790 changes to a new carrier prior to receipt of any payments due.

- 2791 4. The Contractor shall declare all aggregate limits on the coverage before commencing
2792 performance of this Agreement, and the County Contract Manager reserves the right to
2793 require higher aggregate limits to ensure that the coverage limits required for this Agreement
2794 as set forth above are available throughout the performance of this Agreement.
- 2795 5. The deductibles or self-insured retentions are for the account of Contractor and shall be the
2796 sole responsibility of the Contractor.
- 2797 6. Each insurance policy shall provide or be endorsed to state that coverage shall not be
2798 suspended, voided, canceled by either Party, reduced in coverage or in limits except after
2799 thirty (30) calendar days prior written notice by certified mail, return receipt requested, has
2800 been given to the County Contract Manager ten (10) Business Days for delinquent insurance
2801 premium payments).
- 2802 7. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-,VII,
2803 unless otherwise approved by the County Contract Manager.
- 2804 8. The policies shall cover all activities of Contractor, its officers, employees, agents and
2805 volunteers arising out of or in connection with this Agreement.
- 2806 9. For any claims relating to this Agreement, the Contractor's insurance coverage shall be
2807 primary, including as respects the County, its officers, agents, employees, and volunteers. Any
2808 insurance maintained by the County shall apply in excess of, and not contribute with,
2809 insurance provided by Contractor's liability insurance policy.
- 2810 10. The Contractor shall waive all rights of subrogation against the County, its officers, employees,
2811 agents, and volunteers related to the performance of services under this Agreement.
- 2812 B. **Endorsements.** Prior to the Effective Date pursuant to this Agreement, Contractor shall furnish the
2813 County Contract Manager with certificates or original endorsements reflecting coverage required
2814 by this Agreement. The certificates or endorsements are to be signed by a person authorized by
2815 that insurer to bind coverage on its behalf. All certificates or endorsements are to be received by,
2816 and are subject to the approval of, the County Contract Manager before work commences.
- 2817 C. **Renewals.** During the Term of this Agreement, Contractor shall furnish the County Contract
2818 Manager with certificates or original endorsements reflecting renewals, changes in insurance
2819 companies, and any other documents reflecting the maintenance of the required coverage
2820 throughout the entire term of this Agreement. The certificates or endorsements are to be signed by
2821 a Person authorized by that insurer to bind coverage on its behalf.
- 2822 D. **Workers' Compensation.** Contractor shall provide workers' compensation coverage as required by
2823 State law, and prior to the Effective Date pursuant to this Agreement, Contractor shall file the
2824 following statement with the County.
- 2825 "I am aware of the provisions of Paragraph 3700 of the Labor Code that require every employer to
2826 be insured against liability for workers' compensation or to undertake self-insurance in accordance
2827 with the provisions of that code, and I will comply with such provisions before commencing any
2828 services required by this Agreement.

2829 The Person executing this Certificate on behalf of Contractor affirmatively represents that they have
2830 the requisite legal authority to do so on behalf of Contractor, and both the person executing this
2831 Agreement on behalf of Contractor and Contractor understand that the County is relying on this
2832 representation in entering into this Agreement.”

2833 E. **Failure to Maintain Coverages.** At any time during the term of this Agreement, Contractor's failure
2834 to provide the County Contract Manager with a certificate of insurance, and/or the actual executed
2835 policies or binder, shall constitute a material breach and an Event of Default as provided in Section
2836 14.1, provided notice of failure to provide coverage has been sent to Contractor and Contractor has
2837 failed to provide the required certificate within fifteen (15) days from the date of the notice. In such
2838 circumstances, the County, at its sole option and discretion may terminate this Agreement and
2839 obtain damages from Contractor resulting from said breach. Alternatively, the County may
2840 purchase such required insurance coverage, and without further notice to Contractor, County shall
2841 deduct from sums due to the Contractor any premiums and associated costs advanced or paid by
2842 the County for such insurance. If the balance of monies obligated to Contractor pursuant to this
2843 Agreement are insufficient to reimburse County for the premiums and any associated costs,
2844 Contractor agrees to reimburse County for the premiums and pay for all costs associated with the
2845 purchase of said insurance. Any failure by the County to take this alternative action shall not relieve
2846 Contractor of its obligation to obtain and maintain the insurance coverages required by this
2847 Agreement.

2848 Contractor agrees that Contractor shall not operate within the Solid Waste Franchise Area at any
2849 time that the required insurance is not in full force and effect as evidenced by a certificate of
2850 insurance and/or the actual executed policies, or official binder being in possession of the County
2851 Contract Manager. In no event shall assurances by the Contractor, its employees, agents, including
2852 any insurance agent, be construed as adequate evidence of insurance. The County Contract
2853 Manager will only accept a valid certificate of insurance, and/or the actual executed policies, or
2854 insurance binder as adequate evidence of insurance. Contractor also agrees that upon cancellation,
2855 termination, or expiration of Contractor's insurance, the County Contract Manager may take
2856 whatever steps are necessary to interrupt any operation of the Contractor within the Solid Waste
2857 Franchise Area until such time as the Agreement is reinstated by the County Contract Manager.

2858 The County Contract Manger shall retain the right at any time to review the coverage, form and
2859 amount of the insurance required hereby. If, in the opinion of the County Contract Manager,
2860 insurance provisions in this Agreement do not provide adequate protection for the County and
2861 members of the public within the Solid Waste Franchise Area, the County Contract Manager may
2862 require Contractor to obtain insurance sufficient in coverage, form, and amount to provide
2863 adequate protection. The County Contract Manager's requirements shall be reasonable but shall
2864 be designed to assure protection from and against the kind and extent of the risks which exist at
2865 the time a change in insurance is required. The County shall notify Contractor in writing of changes
2866 in the insurance requirements; and if Contractor does not deposit copies of acceptable insurance
2867 certificates with the County incorporating such changes within thirty (30) days of receipt of notice,
2868 this Agreement shall be in default without further notice to Contractor.

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2870 **Section 13.3: Performance Bond**

2871 Within seven (7) calendar days of the County's notification to Contractor that the County has executed
2872 this Agreement, Contractor shall file with the County a bond, payable to the County, securing the
2873 Contractor's performance of its obligations under this Agreement and such bond shall be renewed
2874 annually if necessary so that the performance bond is maintained at all times during the Term. The
2875 principal sum of the bond shall be based on the number of Contractor Vehicles with carrying capacity of
2876 one ton or more, as follows: (a) Six (6) or less - \$10,000; (b) Seven (7) to ten (10) - \$15,000; and (c) Eleven
2877 (11) or more - \$20,000. The bond shall be executed as surety by a corporation authorized to issue surety
2878 bonds in the State of California that has a rating of A or better in the most recent edition of Best's Key
2879 Rating Guide, and that has a record of service and financial condition satisfactory to the County.

ARTICLE 14: DEFAULT, REMEDIES AND TERMINATION

Section 14.1: Default and Remedies

A. **Events of Default.** The County is expressly and specifically obligated to protect the public health and safety within its jurisdiction. Additionally, the County is obligated to provide appropriate and cost-effective arrangements for Solid Waste collection and management within its jurisdiction. The provisions provided for in this Agreement are all mutually, exclusively, and individually material to meeting the County's obligations and goals with this Agreement. As such, whether specifically called for or not, any violation of the provisions of this Agreement by the Contractor shall be deemed a material breach and an Event of Default that could be grounds for termination of this Agreement. The following is a nonexclusive list of events that constitute a material breach and an Event of Default:

1. The failure by the Contractor for any reason, or at any time, to deliver to the Designated Disposal Facility all Solid Waste Collected by the Contractor.
2. The failure by the Contractor for any reason, or at any time, to deliver to the Approved Organic Waste Processing Facility all Organic Materials collected by the Contractor.
3. The failure by the Contractor for any reason, or at any time, to deliver to the Approved Recyclable Materials Processing Facility all Recyclable Materials Collected by the Contractor.
4. The failure by the Contractor for any reason, or at any time, to the use of the Approved Transfer Facility as prescribed by the County Contract Manager.
5. Any criminal conviction, plea bargain, or settlement, of Contractor, its officers, managers, or employees related directly, or indirectly, to operations and performance of this Agreement or any other agreement held with the County.
6. Failure or refusal of the Contractor to perform any term, covenant, obligation or condition in this Agreement not otherwise delineated in this Section 14.1; excepting that no such failure or refusal shall give the County the right to terminate this Agreement under this Section unless the County has given prior written notice to the Contractor of the specific failure, or refusal to perform. If said failure or refusal does not in the County's opinion constitute an immediate threat to the public, the Contractor shall be given no more than fifteen (15) days to take corrective action. Additional time to take corrective action may be granted at the sole discretion of the County Contract Manager. However, if the County is of the opinion that the failure or refusal constitutes an immediate threat to the public, the Contractor must take immediately corrective action to avoid the possibility that the County may terminate this Agreement.
7. The written admission by the Contractor that it is bankrupt, or the filing by the Contractor of a voluntary petition under the Federal Bankruptcy Code, or the consent by the Contractor or either Guarantor to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making by the Contractor or either Guarantor of any arrangement with or for the benefit of its creditors involving an assignment to a trustee,

- 2918 receiver or similar fiduciary, regardless of how designated, of all or a substantial portion of
2919 the Contractor's property or business.
- 2920 8. The final adjudication of the Contractor as bankrupt after the filing of an involuntary petition
2921 under the Bankruptcy Act, but no such adjudication shall be regarded as final unless and until
2922 the same is no longer being contested by the Contractor nor until the order of the adjudication
2923 is no longer appealable.
- 2924 9. The failure of the Contractor to provide or maintain the Performance Bond required pursuant
2925 to Section 13.3 hereof.
- 2926 10. Failure of the Contractor to submit the Administration Fee in accordance with Section 11.1 or
2927 any Gate or Bin Fees due to County, within ninety (90) days of the due date.
- 2928 11. Failure to provide any records, data, or reports within thirty (30) days of County Contract
2929 Manager's written request.
- 2930 12. The denial of access to any equipment and/or facilities upon County Contract Manager's
2931 access request.
- 2932 13. Any failure by the Contractor to comply with any the Applicable Law, rule or regulation,
2933 including, but not limited to, the County Code, and as they may be change from time to time,
2934 following the specified notice and opportunity to cure.
- 2935 14. Failure of the Contractor to timely implement the operational changes and adjusted
2936 maximum Rates resulting from any change in law or County-directed change in scope. The
2937 Contractor shall have thirty (30) days after notice of breach from the County to implement
2938 the operational changes. Should the Contractor thereafter not implement the operational
2939 changes, it shall be in material default of the Agreement. In addition to being liable for all
2940 damages and penalties to the County resulting from such default, the County may terminate
2941 the Agreement in accordance with Section 14.1.B.
- 2942 15. Failure of the Contractor to maintain insurance coverages in accordance with Section 13.2.
- 2943 B. **Right to Terminate Upon Default.** Upon a determination by the County Contract Manager that an
2944 Event of Default has occurred, the County Board of Supervisors shall conduct a public hearing upon
2945 at least ten (10) days' notice to the Contractor to determine if termination of the Agreement is in
2946 the best interests of the citizens of the County. If the Board of Supervisors makes such a
2947 determination, the Contractor shall be deemed to have waived any right it may have under
2948 Applicable Law to notice of termination in excess of those notice provisions explicitly set forth
2949 herein.
- 2950 C. **County's Remedies Cumulative: Specific Performance.** The County's right to terminate this
2951 Agreement under this Section 14.1 is not exclusive, and the County's termination of the Agreement
2952 shall not constitute an election of remedies. Instead, they shall be in addition to any and all other
2953 legal and equitable rights and remedies which the County may have, including but not limited to
2954 specific performance, and fees and expenses incurred by or on behalf of the County in enforcing
2955 payment or performance of the Contractor's obligations hereunder if such non-performance results
2956 in a judicially determined Event of Default by the Contractor. Moreover, the County's right to

2957 terminate this Agreement under this Section 14.1 shall not be deemed in any way to limit, or
2958 interfere with, the County's rights to terminate this franchise under Applicable Law.

2959 D. **Possession of Property upon Termination or Suspension.** In the event of termination or suspension
2960 for default, the County shall have the right to take possession of any and all of Contractor's
2961 equipment and other property used or useful in the Collection, Transportation, Processing, and
2962 Disposal of Solid Waste or Recyclable Materials and the billing and collection of fees for these
2963 services and to use such property. The County shall have the right to retain the possession of such
2964 property until such time as Contractor remedies the default or substitute services can be provided
2965 by another contractor. If the County retains possession of Contractor's equipment or other property
2966 after the period of time for which Contractor has already been paid by means of bills issued in
2967 advance of providing service for the service involved, the Contractor shall be entitled to the
2968 reasonable rental value of such property (which shall be offset against any damages due the County
2969 for the Contractor's default). Contractor shall furnish the County with immediate access to all of its
2970 business records related to its Customers and billing of accounts for Collection services.

2971 **Section 14.2: Liquidated Damages**

2972 A. **General.** In addition to any other remedies provided for in this Agreement, the County Contract
2973 Manager may levy a charge in the amounts listed below for the Contractor's failure to meet the
2974 requirements enumerated below that constitute a breach of the terms and conditions of this
2975 Agreement. The County Contract Manager's decision to levy such a charge shall not be deemed an
2976 election of remedies, but shall be cumulative with any other remedies provided for in this
2977 Agreement. The County Contract Manager's decision not to levy any such charge shall not be
2978 deemed a waiver of any breach by Contractor under this Agreement. The Parties agree that the
2979 following Liquidated Damages represent a reasonable estimate of the amount of such damages,
2980 considering all of the circumstances existing on the date of the Agreement, including the
2981 relationship of the sums to the range of harm to the County that reasonably could be anticipated
2982 and anticipation that proof of actual damages would be costly or inconvenient. In signing this
2983 Agreement, each Party specifically confirms the accuracy of the statements made above and the
2984 fact that each Party had ample opportunity to consult with legal counsel and obtain an explanation
2985 of this Liquidated Damage provision at the time that this Agreement was entered into. Given the
2986 lengthy term of this Agreement it is further agreed to and understood that the Liquidated Damages
2987 provided for herein shall increase by a factor of one percent (1%) per year.

2988 In the event the Liquidated Damages permitted to be imposed under this Section exceed fifty
2989 thousand dollars (\$50,000) during any three hundred sixty-five (365) day period, the Contractor
2990 shall be deemed in material default of this Agreement and this Agreement may be terminated
2991 pursuant to Section 14.1.B. The possibility, or actual, imposition of Liquidated Damages shall not in
2992 any way diminish or prohibit the County's other rights in this Agreement including the right to
2993 terminate this Agreement pursuant to Section 14.1.B.

2994 The County Contract Manager shall give the Contractor written notice of charges levied pursuant to
2995 this Section. Any such damages shall be paid directly to the County and **may not** be included by the
2996 Contractor as justification for an upward adjustment in the rate schedule or offset against any fees.

2997 The decision of the County Contract Manager shall be final and binding on the Contractor unless
2998 the Contractor files with the Clerk of the County Board of Supervisors a Notice of Appeal within

2999 fifteen (15) days of receipt of the County Contract Manager's decision. The Notice of Appeal shall
 3000 be in writing and shall contain a detailed statement of the basis for the appeal. Upon receipt of the
 3001 Notice of Appeal, the County Contract Manager shall set the matter for a public hearing within thirty
 3002 (30) days. The County Contract Manager shall give the Contractor and any interested person
 3003 requesting the same, ten (10) days written notice of the time and place of the hearing. At the
 3004 hearing, the County Board of Supervisors shall determine, based on the record, the appropriate
 3005 action to be taken. The decision of the County Board of Supervisors shall be final and conclusive.

3006 B. **Liquidated Damages.** The County wishes to establish standards of performance under the
 3007 Agreement in each of the “Performance Areas” listed below. The County Contract Manager may
 3008 monitor Contractor’s performance in each of those areas based on the “Specific Performance
 3009 Measures” within that performance area, or other relevant metrics related to this Agreement. If the
 3010 County Contract Manager determines that Contractor has failed to meet the performance standard
 3011 established for any “Specific Performance Measure”, the County may assess Liquidated Damages.
 3012 Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other
 3013 measure in excess of the acceptable performance level.

3014 1. **Performance Area: Provision of Universal Service**

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|---|---|------------------------------|--------------------------|
| 1. | Failure to provide Recyclable Material and Organic Material Collection services to every Customer after Customer list has been defined. | For each occurrence of failing to provide Customers with the three- Container system, including Recyclable Materials and Organic Materials, required by and compliant with Article 5. | No acceptable failure level | \$100/Customer |

3015 The County shall not assess Liquidated Damages item 1, above, under the following circumstances:

- 3016 a. County has granted the Customer a waiver pursuant to Section 8.6.1 of this Agreement.
- 3017 b. Contractor documents that Customer is compliant with Recycling and Organic Waste
 3018 Self-Hauling requirements pursuant to County Code Section 5.36 and 14 CCR Division 7,
 3019 Article 12, Article 7.
- 3020 c. Contractor documents to the County that the Customer is being provided Recyclable
 3021 Materials and/or Organic Materials Collection services from a County-permitted,
 3022 Recycler or Discarded Materials service provider.
- 3023 d. Contractor documents that Customer is sharing Recyclable Materials and/or Organic
 3024 Materials Collection services with another Customer in a manner approved by the
 3025 County.
- 3026 e. The County has failed to adopt a mandatory Recycling and Organic Waste Diversion
 3027 ordinance.

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2. Performance Area: Service Quality and Reliability

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|---------------------------------------|---|---|--------------------------|
| 1. | Missed Collections | Each Service Opportunity where Contractor fails to Collect a Container from a Customer who properly placed said Container for Collection, unless Contractor leaves a Non-Collection Notice specifying the reasons for non-Collection and available remedies. | Less than ten (10) per one thousand (1,000) Service Opportunities | \$50/Event |
| 2. | Failure to Correct Missed Collections | Each "Missed Collection" as defined above which is not Collected by the end of the working day following the receipt of the Customer complaint about the missed Collection if the complaint is received by 3:00 p.m. on a Working Day and by the end of the following Working Day for such complaints received after 3:00 p.m. on a Working Day where physical conditions allow | Less than one (1) per one hundred (100) Missed Collections | \$50/Event |
| 3. | Failure to Return Empty Container | Failure to properly return empty Carts or Bins to the Collection location, or to place Carts upright where physical conditions allow. | Less than ten (10) per one thousand (1,000) Service Opportunities | \$20/Event |
| 4. | Failure to Clean-Up Spillage | Each failure by Contractor to clean up: (1) any items or materials spilled during the Collection of a Container; or (2) any fluids spilled or leaked from a Container or Collection Vehicle within 24 hours after receiving notification of spillage or leakage. | No acceptable failure level | \$100/Event |

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|-------------|---|--|---|--|
| 5. | Damage to Property | Each event of damage to either public or private property as a result of Collection activity, including without limitation curbs, sidewalks, landscapes, Container enclosures and gates, signs, light fixtures, and overhead wires and cables. | Less than two (2) per one thousand (1,000) Service Opportunities | \$200/Event unless the damage has been repaired/resolved by the Contractor |
| 6. | Damage to Public Streets | Each event of damage to public streets within the County that can be proven to be caused by Contractor. | No acceptable failure level | Actual cost of repair to County's satisfaction. |
| 7. | Failure to Maintain Equipment | Each event of failure to maintain equipment and, Vehicles, in a clean, safe, and sanitary manner. | No acceptable failure level | \$100/Item/Day |
| 8. | Failure to Comply with Container Standards | Failure to comply with Container labeling and color requirements as specified in this Agreement. | No acceptable failure level | \$200/Container/Occurrence |
| 9. | Failure to Provide/ Utilize Required Vehicles/Equipment | Failure to provide and utilize required Vehicles, and communications equipment as specified in this Agreement | No acceptable failure level | \$100/Item/Day |
| 10. | Unlicensed Vehicle Operator | Failure to have a Vehicle operator properly licensed. | No acceptable failure level | \$500/Operator/Day |
| 11. | Failure to Display Contractor's Name | Failure to display and maintain visibility of Contractor's name and Customer service phone number on collection Vehicles, Bins and other Containers. | No acceptable failure level | \$100/Instance/Day |
| 12. | Failure to Wear Uniform | Failure to have Contractor personnel in proper uniform. | No acceptable failure level | \$100/Person/Day |
| 13. | Discourteous Behavior | For each occurrence that is reported to the County Contract Manager of uncustomary discourteous behavior of Contractor's employees to a Customer. | Less than five (5) per one thousand (1,000) Service Opportunities | \$250/Event |

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|-------------|---|---|-------------------------------------|---|
| 14. | Failure to Complete Route | Failure or neglect to complete at least ninety percent (90%) of each Route on the regular scheduled Collection service Working Day unless previously approved by the County Contract Manager. | No acceptable failure level | \$1,000/Route |
| 15. | Changing Routes | Changing Routes without proper notification and approval by the County Contract Manager. | No acceptable failure level | \$500/Route/Day |
| 16. | Overweight Vehicles | Loading Collection Vehicles in excess of State or local weight restrictions. | No acceptable failure level | \$150/Event |
| 17. | Uncovered Loads | Failure to properly cover materials in Collection Vehicles. | No acceptable failure level | \$500/Event |
| 18. | Failure to Cure in Timely manner | Failure to cure non-compliance with the provisions of this Agreement in the manner and time set forth in this Agreement. | No acceptable failure level | \$150/Incident/Day |
| 19. | Failure to Implement Contractor's SB 1383 Implementation Plan Strategy. | Failure to implement any one of the strategies listed in the Contractor's SB 1383 Implementation Plan. | No acceptable failure level | \$50/day for each day in excess of fifteen (15) days following Contractor's receipt of written notice from County |
| 20. | Failure to Perform Other Requirement | Each failure to perform any obligation of the Agreement not specifically stated above. | No acceptable failure level | \$100/Event |

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3. Performance Area: Customer Service

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|--|---|--|---|
| 1. | Failure to Commence Service | Any failure by Contractor to deliver a Container and begin providing Collection to a Customer, at the level of service requested by said Customer, within three (3) calendar days of receiving such request. This may include a new Customer receiving new service or an existing Customer requesting a change in or addition to existing Service Levels. | Less than ten (10) per one hundred (100) Service Requests | \$50/Event |
| 2. | Failure to Exchange Container | Any failure by Contractor to exchange Container within ten (10) Working Days of notification that a change in the size or number of Containers is required. | No acceptable failure level | \$100/Container/Day |
| 3. | Failure to Replace Container | Any failure by Contractor to replace a damaged or defaced Container within five (5) Working days' notice by the Customer or County Contract Manager. | No acceptable failure level | \$100/Container/Day |
| 4. | Excessive Complaints that are specifically based on Contractor's performance | Contractor receipt of excessive complaints, defined as over one percent (1%) of its client base within a six (6) month period. | No acceptable failure level | \$25/complaint/occurrence; and an additional \$25 per each 24 hours until the complaint is reasonably resolved. |
| 5. | Failure to Resolve Complaint | Any failure or neglect by Contractor to resolve each complaint within five (5) Working days' notice by the Customer or County Contract Manager. | No more than one (1) per one hundred (100) Complaints | \$100/Event |
| 6. | Failure to Answer Phones | Any failure by Contractor to answer a telephone call from a Customer during normal business hours. A call is not deemed answered if the Customer does not speak with a live operator. If a message is left, the call must be returned by no later than the next business day. | Less than five (5) per one hundred (100) calls received under this Agreement | \$50/Event |

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|--|--|---|--------------------------|
| 7. | Failure to Maintain Office Hours | Failure to maintain Monday through Friday office hours. | No acceptable failure level | \$100/Event |
| 8. | Provision of Inaccurate Information | Each event of a Customer Service Representative providing inaccurate information in response to a Customer question or complaint that is reported to the County Contract Manager and is determined to be inaccurate. | Less than five (5) per one hundred (100) calls received under this agreement. | \$50/Event |
| 9. | Unauthorized Hours of Operation | Each occurrence of Contractor collecting from Customers before 5 am or after 7 pm. | Less than two (2) per one thousand (1,000) Service Opportunities | \$100/occurrence |
| 10. | Failure to Conduct Route Audits and Contamination Monitoring | Failure to conduct Route audits and contamination monitoring as required by this Agreement. | No acceptable failure level | \$150/Audit/Day |

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4. Performance Area: Diversion

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|--|---|------------------------------|--------------------------|
| 1. | Failure to Perform Education and Outreach Activities | Each individual failure by Contractor to produce and distribute public education material or perform community outreach activities in the form and manner required under Section 8.1. | No acceptable failure level | \$100/Activity |
| 2. | Failure to Provide Targeted Technical Assistance | Each individual failure to provide targeted technical assistance in the manner required under Section 8.2 if reported to the County Contract Manager.. | No acceptable failure level | \$250/Customer |

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5. Performance Area: Facilities

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|---|--|------------------------------|---|
| 1. | Delivery to Non-Approved Facility | Each individual occurrence of delivering materials to a Facility other than the Approved or Designated Facility for each material type under this Agreement. | No acceptable failure level | \$5,000 first failure \$25,000 each subsequent failure |
| 2. | Disposal of Targeted Diversion Materials | Each individual occurrence of delivering properly segregated Recyclable Materials, Organic Materials, or Reusable Materials set out for Collection by the customer for disposal rather than processing. | No acceptable failure level | \$1,000/Load |
| 3. | Mixing Materials During Collection | Each individual Container that is Collected by Contractor in a Vehicle intended or designated for the purpose of Collecting a different material type (e.g., Recyclable Materials collected in Solid Waste Vehicle, Solid Waste Collected in Organic Materials Vehicle, etc.). | No acceptable failure level | \$500/ Container |
| 4. | Unapproved Commingling with Non-County Materials | Commingling of materials Collected on County Collection Routes with Routes serving incorporated Cities, unless approved in accordance with Section 5.5.F. | No acceptable failure level | \$1,000/Event |
| 5. | Delivery to Designated Disposal Facility of Non-County Materials commingled with County Materials | Delivery to the Designated Disposal Facility of any Solid Waste Collected outside of the unincorporated County commingled with that Collected as part of this Agreement, unless approved by the County Contract Manager. | No acceptable failure level | \$5,000 first delivery \$25,000 each subsequent delivery |
| 6. | Failure to Conduct Waste Evaluations at Contractor owned or operated Approved Facilities | Failure to conduct Facility Waste Evaluations as required by this Agreement. | No acceptable failure level | \$150/Audit/Day |

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|--------------------------------------|---|------------------------------|--------------------------|
| 7. | Failure to Meet Facility Standards | Failure of the Contractor to meet the Facility standards set forth in Section 6.2 for the Contractor's Approved Facilities | No acceptable failure level | \$1,000/Day |
| 8. | Failure to Support Capacity Planning | Failure of Contractor to respond to County or provide support for capacity planning studies in accordance with Section 8.5. | No acceptable failure level | \$500/occurrence |

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6. **Performance Area: Reporting & Records**

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|--|---|------------------------------|--------------------------|
| 1. | Late Report | Each occurrence of a report, as required under Exhibit D to this Agreement, being submitted after the due date. Reports shall be considered late until they are submitted in a complete and accurate format. | No acceptable failure level | \$250/Report/ Day |
| 2. | Failure to Maintain or Provide Access to Records | Each occurrence of County Contract Manager requesting information required to be maintained by Contractor where Contractor fails to provide such information within the time window specified in this Agreement. | No acceptable failure level | \$500/Working Day |
| 3. | Misleading/Inaccurate Reporting | Each occurrence of Contractor providing misleading or otherwise inaccurate reports or information to the County under or regarding this Agreement and failing to correct within three (3) Working Days of notification of the error. Typographical, cell reference, mathematical, and/or logic errors shall not be considered legitimate excuses from this requirement. | No acceptable failure level | \$250/Event |

| Item | Specific Performance Measure | Definition | Acceptable Performance Level | Liquidated Damage Amount |
|------|---|--|--|---|
| 4. | Failure to Remit County Payments | Failure to remit to the County the payments required under this Agreement in accordance with Article 11. | Fees submitted before the fifth Working Day following due date for such fees | \$50/day for first 5 days, then \$500/day each day after the first 5 days |
| 5. | Failure to Correct Submittal of Inaccurate Data in a Timely Manner | Failure to correct submittal of inaccurate data within three (3) Business Days (or such other time period as may be agreed to in writing between County and Contractor) of notification by County. | No acceptable failure level | \$500/Day |
| 6. | Failure to Maintain and/or Provide Access to Information Systems that pertain to County operations. | Each day that Contractor fails to provide access to Contractor's information systems to the County Contract Manager. | No acceptable failure level | \$500/Day |

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Section 14.3: Uncontrollable Circumstances

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A. **Excuse from Performance.** In the event that a Party is prevented from performing its obligations under this Agreement by an Uncontrollable Circumstance, it shall not constitute a Default of this Agreement, so long as the Party in good faith has used its best efforts to perform its respective obligations.

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The Party claiming excuse from performance shall, within five (5) days after such Party has notice of the effect of such cause, give the other Party written notice of the facts constituting such cause and asserting its claim to excuse under this Section. Specifically, such information shall include the following:

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1. The Uncontrollable Circumstance and the cause thereof (to the extent known).

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2. The date the Uncontrollable Circumstance began and the cause thereof, its estimated duration, and the estimated time during which the performance of such Party's obligations hereunder will be delayed.

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3. Its estimated impact on the other obligations of such Party under this Agreement.

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4. Potential mitigating actions which might be taken by the Contractor or County and any areas where costs might be reduced and the approximate amount of such cost reductions.

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While the delay continues, the Contractor or County shall give daily notice to the other Party updating the information previously submitted.

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3060 In the event that either Party validly exercises its rights under this Section, the Parties hereby waive
3061 any claim against each other for any damages sustained thereby.

3062 B. **County's Right to Terminate.** The partial or complete interruption or discontinuance of the
3063 Contractor's services caused by one (1) or more of the events described in this Section 14.3 shall
3064 not constitute a Default by the Contractor under this Agreement. Notwithstanding the foregoing,
3065 however, if the Contractor is excused from performing its obligations hereunder because of any
3066 Uncontrollable Circumstance for a period of thirty (30) days or more, the County shall nevertheless
3067 have the right, in its sole discretion, to terminate this Agreement by giving sixty (60) days' notice.

3068 C. **Work Stoppages.** Notwithstanding anything in this Agreement to the contrary, any strikes, work
3069 stoppages, or other labor disputes or disturbances occurring with respect to an activity performed
3070 or to be performed by the Contractor or any of the Contractor's Subcontractors in connection with
3071 the Operating Assets or the Collection Services and which last beyond seven (7) days shall not
3072 constitute an Event of Default under Section 14.1.A.

3073 However, in the event of such occurrence which prevents or diminishes the ability of Contractor to
3074 Collect, Transport and Dispose of any or all the Solid Waste and Recyclable Materials which it is
3075 obligated under this Agreement to Collect, Transport or Dispose of for a period of more than
3076 seventy-two (72) hours and the County Contract Manager, in their discretion, should find that such
3077 accumulation endangers or menaces the public health, safety or welfare, then County shall have
3078 the right, upon twenty-four (24) hours' notice to Contractor, to find the Contractor in Default and
3079 to contract with any other third parties to Collect and Transport any and all Solid Waste and
3080 Recyclable Materials which Contractor would otherwise be obligated to Collect and Transport
3081 pursuant to this Agreement. Contractor agrees that in such event, it will fully cooperate with County
3082 and its third-party contractor to affect such transfer of operations in as smooth and efficient a
3083 fashion as is practicable. All costs, fees, rates or other expenses incurred by County and/or its third-
3084 party contractor that exceed those that would have been incurred by County had no such
3085 emergency arisen shall be the responsibility of the Contractor and shall be paid to County within
3086 thirty (30) days of receipt of written notice to pay.

3087 **Section 14.4: Right to Demand Assurances of Performance**

3088 If the County believes in good faith that the Contractor's ability to perform under the Agreement has been
3089 placed in substantial jeopardy by one (1) or more of the events enumerated below, the County Contract
3090 Manager may, at their option and in addition to all other remedies the County may have, require that
3091 Contractor provide County Contract Manager with sufficient proof that none of the events enumerated
3092 below will in fact impair Contractor from performing its obligations under the Agreement:

3093 A. Contractor is the subject of any labor unrest, including work stoppages or slowdown, sick-out,
3094 picketing, or other concerted job action.

3095 B. Contractor appears, in the reasonable judgment of the County, to be unable to regularly pay its bills
3096 as they become due.

3097 C. Contractor is the subject of a civil or criminal judgment or order entered by a federal, state, regional,
3098 or local agency for violation of any law, including, but not limited to environmental law.

3099 D. Contractor is subject to unusual circumstances which the County believes could lead to an
3100 interruption in service.

3101 If the Contractor fails or refuses to provide to the County adequate information to establish its ability to
3102 perform within thirty (30) days, such failure or refusal shall be an Event of Default for purposes of Section
3103 14.1.A.

3104 **Section 14.5: Waiver of Defenses**

3105 In order to ensure the non-interruption of a vital public service, except as provided in Section 14.3, the
3106 Contractor acknowledges that it is solely responsible for providing the services described herein, and
3107 hereby irrevocably waives the following defenses to the payment and performance of its obligations
3108 under this Agreement: any defense based upon failure of consideration, contract of adhesion,
3109 impossibility or impracticability of performance, commercial frustration of purpose, or the existence, non-
3110 existence, occurrence or non-occurrence of any foreseen or unforeseen fact, event, or contingency that
3111 may be a basic assumption of the Contractor with regard to any provision of this Agreement.

3112

ARTICLE 15: RESOLUTION OF DISPUTES

3113 Should a dispute arise with respect to the performance and obligations of the Parties hereunder, at any
3114 time during the term of this Agreement, the provisions of this Article shall apply. Either Party shall give
3115 the other written notice of such dispute. Such notice shall specify a date and location for the Parties to
3116 meet and confer in good faith to resolve any dispute that may arise. In the event such dispute cannot be
3117 resolved by the Parties themselves within thirty (30) days of such notice, either Party may propose the
3118 appointment of a mediator. If the other Party is in agreement, both Parties may refer the matter in dispute
3119 to such mediator for advice and non-binding mediation. If the mediator is unable, within 30 days
3120 thereafter, to reach a determination as to the matter in dispute in a manner acceptable to the Parties
3121 hereto, the matter may be referred by either Party to a court of competent jurisdiction; provided however
3122 that nothing herein diminishes the Contractor's requirements to abide by applicable provisions of the
3123 Government Claims Act (Government Code Section 810 *et seq.*).

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ARTICLE 16: MISCELLANEOUS PROVISIONS

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Section 16.1: Relationship of the Parties

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Neither Party to this Agreement shall have any responsibility whatsoever with respect to services provided or contract obligations or liabilities assumed by the other Party hereto, whether accrued, absolute, contingent or otherwise, or whether due or to become due. The Contractor is an independent Contractor and Agreement holder and nothing in this Agreement shall be deemed to constitute either Party a partner, agent or legal representative of the other Party or to create any fiduciary relationship between the Parties.

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Section 16.2: Notice to Parties

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All notices required or provided for in this Agreement shall be provided to the Parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five (5) days after deposit. A Party may change the address to which notice is given by giving notice as provided herein.

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To County:

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County of Kern

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Attn: County Contract Manager

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2700 'M' Street

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Suite 450

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Bakersfield, CA 93301

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To Contractor:

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David and Maria Guerrero

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South Tulare – Richgrove Refuse, Inc.

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P.O. Box 970

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Richgrove, CA 93261-0970

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Section 16.3: Actions of the County in its Governmental Capacity

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Nothing in this Agreement shall be interpreted as limiting the rights and obligations of the County in its governmental or regulatory capacity, or as limiting the right of the Contractor to bring any legal action against the County, not based on this Agreement, arising out of any act or omission of the County in its governmental or regulatory capacity.

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Section 16.4: Binding Effect

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This Agreement shall bind and inure to the benefit of the Parties hereto and any successor or assignee acquiring an interest hereunder consistent with the provisions hereof.

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3158 **Section 16.5: Amendments**

3159 Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except
3160 by written agreement duly executed by both Parties.

3161 **Section 16.6: Further Assurance**

3162 Each Party agrees to execute and deliver any instruments and to perform any acts as may be necessary or
3163 reasonably requested by the other in order to give full effect to this Agreement.

3164 **Section 16.7: Assignment and Transfer of Agreement**

3165 A. **Consent of the County Required.** This Agreement shall not be transferred, sold, pledged,
3166 hypothecated, leased, or assigned, nor shall any of the rights or privileges herein be transferred,
3167 sold, pledged, hypothecated, leased, or assigned, either in whole or in part, nor shall title hereto or
3168 thereto, either legal or equitable, or any right, interest or property herein or therein, pass to or vest
3169 in any Person, except the Contractor, either by action or inaction of the Contractor, or by operation
3170 of law, without the prior written consent of the County, which may be withheld or delayed in its
3171 sole and absolute discretion.

3172 The Contractor shall provide written notice of any request to assign or transfer this Agreement and
3173 shall provide the County with any information requested by the County in connection with the
3174 proposed transfer, including but not limited to information regarding the general business
3175 qualifications of the proposed assignee, as well as its ability to perform the Collection Services and
3176 a statement of its financial resources. The Contractor's notice of intention to assign this Agreement
3177 shall contain a statement of the allocation of dollars in the consideration to be paid by the assignee
3178 to the Contractor for (a) the exclusive franchise, (b) goodwill, (c) equipment, and (d) any other asset
3179 transfer which has any connection with said assignment, all as agreed upon by the Contractor and
3180 the assignee. The notice shall also contain a statement showing the method of payment for the
3181 consideration and whether the Contractor proposes to hold some security interest as security for
3182 the payment of the unpaid balance of the consideration.

3183 The County shall respond to any such request within sixty (60) days after receipt of any information
3184 requested by the County pursuant to the preceding sentence. The Contractor acknowledges that,
3185 prior to approving such a transfer, the County must find that such a transfer is in the best interests
3186 of the public health, safety, and general welfare. Any attempt by the Contractor to effectuate any
3187 of the foregoing without such consent of the County shall be null and void, and any effectuation of
3188 any of the foregoing without such consent of the County shall constitute an Event of Default
3189 resulting in the immediate termination of this Agreement as provided in Section 14.1.A hereof.
3190 Notwithstanding anything herein to the contrary, this Section shall not apply to assignments or
3191 transfers of this Agreement between immediate family members.

3192 B. **Consolidation, Merger, Sale, Transfer, and Change in Control.** Subject to the provisions of Section
3193 16.7(A) above, the Contractor shall not, without the prior written consent of the County which may
3194 be withheld or delayed in its sole and absolute discretion, consolidate with or merge with another
3195 entity or permit one (1) or more other entities to consolidate with or merge into it; provided
3196 however, that this Section shall not apply to transactions between immediate family members.

- 3197 C. **Transfer of Voting Stock.** The County's prior written consent, which may be withheld or delayed in
 3198 its sole and absolute discretion, shall be required for the sale or transfer by any means, whether by
 3199 agreement or by operation of law (including transfers resulting from death, bankruptcy or divorce),
 3200 of any of the voting stock of the Contractor; provided however, that this Section shall not apply to
 3201 transfers of voting stock between immediate family members or as part of an unqualified
 3202 employees stock ownership plan.
- 3203 D. **Reimbursement of Cost Related to Assignment Review.** If the Contractor requests the consent of
 3204 the County for any transaction described in Section 16.7 hereof, the proposed assignee, as a
 3205 condition of assignment, shall reimburse the County for all costs and expenses incurred by the
 3206 County in reviewing, examining, and analyzing the request, including all direct and indirect
 3207 administrative expenses of the County and consultants and attorney's fees and expenses and the
 3208 County may request a reasonable upfront deposit. Such costs shall be supported with evidence of
 3209 the expense or cost incurred.

3210 **Section 16.8: Interpretation**

3211 In this Agreement, unless the context otherwise requires:

- 3212 A. **References Hereto.** The terms "hereby," "hereof," "herein," hereunder," and any similar terms refer
 3213 to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before,
 3214 the date of execution of this Agreement.
- 3215 B. **Persons.** Words importing Persons include firms, companies, associations, general partnerships,
 3216 limited partnerships, trusts, business trusts, corporations, non-profit corporations, and other legal
 3217 entitles, including governmental bodies, as well as individuals.
- 3218 C. **Headings.** The table of contents and any headings preceding the text of the articles, sections, and
 3219 subsections of this Agreement shall be solely for convenience of reference and shall not constitute
 3220 a part of this Agreement, nor shall they affect its meaning, construction, or effect.
- 3221 D. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto with
 3222 respect to the transactions contemplated by this Agreement. Furthermore, nothing in this
 3223 Agreement is intended to confer on any person other than the parties hereto and their respective
 3224 successors and assigns hereunder any rights or remedies under or by reason of this Agreement.
- 3225 E. **Reference to Days.** All references to days herein are to calendar days, including Saturdays, Sundays,
 3226 and holidays, except as otherwise specifically provided.
- 3227 F. **Units of Measure.** Weights or volumes described herein may be reported in either metric or U.S.
 3228 Standard terms of measurement, unless State or Federal law or regulation specifies the system of
 3229 measurement to be used.
- 3230 G. **Counterparts.** This Agreement may be executed in any number of original counterparts. All such
 3231 counterparts shall constitute but one and the same Agreement.
- 3232 H. **Applicable Law.** This Agreement shall be governed by and construed in accordance with then
 3233 Applicable Law. This Agreement is intended to be fully consistent with the requirements of the
 3234 County Code and any subsequent amendments thereto. In the event there is an inconsistency or

3235 conflict between this Agreement and the County Code, the County Code is controlling and shall
3236 substitute for the inconsistent provision. Nothing in this Agreement shall be construed to limit the
3237 County's legal rights to make subsequent changes to the County Code.

3238 I. **Severability.** If any clause, provision, subsection, section, or article of this Agreement shall be
3239 determined to be invalid by any court of competent jurisdiction, then the Parties hereto shall:

3240 1. Promptly meet and negotiate a substitute for such clause, provision, section, or article which
3241 shall, to the greatest extent legally permissible, effect the intent of the Parties therein.

3242 2. If necessary or desirable to accomplish item (1) above, apply to the court having declared such
3243 invalidity for a judicial construction of the invalidated portion of this Agreement.

3244 3. Negotiate such changes in, substitutions for or additions to, the remaining provisions of this
3245 Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above,
3246 to effect the intent of the Parties in the invalid provision. The invalidity of such clause,
3247 provision, subsection, section, or article shall not affect any of the remaining provisions
3248 hereof, and this Agreement shall be construed and enforced as if such invalid portion did not
3249 exist.

3250 **Section 16.9: Jurisdiction**

3251 Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the
3252 courts of Kern County in the State of California, which shall have exclusive jurisdiction over such lawsuits.
3253 With respect to venue, the Parties agree that this Agreement is made in and will be performed in Kern
3254 County.

3255 **Section 16.10: Entire Agreement**

3256 This Agreement, including the Exhibits, represents the full and entire Agreement between the Parties with
3257 respect to the matters covered herein. Each of the Exhibits identified as Exhibits "A" through "L" is
3258 attached hereto and incorporated herein and made a part hereof by this reference.

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3260 IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates stated below:

3261 Dated: 2-7, 2023

Dated: 1-31, 2023

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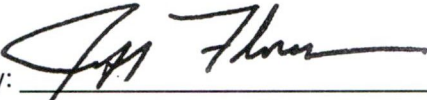
3263 **County of Kern, California**

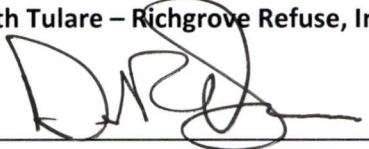
South Tulare – Richgrove Refuse, Inc.

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By: 

By: 

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Chairman, Board of Supervisors

David Guerrero

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3270 APPROVED AND RECOMMENDED:

By: 
Maria Guerrero


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3272 PUBLIC WORKS DEPARTMENT

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3275

By: 

Samuel D. Lux, Director

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3278 APPROVED AS TO FORM:

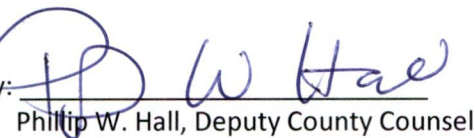
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3280 OFFICE OF COUNTY COUNSEL

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By: 
Phillip W. Hall, Deputy County Counsel

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| 3304 | Section 17: Exhibits |
| 3305 | EXHIBIT A. Approved and Designated Facilities |
| 3306 | EXHIBIT B. Rate Adjustment Methodology |
| 3307 | EXHIBIT C. Initial Rates for Collection Services |
| 3308 | EXHIBIT D. Reporting Requirements |
| 3309 | EXHIBIT E. Public Education and Outreach Plan |
| 3310 | EXHIBIT F. SB 1383 Implementation Plan |
| 3311 | EXHIBIT G. Reserved |
| 3312 | EXHIBIT H. Approved Subcontractors |
| 3313 | EXHIBIT I. Reserved |
| 3314 | EXHIBIT J. County Franchise Zone and Area |
| 3315 | EXHIBIT K. Contractor’s Service Area |
| 3316 | EXHIBIT L. Supplemental Schedule |

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**EXHIBIT A
APPROVED AND DESIGNATED FACILITIES**

DESIGNATED FACILITIES

Designated Disposal Facility

- American Refuse – Shafter Landfill or Bena Landfill
- South Tulare-Richgrove Refuse – Shafter Landfill or Bena Landfill
- Westside Waste Management – Taft Landfill, Shafter Landfill or Bena Landfill
- Varner Brothers – Bena Landfill or Shafter Landfill
- Price Disposal – Bena Landfill or Shafter Landfill
- Varner & Son – Bena Landfill or Shafter Landfill
- Lamont Sanitation – Bena Landfill or Shafter Landfill
- Howard’s Garbage – Bena Landfill or Shafter Landfill
- Superior Sanitation – Bena Landfill or Shafter Landfill
- Valley Garbage – Bena Landfill or Shafter Landfill
- Thomas Refuse – Bena Landfill or Ridgecrest Landfill
- Mountainside Disposal – Bena Landfill or Shafter Landfill
- USA Waste of California, Inc. – Ridgecrest Landfill, Mojave Landfill, Tehachapi Landfill or Bena Landfill

Designated Transfer Facility

- Mountainside Disposal – Lebec Transfer Station (Kern County only – no “out of County” waste)
- Thomas Refuse – Kern Valley Transfer Facility

APPROVED FACILITIES

Approved C&D Processing Facility

- Hauler Preferences

Approved Recyclable Materials Processing Facility

- Hauler Preferences

Approved Organic/Green Waste Processing/Transfer Facility

- American Refuse – Shafter Diversion Area or Mt. Vernon Composting Facility
- South Tulare-Richgrove Refuse – Shafter Diversion Area or Mt. Vernon Composting Facility
- Westside Waste Management – Shafter Diversion Area or Mt. Vernon Composting Facility
- Varner Brothers – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- Price Disposal – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- Varner & Son – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- Lamont Sanitation – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- Howard’s Garbage – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- Superior Sanitation – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility

- 3357 Valley Garbage – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3358 Thomas Refuse – Kern Valley Transfer Station, Ridgecrest Diversion Area, or Bena Diversion Area
- 3359 Mountainside Disposal – Bena Diversion Area, Shafter Diversion Area, Lebec Transfer Station or Mt.
- 3360 Vernon Composting Facility
- 3361 USA Waste of California Inc. – Ridgecrest Diversion Area, Mojave Diversion Area, Tehachapi Diversion Area
- 3362 or Bena Diversion Area
- 3363

3364 **Approved Green Waste Processing Facility**

- 3365 American Refuse – Shafter Diversion Area or Mt. Vernon Composting Facility
- 3366 South Tulare-Richgrove Refuse – Shafter Diversion Area or Mt. Vernon Composting Facility
- 3367 Westside Waste Management – Shafter Diversion Area or Mt. Vernon Composting Facility
- 3368 Varner Brothers – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3369 Price Disposal – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3370 Varner & Son – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3371 Lamont Sanitation – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3372 Howard’s Garbage – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3373 Superior Sanitation – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3374 Valley Garbage – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3375 Thomas Refuse – Bena Diversion Area or Mt. Vernon Composting Facility
- 3376 Mountainside Disposal – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting Facility
- 3377 USA Waste of California, Inc. – Bena Diversion Area, Shafter Diversion Area or Mt. Vernon Composting
- 3378 Facility
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**EXHIBIT B
RATE ADJUSTMENT METHODOLOGY**

3387 **A. General**

3388 Subject to the terms herein, the Contractor may request, but is not entitled, to an annual adjustment of
3389 all Rates. Each Rate, excluding special charges, will be subject to a "Rate Adjustment Factor" that is based
3390 on a "Consumer Price Index for Trash and Garbage Component" which is annually adjusted.

3391 Changes in Rates are subject to approval with properly noticed protest hearings and the process requires
3392 a substantial amount of time. Therefore, the RAF will be based on the data from the previous fiscal year
3393 as noted in the example below.

3394

3395 **B. Calculation**

3396 The adjustment to the Rates will be made using the following methodology:

3397 **Step 1:** Determine the "Rate Adjustment Factor" or "RAF". The RAF shall be the annual percentage
3398 change of the CPI for Garbage and Trash Collection, rounded to the nearest tenth percent. The Rate
3399 Period will be a 12-month period based on fiscal years, commencing July 1 and concluding June 30.

3400 Reference: Bureau of Labor Statistics, CPI for All Urban Consumers, Garbage and Trash Collection,
3401 Series ID: CUUR0000SEHG02 (<https://data.bls.gov/timeseries/CUUR0000SEHG02>)

3402 For example:

3403 To determine the RAF to be used in calculating Rates for Fiscal Year 2022-2023 (July 1, 2022 –
3404 June 30, 2023):

3405 a) Since Fiscal Year 2021-2022 will not be completed at the time when the new Rates are to
3406 be calculated, data from Fiscal Year 2020-2021 will be used.

- 3407 • Sum of all monthly CPIs beginning with July 2020 and ending with June 2021 /
3408 12 = Annual CPI = 509.866 (see table)

3409 b) Compare to the prior Fiscal Year to determine the percentage change in the CPI.

- 3410 • Sum of all monthly CPIs beginning with July 2019 and ending with June 2020 /
3411 12 = Annual CPI = 489.715 (see table)

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Trash CPI by Fiscal Year

| FY | Jul | Aug | Sep | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | Jun | Annual | Annual %Δ |
|-------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-----------|
| 19-20 | 482.138 | 483.987 | 484.346 | 486.133 | 486.485 | 486.708 | 491.003 | 494.429 | 495.288 | 494.432 | 494.946 | 496.679 | 489.715 | 2.64% |
| 20-21 | 498.564 | 500.882 | 501.756 | 503.315 | 504.970 | 508.190 | 512.722 | 517.270 | 518.505 | 518.579 | 516.440 | 517.202 | 509.866 | 4.11% |

3413 c) Calculate the percentage change to determine the RAF to be used to calculate the Rates
3414 for Fiscal Year 2022-2023.

3415 • $RAF = (509.866 - 489.715) / 489.715 = 4.11$ or rounded to nearest tenth = 4.1%

3416 **Step 2:** Calculate the adjusted Rate, rounded to the nearest cent, for each Rate as follows:

3417 Adjusted Rate = Then-current Rate x (1 + RAF)

3418 For example, assuming:

- 3419 1. Then-current Rate = \$50.00 (Deduct Admin Fee if included in the current Rate)
- 3420 2. Rate Adjustment Factor = 4.1%
- 3421 3. Adjusted Rate = $\$50.00 \times (1 + 0.041) = \52.05

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EXHIBIT C
INITIAL RATES FOR COLLECTION SERVICE
PENDING APPROVAL BY THE BOARD OF SUPERVISORS AND
THROUGH THE PROPOSITION 218 PROCESS

| RESIDENTIAL MONTHLY RATES ZONE 1 - ALL FRANCHISE AREAS <u>Haulers</u> American Refuse, Inc. Westside Waste Management, Inc. South Tulare-Richgrove Refuse, Inc. | Effective July 2023 |
|---|--------------------------------------|
| <u>Western Kern Universal Collection Area - Mandatory Service</u> Three Cart Service including Refuse, Recycling and Organics* | \$44.08 |
| <u>Non-Tax Roll Billed Area - Voluntary Service</u> Residential Refuse Service per unit* | \$27.82 |
| Residential Recycling Service per unit** | \$10.21 |
| Residential Organics Service per unit** | \$11.28 |

*Charges shown include the Admin Fee of \$1.00 per month per unit.

**Recycling and Organics Service may not be available in voluntary locations.

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**EXHIBIT C
(CONTINUED)
INITIAL RATES FOR COLLECTION SERVICE
PENDING APPROVAL BY THE BOARD OF SUPERVISORS AND
THROUGH THE PROPOSITION 218 PROCESS**

| |
|--|
| COMMERCIAL BIN AND CART RATES - JULY 2023 Zone 1 - All Franchise Areas Uncompacted Waste* |
|--|

| Container** | | | Service Frequency | 1st Commercial Container** | Each Additional Commercial Container | Each Additional Service Pickup |
|-------------|--------|------|-------------------|----------------------------|--------------------------------------|--------------------------------|
| Size | Units | Type | Pick-up/Week | \$/Cont./Month | \$/Cont./Month | \$/Cont./Month |
| 96 | Gal | Cart | 1 | \$ 51.52 | \$ 43.30 | \$ 20.79 |
| 1 | CY | Bin | 1 | \$ 106.99 | \$ 98.77 | \$ 60.37 |
| 1.5/300 | CY/Gal | Bin | 1 | \$ 124.45 | \$ 116.24 | \$ 68.89 |
| 2 | CY | Bin | 1 | \$ 149.38 | \$ 141.16 | \$ 81.53 |
| 3 | CY | Bin | 1 | \$ 187.96 | \$ 179.75 | \$ 91.22 |
| 4 | CY | Bin | 1 | \$ 233.51 | \$ 225.30 | \$ 117.54 |

* Bins of mechanically compacted waste or extreme density bins (density > 330 lbs/CY) shall be charged at three times the rate established above.

** Rates include the monthly Admin Fee; \$1.00 per commercial unit per month is included.

| ORGANIC WASTE - JULY 2023 | | | | | | |
|----------------------------------|-----|---------|---|-----------|-----------|-----------|
| 96 | Gal | Cart*** | 1 | \$ 48.78 | \$ 43.30 | N/A |
| 2 | CY | Bin | 1 | \$ 293.28 | \$ 282.32 | \$ 163.07 |
| 3 | CY | Bin | 1 | \$ 370.45 | \$ 359.49 | \$ 182.44 |

*** Commercial carts will only be picked up one time per week, commercial bins may be picked up multiple times per week

| ROLL-OFF CONTAINER RATES - JULY 2023 Zone 1 - All Franchise Areas | |
|--|-----------|
| Per Dump | \$ 297.95 |
| Rental Per Month*(1,2) | \$ 254.78 |
| Delivery Charge | \$ 137.37 |
| Per Hour Charge | \$ 165.79 |
| Roll-Off Compactor Service Fee | \$ 363.33 |

*(1) Monthly rental may be prorated for periods less than one month.

*(2) Rates include the monthly Admin Fee; \$1.00 per commercial unit per month is included.

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**EXHIBIT C
 (CONTINUED)
 INITIAL RATES FOR COLLECTION SERVICE
 PENDING APPROVAL BY THE BOARD OF SUPERVISORS AND
 THROUGH THE PROPOSITION 218 PROCESS**

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|---|
| SOURCE SEPARATED RECYCLING RATE SCHEDULE ZONES 1 and 3 |
|---|

| Level of Service | Service Rate \$ per Container per month July 2023 |
|---|---|
| 96/101 Gallon Commercial Recycling Weekly service*; includes cart rental \$4 | \$31.80 |
| 96/101 Gallon Commercial Recycling Bi-Weekly service, includes cart rental \$4 | \$19.25 |
| 300 Gallon Commercial Recycling Weekly service*; includes cart rental \$4 | \$71.86 |
| 300 Gallon Commercial Recycling Bi-Weekly service, includes cart rental \$4 | \$38.55 |
| 3 CY Bin Commercial Recycling Weekly service*, includes bin rental \$14 | \$125.79 |
| 3 CY Bin Commercial Recycling Bi-Weekly service, includes bin rental \$14 | \$70.56 |
| 6 CY Bin Commercial Recycling Weekly service*, includes bin rental \$20 | \$180.23 |
| 6 CY Bin Commercial Recycling Bi-Weekly service*, includes bin rental \$20 | \$103.19 |

*Each additional pick up per week is the Basic Rate minus the cart/bin rental.

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**EXHIBIT D
REPORTING REQUIREMENTS**

3559 **1. General Requirements**

3560 A. **General.** Records shall be maintained in forms and by methods that facilitate flexible use of data
3561 contained in them to structure reports, as needed. Reports are intended to compile recorded data
3562 into useful forms of information that can be used to, among other things:

- 3563 1. Determine, set, and if needed defend, Rates and evaluate the financial efficacy of operations.
- 3564 2. Provide concise and comprehensive program information and metrics for use in fulfilling
3565 reporting requirements under AB 939, AB 341, AB 1826, SB 1383, or other Applicable Law.
- 3566 3. Determine needs for adjustment to programs.
- 3567 4. Evaluate Contractor compliance with the provisions of this Agreement.
- 3568 5. Evaluate Customer service and complaints.

3569 B. **Report Format and Submittal.** Contractor shall submit monthly reports within thirty (30) calendar
3570 days after the end of the calendar month, bi-monthly reports within thirty (30) calendar days after
3571 the end of the appropriate calendar month and annual reports no later than forty-five (45) calendar
3572 days after the end of each calendar year, unless another timeframe is otherwise specified in this
3573 Agreement for certain provisions. Monthly, bi-monthly and annual reports shall, at a minimum,
3574 include all data and information described in this Exhibit D.

3575 Contractor shall submit all reports using a report template and format designated or by the County.
3576 In addition to the completed template report, the Contractor shall submit the system-generated
3577 source reports or other source data used to complete the template. The Contractor may propose
3578 modifications to the report template and format to the County Contract Manager for consideration;
3579 however, the County is in no way obligated to make such changes and retains the right to determine
3580 the designated report format. The County Contract Manager may, from time to time during the
3581 Term of the Agreement, review and make changes to the report template and format. The County
3582 shall provide the updated template to the Contractor at least thirty (30) days prior to the next
3583 required bi-monthly reporting period, and such change shall not be considered a change in scope
3584 pursuant to Section 5.10. If County does not specify an updated format, Contractor shall use the
3585 report format specified for the prior reporting period.

3586 All Contractor reports shall be submitted to the County Contract Manager electronically via e-mail
3587 and shall be fully compatible with Microsoft Excel, or other software specified by the County
3588 Contract Manager. The County reserves the right to require the Contractor to maintain records and
3589 submit the reports required herein through use of alternative formats, such as a County-selected
3590 web-based software platform, at the Contractor's expense.

3591 **2. Bi-monthly Report Content**

3592 Bi-monthly reports shall be presented by Contractor to show the following information for each calendar
3593 month and include a year-to-date summary page that includes the data submitted from the past twelve
3594 (12) months for data comparison (the first twelve (12) months of the Agreement shall only include the
3595 available monthly information). Contractor shall report the information included in the following
3596 subsections. If any information is not available, please so state and reason for unavailability.

3597 **A. Tonnage Report**

- 3598 1. Tonnage delivered to each Approved or Designated Facility, listed by Customer Type, material
3599 type, and Facility name (including facilities owned/operated by the Contractor); subtotaling
3600 and clearly identifying those Tons that are Disposed and those that are Recovered and
3601 Diverted.
- 3602 2. Report Residue level and Tonnage for all Discarded Materials processed, listed separately by
3603 material type Collected and Approved Facility(ies) used.
- 3604 3. Tonnage collected at Bulky Waste Collection Events..
- 3605 4. Recyclable Materials Tonnage marketed (by commodity and including average commodity
3606 value for each, if available) and Processing Residue Tonnage Disposed.

3607 **B. Customer Report**

- 3608 1. Number of Customers by Customer Type; including a list of all Customer account numbers,
3609 names, addresses, and Service Levels.
- 3610 2. Number of Containers at each Service Level by Customer Type and program. Summarizing the
3611 total gallons of Cart service, cubic yards of Bin service, and pulls and cubic yards or Tons of
3612 Roll-Off Container service by Customer Type, including the number of times the Containers
3613 were serviced. Report should calculate the average volume of service received per Single-
3614 Family Customer, Multi-Family Customer, and Commercial Customer.
- 3615 3. The type(s) of Collection service(s) provided, a list of all Routes serviced, and a record of the
3616 addresses served on each Route. If route has commingled loads, the jurisdiction and
3617 percentages must be specified.
- 3618 4. Number of Bulky Item Collection events by Customer Type.
- 3619 5. Participation percentage by program and Customer Type where the participation percentage
3620 is calculated as the number of Customers who have subscribed to or requested service under
3621 the program relative to the number of Customers of that Customer Type subscribing to Solid
3622 Waste service. Contractor shall not be required to submit participant Customer names and
3623 addresses as part of the regular reporting; however, such information shall be provided to the
3624 County Contract Manager upon request.
- 3625 6. Number of Customers subscribing to each County-approved service exemption by Customer
3626 Type, including the Customer name and address for each waiver; and the total number of de

3627 minimis waivers, physical space constraint waivers, and Collection frequency waivers granted
3628 in the month in accordance with Section 8.6.

3629 7. The number of waivers reviewed and number of reverification inspections performed by the
3630 Contractor upon County request, pursuant to Section 8.6 of this Agreement in the month, if
3631 any, including a copy of documentation for each review and reverification inspection.

3632 8. Upon County request, the Contractor shall submit a report containing the information
3633 specified in Exhibit D.2.B above for all Customers that receive service on a commingled County
3634 and City Collection Route, if such combined Routes are approved in accordance with Section
3635 5.5.F.

3636 **C. Customer Service Report**

3637 1. Number of Customer calls listed separately by complaints and inquiries (where inquiries
3638 include requests for Recycling information, Rate information, etc.). For complaints, list the
3639 number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing
3640 concerns, damage claims, non-compliance, etc.).

3641 2. Record of SB 1383 non-compliance complaints received, including the following information:

3642 a. Total number of SB 1383 non-compliance complaints received in the month.

3643 b. Copies of documentation recorded for each complaint received, which shall at a
3644 minimum include the following information: (i) The complaint as received; (ii) The name
3645 and contact information of the complainant, if the complaint is not submitted
3646 anonymously; (iii) The identity of the alleged violator, if known; (iv) A description of the
3647 alleged violation; including location(s) and all other relevant facts known to the
3648 complainant; (v) Any relevant photographic or documentary evidence submitted to
3649 support the allegations in the complaint; and, (vi) The identity of any witnesses, if
3650 known.

3651 c. Copies of the complaint reports submitted to the County and the dates of submittal,
3652 pursuant to Section 10.2.C of this Agreement.

3653 3. Number of new service requests for each Customer Type and program.

3654 4. Number of events of Discarded Materials being tagged for non-Collection summarized by the
3655 reason for tagging (e.g., inclusion of Prohibited Container Contaminants and type of
3656 contaminant, improper set-out, etc.)

3657 5. Number of hits and unique visitors to the Contractor's website, if available.

3658 **D. Education and Outreach Report**

3659 1. Provide a status report of Contractor's education and outreach activities completed. For each
3660 completed item, document the results including what date the activity was performed or
3661 when the materials were distributed, how many Customers were targeted or participated,

- 3662 and what methods were used to accomplish the task (e.g., direct outreach, billing insert,
3663 mailing, etc.).
- 3664 2. A copy of all education and outreach materials provided to Customers, or otherwise used for
3665 education and outreach efforts in accordance with Section 8.1 of the Agreement, including,
3666 but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and
3667 website and social media postings.
- 3668 3. For any mass distribution through mailings or bill inserts, provide a record of the date, a copy
3669 of the information distributed, and the type and number of accounts that received the
3670 information.
- 3671 4. A copy of all electronic media, including the dates posted or sent of: social media posts, e-
3672 mail communications, or other electronic messages, as applicable.
- 3673 5. Summarize the technical assistance provided to Customers in accordance with Section 8.2,
3674 including identifying the number of site visits conducted each month, listed separately by
3675 Customer Type and including the address, contact name, and telephone number of Persons
3676 contacted. Contractor shall also include the Recyclable Materials, Organic Materials, and Solid
3677 Waste Service Levels for each Premises, and document any Service Level changes resulting
3678 from such visits.
- 3679 6. Dates, times, and group names of meetings and events attended by the Contractor where
3680 outreach or educational information was provided.

3681 **E. Pilot and New Programs Report**

3682 For the first 180 days of each pilot and/or new program, if any, provide activity-related and narrative
3683 reports on goals, milestones, and accomplishments. Describe problems encountered, actions taken, and
3684 any recommendations to facilitate progress. Describe Vehicles, personnel, equipment, or other resources
3685 utilized for each program.

3686 **F. Revenue Report**

- 3687 1. Provide a statement detailing Gross Receipts from all operations conducted pursuant to this
3688 Agreement.
- 3689 2. Maintain a list of Customers that are forty five (45) or more calendar days past due and include
3690 the following information for each delinquent account: name; service address; contact
3691 information; number of days the account is delinquent; method(s) the Contractor has used to
3692 attempt collection of the bad debt including date of such attempt(s); and, identification if and
3693 when the Contractor plans to or did stop service to a delinquent account.

3694 **G. Contamination Monitoring and Waste Evaluations Report**

- 3695 1. The number of Route reviews conducted pursuant to Section 8.4 of this Agreement.
- 3696 2. Description of the Contractor's process for determining the level of contamination during
3697 Route reviews.

- 3698 3. A record of each inspection and contamination incident, which shall include, at a minimum:
- 3699 a. Name and address of the Customer.
- 3700 b. The date the contaminated Container was observed.
- 3701 c. The total number of violations found and a description of what action was taken for
3702 each.
- 3703 d. Copies of all notices to Customers with Prohibited Container Contaminants.
- 3704 e. Photographic documentation (which may include hyperlinks or other digital means of
3705 access).
- 3706 4. Documentation of the total number of Containers with contents Disposed of due to
3707 observation of Prohibited Container Contaminants.
- 3708 5. Summary report of courtesy pick-up notices, non-Collection notices, which for each notice
3709 shall include the date of issuance, Customer name, and service address.
- 3710 6. For Contractor owned or operated facilities, results of the facility evaluations conducted and
3711 copies of the required records kept in accordance with Section 6.5.
- 3712 7. Any other information reasonably requested by the County or specified in contamination
3713 monitoring provisions of this Agreement.
- 3714 H. **Commercial Service Levels and Commercial Bin Fee Report**
- 3715 The Contractor shall provide monthly reports in a standardized format provided by the County on
3716 Commercial Bin Fees and shall provide bi-monthly reports on Commercial services, which shall
3717 include, but is not limited to:
- 3718 1. A list of Commercial Customers in the service area; the name, address and account number
3719 of the Commercial business or property serviced; and the name of the Generator and/or
3720 Customer (if different) for Solid Waste, Recyclable Materials, and/or Organic Materials
3721 management.
- 3722 2. The volume per month of Solid Waste Collection service provided to the Commercial business
3723 or property.
- 3724 3. The cumulative volume, calendar year-to-date, of Solid Waste Collection service provided to
3725 the Commercial business, or property.
- 3726 4. The volume per month of Source Separated Recyclable Materials Collection service provided
3727 to the Commercial business or property.
- 3728 5. The cumulative volume, calendar year-to-date, Recyclable Materials Collection service
3729 provided to the Commercial business or property.

- 3730 6. The volume per month of Organic Materials collection service provided to the Commercial
3731 business or property.
- 3732 7. The cumulative volume, calendar year-to-date, of Organic Materials Collection service
3733 provided to the Commercial business or property.
- 3734 8. The total volume per month of combined Solid Waste, Recyclable Materials, and Organic
3735 Materials Collection service provided to the Commercial business or property.
- 3736 9. The cumulative volume, calendar year-to-date, of combined Solid Waste, Recyclable
3737 Materials, and Organic Materials Collection service provided to the Commercial business or
3738 property.
- 3739 10. The location of the Recyclable Materials Processing Facility(ies) to which the Recyclable
3740 Materials were taken during the previous quarter, including the tonnage of Recyclable
3741 Materials delivered to such facility each month.
- 3742 11. Information about changes in Recyclable Materials service such as new Customers or
3743 cancellations, including Customer name and address.
- 3744 12. The location of the Organic Materials Processing Facility to which the Organic Materials were
3745 taken during the previous quarter, including the tonnage of Organic Materials delivered to
3746 such facility each month.
- 3747 13. Information about changes in Organic Materials service such as new Customers or
3748 cancellations, including Customer name and address.

3749 **3. Annual Report Content**

3750 The annual report shall be the final bi-monthly report plus the following additional information.

3751 **A. Summary Assessment**

- 3752 1. Provide a summary assessment of the programs performed under this Agreement from
3753 Contractor's perspective relative to the financial and physical status of the program; provide
3754 recommendations and plans to improve; and highlight significant accomplishments and
3755 problems. The physical status assessment shall reflect how well the program is operating in
3756 terms of efficiency, economy, and effectiveness in meeting all the goals and objectives of this
3757 Agreement, particularly the SB 1383 program implementation. Results shall be compared to
3758 other similar size communities served by the Contactor in the State.

3759 **B. Collection Report**

- 3760 1. A summary of Customer subscription data, including the number of accounts and the total
3761 number of Generators enrolled with Contractor for service, listed separately by: Customer
3762 type, Discarded material type, Container type (Cart, Bin, and Roll-Off service), and Service
3763 Level.

3764 2. A detailed list of Single-Family, Multi-Family, and Commercial Customer information,
3765 including Service Levels, Customer type, Customer name or account number, and Customer
3766 service addresses.

3767 3. The total Tonnage amount of Discarded Materials, listed separately by Discarded Material
3768 type, removed from illegal disposal sites as part of an abatement activity or as otherwise
3769 required by this Agreement, with each Collection event listed separately by date, location,
3770 and Tons Collected.

3771 4. A record of Bulky Waste Collection events conducted in accordance with Section 5.6.A,
3772 including the event date, location, and Tonnage of Bulky Waste Collected during the event.

3773 C. **Processing Report**

3774 1. A record of all compliance agreements for quarantined Organic Waste that is Disposed of,
3775 including the name of Generator, date issued, location of final disposition, and the amount of
3776 quarantined Organic Waste that was required to be Disposed at a Landfill, pursuant to Section
3777 8.6 of the Agreement.

3778 2. Temporary Equipment or Operations Failure Report. If the Contractor is granted a Processing
3779 Facility temporary equipment or operational failure waiver, in accordance with Section 8.6.2
3780 of the Agreement, the Contractor shall include the following documents and information:

3781 a. The number of days the Processing Facility temporary equipment waiver or operation
3782 failure waiver was in effect.

3783 b. Copies of any notifications sent to the County pursuant to Section 8.6.2 of the
3784 Agreement, and copies of County notices to Contractor pursuant to Section 8.6.2 of the
3785 Agreement.

3786 c. Documentation setting forth the date of issuance of the waiver and the timeframe for
3787 the waiver.

3788 d. A record of the tons of Discarded Materials redirected to an alternative facility or
3789 Disposed at the Designated Disposal Facility as a result of the waiver, by material type.

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3791 D. **Recyclables Markets Report**

3792 Contractor shall include a listing of markets for Recyclable Materials and the end use of these materials.
3793 This type of information is intended to help the County gauge the sustainability of Recycling markets and
3794 the ultimate Disposal of all types of materials Collected.

3795 E. **Operational Information Report:**

3796 1. Routes by Customer Type:

3797 a. Number of Routes per day.

- 3798 b. Types of vehicles.
- 3799 c. Crew size per route.
- 3800 d. Number of full time equivalent (FTE) routes.
- 3801 e. Number of accounts and cubic yards scheduled per route.
- 3802 f. Total Route hours per Customer Type per year.
- 3803 g. Average cost per Route.
- 3804 2. Personnel:
 - 3805 a. Organizational chart.
 - 3806 b. Job classifications and number of employees (e.g., administrative, Customer service
3807 representatives, drivers, supervisors, educational staff).
 - 3808 c. Wages by job classification.
 - 3809 d. Number of full-time equivalent positions for each job classification.
 - 3810 e. Number of hours per job classification per year.
- 3811 3. Productivity Statistics:
 - 3812 a. Average number of accounts per Route per day by Customer Type.
 - 3813 b. Average number of setouts per Route per day by Customer Type.
 - 3814 c. Average Tons per Route per day by vehicle type (i.e., side-loader, front-loader, and roll-
3815 off).
 - 3816 d. Average cubic yards of Collection scheduled per Route.
- 3817 4. Vehicles:
 - 3818 a. List of Collection Vehicles including year purchased and mileage.
 - 3819 b. Average age of mobile equipment with oldest and newest.
- 3820 5. Operational Changes:
 - 3821 a. Number of Routes.
 - 3822 b. Staffing.
 - 3823 c. Supervision.

3824 d. Collection services.

3825 F. **Commercial Edible Food Generator Report**

3826 A list of all Commercial Customers, including the Customer name, service address, contact information,
3827 and identification of which Commercial Customers that qualify or appear to qualify as Tier One
3828 Commercial Edible Food Generators, Tier Two Commercial Edible Food Generators, or “Non-covered”
3829 Edible Food generators (i.e., a business that sells or otherwise generates Edible Food, but does not meet
3830 the specifications of either a Tier One or Tier Two Commercial Edible Food Generator), including the
3831 specific type of entity for each (e.g., grocery store, restaurant, food distributor, etc.).

3832 G. **Compliance Program Report.**

3833 A copy of all written and/or electronic records for each inspection or compliance review conducted upon
3834 County request, if any, in accordance with Section 8.7, which, for each review shall include the following
3835 information:

- 3836 1. The account name and service address of the Customer(s) inspected or reviewed.
- 3837 2. Date of the review.
- 3838 3. Copies of any written notices or education materials provided to non-compliant Generators,
3839 or a description of direct outreach conducted.

3840 **4. Other Reports**

3841 A. **AB 901 Reporting.** At the County’s option, County may require that Contractor provide the County
3842 copies of Contractor’s AB 901 reports on a regular basis (such as monthly, bi-monthly, quarterly, or
3843 annually) or within ten (10) business days of County request as appropriate.

3844 B. **Customized Reports.** The County reserves the right to request Contractor to prepare and provide
3845 customized reports from records Contractor is required to maintain; or specify a different format
3846 or submission system, such as the use of a web-based software platform.

3847 C. **New Reports.** Given the lengthy term of this Agreement, it is understood and acknowledged that
3848 the County’s reporting, documents, and/or data needs may change in the future. Therefore, the
3849 County reserves the right to require the Contractor to prepare and provide reports additional
3850 reports, documents, and/or data which are not currently provided for in this Agreement.

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**EXHIBIT E
PUBLIC EDUCATION AND OUTREACH**

Contractor shall, at its own expense, provide education and outreach materials to Customers in accordance with Section 8.1 at the frequencies specified in this Exhibit E, unless otherwise specified in Section 8.1. Contractor is required to conduct all public education and outreach requirements specified in the Agreement, including the Contractor’s SB 1383 Implementation Plan, regardless of whether the activities are specifically listed in the summary table below. All Contractor-produced materials shall be approved by the County Contract Manager prior to distribution. Distribution may be in the form of printed materials or may be delivered by electronic means.

| Program or Topic*** | Distribution Frequency* |
|--|---|
| Bulky Waste Collection | Twice per year, or more frequently as requested |
| Mandatory Residential Recyclables and Organic Materials Collection; including SB 1383 requirements | Quarterly ** |
| Mandatory Commercial Recycling and Organic Materials Collection; including AB 1826, AB 341, and SB 1383 requirements | Quarterly** |
| Household Hazardous Waste (HHW) | Annually, or more frequently as requested |
| Home-Generated Sharps Program | Annually, or more frequently as requested (if applicable) |
| Facility information and Facility drop-off events | Twice per year, or more frequently as requested (if applicable) |
| Other topics | As requested |

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*In addition to the frequencies specified above, Contractor shall provide education and outreach materials to all Customers prior to commencement of the agreement and to any new Customers that subscribe to service during the Term of the Agreement.

**Multi-Family and Commercial property owners may request materials more frequently in order to comply with SB 1383 requirements to provide educational information to new tenants.

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**EXHIBIT F
SB 1383 IMPLEMENTATION PLAN**

SB 1383 Implementation Plan – Hauler Operations

| | SB 1383 Requirement | County Responsibility | Hauler Responsibility |
|--------------------------|---|---|---|
| Hauler Regulation | | | |
| 1. | A jurisdiction may designate a public or private entity to fulfill its responsibilities under SB 1383 through a contract with a hauler or agreements such as MOUs with other jurisdictions. (§18981.2) | County currently uses Franchise Haulers and will continue this process but will restate all agreements for compliance with the requirements of SB 1383. | Contractor has negotiated with County on a restated agreement. |
| 2. | A jurisdiction shall require haulers providing residential, commercial, or industrial organic waste collection services to generators within its boundaries to meet the requirements and standards of SB 1383. (§18988.1) | County will provide restated franchise agreements to all Haulers that include the requirements of SB 1383. | Contractor to review and coordinate with the County to reach a final signed agreement shortly after the start of 2023. |
| 3. | A hauler providing residential, commercial, or industrial organic waste collection shall transport organic waste to a facility approved by the jurisdiction. (§18988.2) | County will provide designated disposal locations and approve organic disposal facilities and recycling facilities as per requirements of the regulation. | Contractor may identify preferred facilities and will transport the appropriate waste to the appropriate facility as designated and approved by the County. |
| Collection | | | |
| 4. | A jurisdiction shall provide Organic Waste Collection Services by providing a three container system (or other appropriate system). (§18984.1) | County chose 3 container system (green, blue and gray containers) for all Universal Collection Areas and will establish new or expanded Universal Collection Areas that meet the Census Tract population requirements and may also establish new Universal Collection Areas where the three container system would be advantageous. | Contractor to provide collection services in all of the mandatory areas and transport each type of waste to the appropriate facility. |

| | SB 1383 Requirement | County Responsibility | Hauler Responsibility |
|----|---|---|---|
| 5. | A jurisdiction may comply with the requirements by implementing the three container system and providing a green container, blue container, and a gray container. The green container is for the collection of organic waste only. The blue container is provided for the collection of non-organic recyclables but may also include paper products and printing and writing materials. The gray container shall be for the collection of non-organic waste only. (§18984.1) | County will designate materials for inclusion in each container. | Contractor will transport materials from each type of container to the approved facility for that container type. |
| 6. | A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container if the facilities that recover the source separated organic waste provides annual written notice to the jurisdiction that the facility can remove plastic bags when it recovers source separated organic waste. (§18984.1.d) | County will include compostable plastic bags for use in the green container in the agreement. | Contractor may Collect Organic Material in compostable plastic bags placed inside Organic Material Containers for Processing. |
| 7. | A jurisdiction will provide Collection Containers to generators that have lids that comply with color requirements when replacing containers or by January 1, 2036, whichever comes first. (§18984.7) | County to review and approve Container colors to be provided to Customers by Contractor. County will also review and approve a detailed plan and timeline for distribution. | Contractor to provide Containers to Customers that comply with SB 1383 requirements. Contractor shall not be required to replace existing Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first. |
| 8. | A jurisdiction shall clearly label or imprint all new containers or lids to include language or graphic materials indicating primary materials that are accepted and rejected in each container. (§18984.8) | County to review, comment on, and approve Container labels. | Contractor to place County-approved labels on all new Containers; labels should include text and/or graphic images that indicate primary materials that are accepted and primary materials that are not accepted for each Container type. Labels shall be placed on new Containers before or at time of initial Container delivery to Customer. |

| | SB 1383 Requirement | County Responsibility | Hauler Responsibility |
|---------------------------------|---|---|--|
| Contamination Monitoring | | | |
| 9. | <p>A jurisdiction shall monitor the containers to minimize prohibited contaminants. This requirement may be met by conducting route reviews such that all hauler routes are inspected annually. During each route review, inspect randomly selected containers for contaminants and determine organic waste generator compliance (organic waste generators must subscribe to collection service or self-haul organic materials; commercial organic waste generators are also required to provide color-compliant containers to their customers).</p> <p>If contamination is found during route reviews or if inspected generators are out of compliance, notify such generators of recycling requirements (§18984.5; §18995.1; §18984.9)</p> <p>“Route review(s)” means a visual inspection of containers along a hauler route for the purpose of determining contamination, and may include mechanical methods such as the use cameras. (§18982)</p> <p>“Hauler route” means the designated itinerary or sequence of stops for each segment of the jurisdictions collection services. (§18982)</p> | <p>County to review, comment on, and approve route review plan and methodology provided by Contractor.</p> <p>County to review, comment on, and approve content and design of notices to be distributed by Contractor to noncompliant generators.</p> | <p>Contractor shall develop a plan and methodology, to be approved by County, for conducting annual route reviews such that an adequate number of Containers are inspected on all routes annually.</p> <p>The amount of Containers that must be inspected per Route shall be based on guidelines provided below.</p> <ol style="list-style-type: none"> 1. For routes with less than 1,500 generators the review shall include a minimum of 25 samples. 2. For routes with 1,500-4,000 generators the review shall include a minimum of 30 samples. 3. For routes with 4,001-7,000 generators the review shall include a minimum of 35 samples. 4. For routes with more than 7,000 generators the review shall include a minimum of 40 samples. <p>(Franchise Agreement – Section 8.4)</p> <p>In the event that Contractor identifies contamination, Contractor shall be responsible for affixing a County-approved notice on to Customer's Containers, documenting the location or account where contamination was present.</p> <p>Contractor shall provide bi-monthly reports to County summarizing the results of each route review and recording, at a minimum, each contamination location, corresponding photographic evidence, and date of Customer contamination identified.</p> |

| | SB 1383 Requirement | County Responsibility | Hauler Responsibility |
|---|--|---|---|
| Waivers | | | |
| 10. | A jurisdiction may grant one or more waivers to a generator of organic waste (de minimis, physical space or collection frequencies) (§18994.11) | County shall provide Contractor with a list of commercial accounts that have received County-approved organics collection waivers. County shall be responsible for reverification of any waiver. | Contractor shall maintain records of all Customers granted each type of waiver by the County and documentation of reverifications and may be required to update Service Levels. |
| Edible Food Recovery Program Support | | | |
| 11. | A jurisdiction shall implement an edible food recovery program. (§18991.1) | Other County departments will handle the Food Recovery Program | Contractor shall identify and provide a list to the County of Commercial Customers that qualify, or appear to qualify as Tier One and Tier Two Commercial Edible Food Generators and update annually. |
| Education & Outreach | | | |
| 12. | A jurisdiction shall initially, and annually thereafter, provide generators with information on properly separating materials, organic waste prevention, on-site recycling, community composting, methane reduction benefits, how to recycle organic waste, a list of approved haulers, and information related to food recovery. (§18985.1.a) | County to collaborate with the Contractor and will provide the content and design of public education and outreach materials. | Contractor to distribute County-approved educational material to any new customer and on a regular basis as per Section 8.1 and Exhibit E and otherwise provided in the section using multiple media sources including print and digital media and shall be available in English and Spanish. Contractor will provide educational and outreach materials to Multi-Family premises on as per Section 8.1 and Exhibit E. Contractor will provide all public education and outreach materials to Commercial customers. Contractor shall develop a website/webpage specific to its operations for the County with County specified topics to be presented. Contractor shall designate a staff member to serve as a Public Education and Outreach Coordinator and will provide thorough training for the Coordinator on the requirements of the County's collection programs and all relevant regulations. |

| | SB 1383 Requirement | County Responsibility | Hauler Responsibility |
|---------------------------------------|--|--|--|
| 13. | Translate educational materials required into any non-English language spoken by a substantial number of the public provided organic waste collection services by the jurisdiction. (§18985.1.e) | County to translate County-developed education and outreach materials, and translate such materials as needed. County to provide translated outreach materials to Contractor for website posting. | Contractor to post County-developed educational material that has been translated by County on its website annually or as requested by County. Contractor shall post material on its website within two weeks of County's initial request. |
| Record Keeping & Reporting | | | |
| 14. | By April 1, 2022, a jurisdiction shall file an initial compliance report that includes copies of adopted ordinances, items required for the annual report under Section 18994.2.b, and contact information for the responsible party for compliance-related issues (§18994.1 and §18815.4) Commencing August 1, 2022, a jurisdiction shall submit an annual report relative to compliance with SB 1383; the first report is due October 1, 2022 for the period of January 1, 2022 to June 30, 2022. (§18994.2) | County to compile and submit relevant documentation for the initial compliance report and the annual report. The County shall compile documentation that details the County's Hauler oversight. | Contractor shall supply County with reports documenting organic waste collection services; contamination monitoring; education and outreach efforts; and the monitoring and enforcement program as specified in Exhibit D for hauler operations. |
| 15. | Maintain all implementation records in a central location (physical or electronic) that can be made available to or accessed by CalRecycle within ten business days. (§18981.1, §18984.4.a, §18984.6, §18984.14, §18985.3, §18988.4, §18991.2, §18993.2, §18995.2) | County to maintain all implementation records including: ordinances, enforceable mechanisms, contracts, or agreements; waiver and exemption records; hauler program records. | Contractor shall provide data to meet this requirement as per Exhibit D. |

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EXHIBIT G
RESERVED FOR FUTURE USE

EXHIBIT H
APPROVED SUBCONTRACTORS

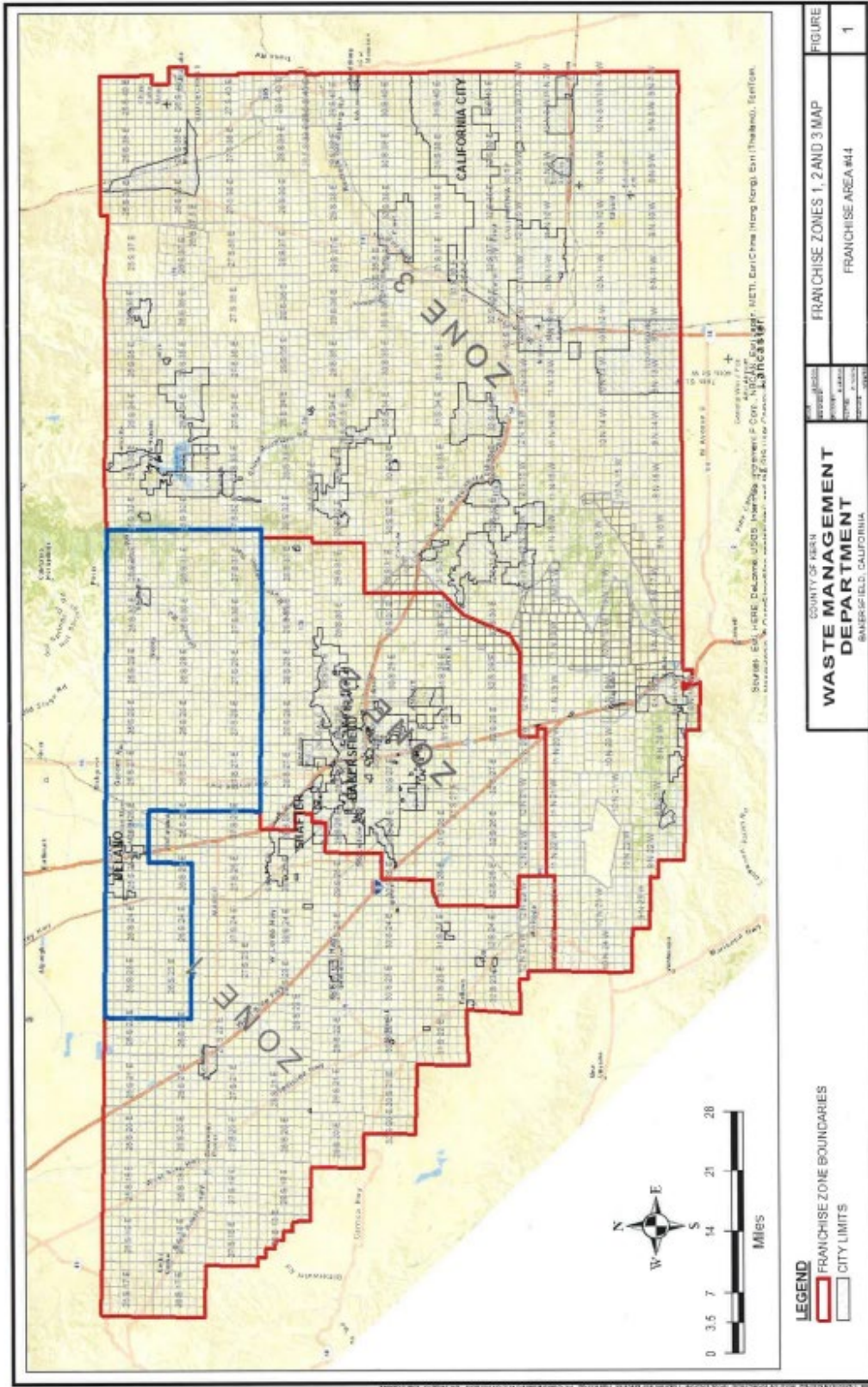
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EXHIBIT I
RESERVED FOR FUTURE USE

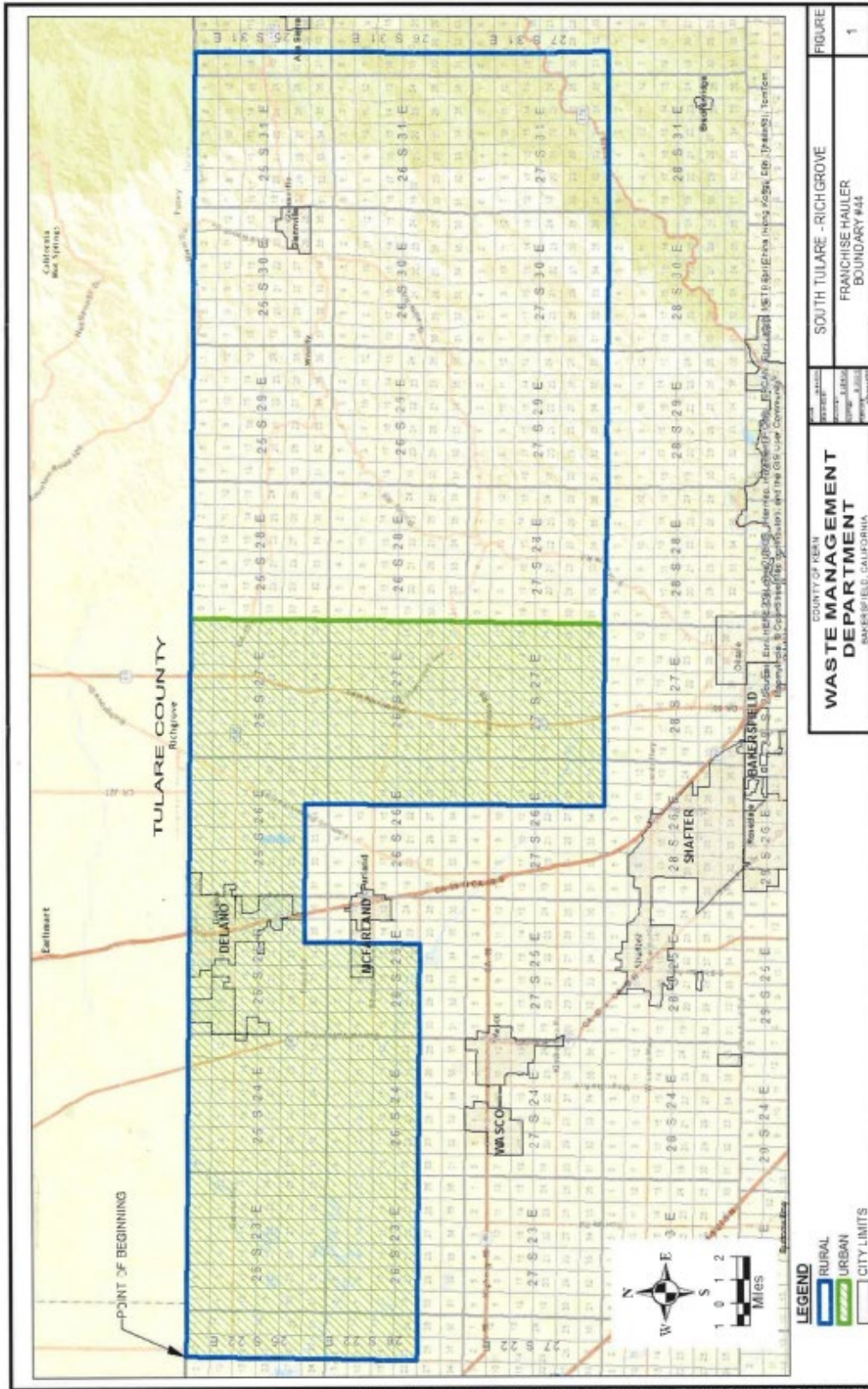
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EXHIBIT J
COUNTY FRANCHISE ZONE AND AREA



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EXHIBIT K COUNTY SERVICE AREA



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**EXHIBIT L
SUPPLEMENTAL SCHEDULE**

Supplemental Schedule to include the following detail:

Revenues and Other Income

- Commercial/industrial revenue
- Residential – tax roll billed revenue
- Residential – non-tax roll billed revenue
- Recycling revenue
- Other income (list)

Operating Costs and Other Deductions

Operating Costs

- Salaries, wages and employee benefits – direct (Operations)
- Laundry/uniform expense
- Vehicle expense – maintenance and repair
- Fuel expense – gas, oil, diesel, RNG/CNG/LNG
- Insurance expense – Vehicle
- Other operating expenses – (Please describe)

Overhead Costs

- Salaries, wages, and employee benefits – overhead (Office, shop, and other non-driver personnel)
- Materials and supplies expense – (Office and shop)
- Rent expense
- Utility expense – power, water, internet, telephone
- Travel, meals, entertainment expense
- Advertising and promotional expense
- Memberships and subscription expense
- Professional services expense
- Taxes other than income
- Other costs – overhead (Please describe)

Other Costs

- Recycling processing expense (List recycling revenue above)
- Interest and debt expense
- Depreciation and amortization
- Other expenses (list)