



REQUEST FOR PROPOSALS

INTEGRATED SOLID WASTE MANAGEMENT SERVICES

**PROPOSALS MUST BE RECEIVED BY
2:00 PM ON THURSDAY JULY 1, 2021**

City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709

City of Chino Hills Request for Proposals INTEGRATED SOLID WASTE MANAGEMENT SERVICES

Date: MARCH 10, 2021

Department: CITY MANAGER'S OFFICE

Project Name: REQUEST FOR PROPOSALS FOR INTEGRATED SOLID WASTE MANAGEMENT SERVICES

Proposal Due Date: JULY 1, 2021 Time: 2:00 P.M.

Proposals must be submitted to:

City of Chino Hills
City Clerk's Office
Attn: Susan Shaker
14000 City Center Drive
Chino Hills, CA 91709

Due Date and Delivery

Proposals must be for the entire scope of services outlined in this RFP. Incomplete proposals will not be considered. The proposer shall submit a package clearly marked on the outside as **"REQUEST FOR PROPOSAL FOR INTEGRATED SOLID WASTE MANAGEMENT SERVICES"** to the City Clerk's Office. The package shall contain the following:

- Five (5) bound copies and one (1) electronic copy (flash drive is preferred method, emails not accepted) of the proposal;
- One (1) original, four (4) copies, and one (1) Microsoft excel copy (flash drive is preferred method, emails not accepted) of the RFP Attachments 3 and 4 in a separate sealed envelope clearly marked "Sealed Cost Proposal"; and
- A signed W-9.

Proposals must be received by the City Clerk's Office **no later than 2:00 p.m. Thursday, July 1, 2021**. Submissions received after this deadline will be rejected. Submissions by facsimile or electronic mail will not be accepted.

The draft franchise agreement containing the terms and conditions under which service will be provided (see Attachment 6) is an integral part of this RFP. This franchise agreement includes information related to service standards, rate setting, billing, reporting, and other activities related to the performance of these services. It is expected that the final awarded franchise agreement

City of Chino Hills
REQUEST FOR PROPOSALS FOR INTEGRATED SOLID WASTE MANAGEMENT

will be substantially in the form and content as presented in the draft franchise agreement presented with this RFP.

Submission of a proposal shall constitute acknowledgment and acceptance of all the terms and conditions contained in this RFP, and in the draft franchise agreement, unless exception to particular terms and conditions are expressed in writing in the proposal. The successful proposer will be expected to enter into a franchise agreement with the City; only those exceptions noted in its proposal will be considered for modification. The City is not obligated to agree to these exceptions but reserves the right to negotiate modification of such noted exceptions to the draft franchise agreement.

Each and every term and condition of the proposal shall be irrevocable until the City enters into a franchise agreement to perform the scope of services for the proposed rates according to those terms and conditions. Within fifteen (15) business days of the selection of a proposal by the City Council, the selected proposer is bound to execute the franchise agreement. Within 15 days of execution of the agreement proposer shall furnish the required performance bond and letter of credit. The form of the financial instruments is described in Sections 9.6 and 9.7 of the draft franchise agreement. Within three (3) days following execution of the franchise agreement, and in any event prior to the performance of any services thereunder, the proposer is bound to provide evidence of all required insurance (see Section 9.5 of the draft franchise agreement). The terms of this RFP and the proposals are firm for a period of three hundred and sixty-five (365) days. Once submitted, responses to this RFP cannot be altered without the City's express written consent. The City reserves the right to reject any or all proposals, and may elect to make a decision without further discussion or negotiation. This RFP is not to be construed as a contract of any kind. The City is not liable for any costs incurred by any potential proposer in the preparation of a response to this RFP. The City may withdraw or modify this request at any time.

Pre-Proposal Virtual Conference

A Pre-Proposal virtual conference via Zoom will be held March 25, 2021 at 9:00 AM. Interested parties shall email Susan Shaker at sshaker@chinohills.org, or Debbie Morris at dmorris@hfh-consultants.com, in order to receive the invitation at least two days prior to the virtual conference.

A. General Information

The City of Chino Hills ("City") is requesting proposals from firms or individuals to provide Integrated Solid Waste Management Services.

B. Description of the Government

The City of Chino Hills is a General Law City in the State of California and is located in the Southwestern portion of San Bernardino County. The City was incorporated on December 1, 1991 and operates under a council-manager form of government. The City is a community consisting of approximately 45 square miles with an estimated population of 82,409. The City operates as a "contract city" utilizing contracts with other government entities, private firms, and individuals to provide many traditional municipal services to the community. Contracted services include police, city attorney, animal control, and refuse collection.

According to the California Department of Finance, population and housing estimates for the City as of January 1, 2020 are as follows:

Population:	82,409	Single Family Detached	19,942
Total Dwelling Units	25,850	Single Family Attached	883
Percent Vacant	3.6%	Multi-Family 2 to 4 Units	890
Persons per Household	3.3	Multi-Family 5 Plus Units	3,508
		Mobile Homes	627

This census information is meant to provide an overview of the City.

According to the City's recent General Plan update, the City has an estimated residential growth rate of 1% per year and an estimated employment growth rate of 1% per year for the period of 2016-2045.

C. Background

The City currently contracts with Republic Services for residential solid waste services and commercial solid waste services under two separate agreements. On November 24, 2020, the City Council approved a one-year extension to the agreements to January 30, 2022, and an option to extend the agreements for an additional five months to June 30, 2022, at the sole option of the City.

D. Objective

The City of Chino Hills is requesting proposals from qualified solid waste companies to provide solid waste collection, transportation, recycling, processing, and disposal services. The initial term of the new agreement is eight years. The City may extend the agreement for up to 24-months (month-to-month) at the City's sole option. Collection services under the new agreement will begin July 1, 2022. See Sections 2.4 and 2.5 of Attachment 6.

E. Addendum

If it becomes necessary to revise any part of this RFP, an addendum to the RFP will be published and distributed through the City's website. All addenda shall become a part of the RFP document requiring acknowledgment by the proposer.

F. Evaluation and Selection

The following is a tentative schedule of this entire RFP process. While the City will attempt to apply the necessary resources to maintain this schedule, the following dates are merely projections and the City reserves the right to modify this schedule as needed to accommodate the completion of this RFP process. Additionally, the City reserves the right to add additional procurement processes, including without limitation proposer interviews, formation of an evaluation committee (which may or may not include Council members), or background checks. The following is a tentative timeline for the evaluation and RFP selection procedure. Proposal evaluation criteria is outlined on Section VI of the RFP.

TENTATIVE PROJECT SCHEDULE	
RFP Published:	March 10, 2021
Pre-Proposal Conference	March 25, 2021
Questions from Proposers Due:	March 31, 2021
Proposals Due:	July 1, 2021
Initial Review of Proposals by Panel:	July 2021 – September 2021
Select Contractors for Negotiations and Negotiate Agreement	September 2021 – October 2021
Anticipated Contract Award*:	November 2021
New Service Begins	July 1, 2022

* Award subject to completion of Proposition 218 process.

G. Questions

After reviewing the RFP package, proposers may find that they require clarification of some requirements. Proposers may submit written questions via email to Susan Shaker at sshaker@chinohills.org and Debbie Morris at dmorris@hfh-consultants.com, by the due date listed in the Tentative Project Schedule. The emailed questions must contain the RFP title, "City of Chino Hills Request for Proposals for Integrated Solid Waste Management." Written questions that do not follow these protocols will not be accepted. Written responses to such questions, addenda and clarifications, if any, will be provided on the City's website, to all potential proposers that provide their contact information when requesting the RFP. Proposers should provide the primary contact name, company name, address, e-mail address, and phone number to the City if proposers wish to receive answers to questions and other RFP addenda. Only written responses

will govern. Written questions may not be accepted after the date shown in the schedule above, as this would leave insufficient time for the City to provide an adequate response to all potential proposers. However, if proposers have simple questions regarding how to complete submittal forms or otherwise complete the proposal requirements, proposers may continue to request assistance via telephone until the proposal due date. See "Communication Protocol During RFP Process" below for instruction on where to submit questions.

H. Communications Protocol During RFP Process

In order to ensure that the decision-making in this very important RFP process is fully open to the public, all communications regarding this RFP should be made exclusively through Susan Shaker via e-mail at sshaker@chinohills.org, or Debbie Morris of HF&H Consultants, the City's consultant, by telephone at (949) 251-1106 and by e-mail at dmorris@hfh-consultants.com.

Proposers and their representatives are prohibited from contacting other City personnel or City Council members regarding matters related to this RFP and the award of this contract. Proposers and their representatives that contact other City personnel or City Council members after the City releases the RFP and throughout the evaluation period regarding this RFP process and contract award may have their proposals disqualified from consideration by review and action of the City Manager. Any questions or clarifications that need to be escalated to the Assistant City Manager or City Manager, should be directed to Susan Shaker via email for dissemination. The Assistant City Manager or City Manager may contact proposers and their representatives if requested by the proposers. This prohibition does not apply to any formal interviews, public hearings or agendaized meetings in which City Council members or City personnel may participate.

I. Scope of Work

The draft agreement included in Attachment 6, provides the terms, conditions, and scope of work to be provided by the successful proposer.

J. Deliverables

RFP submission requirements are included in Section V of this RFP.

K. Administrative Elements

1. The City of Chino Hills shall have the right to perform, and each proposer must agree to cooperate with, an investigation and review of each proposer's ability to perform the work required. Such cooperation shall apply not only to the verification of the proposer's capability and experience in the provision of services, but also to the provision of any other component of work that may be required under this procurement.
2. In order to objectively evaluate all proposals, the City has attempted to describe the desired services and the terms and conditions in the draft franchise agreement in a manner that will allow a reasonable level of comparability among the proposals. Therefore, the City discourages, and may disqualify, proposals that substantially deviate from the RFP. Proposals that do not include the completed forms required herein and information required in Section V may be disqualified. Provided that the proposer has submitted a

proposal that meets all of the minimum requirements of this RFP, the proposer may also offer additional enhancements that exceed the RFP requirements.

3. The City reserves the right to reject any or all proposals, disqualify nonconforming or incomplete proposals at its sole discretion, waive minor deviations from the RFP, and determine whether proposers are qualified. The City reserves the right to issue addenda to the RFP, to modify the RFP, to modify the franchise agreement, or to withdraw the RFP. The City and HF&H may request clarification or additional information from any of the proposers at any point in the RFP process.
4. Proposals must comply fully with the requirements detailed in this RFP. Required supporting documentation must be included as attachments and be appropriately identified.
5. To be considered, proposals must be complete and must conform to the requirements of this RFP as to form and content. The franchise agreement will be awarded to the proposer that the City Council determines will best assist the City to reach its goal of receiving the highest quality service at the lowest reasonable cost. The successful proposal may or may not be the lowest cost proposal. The City, however, reserves the right to reject any or all proposals, to accept or reject any one or more items of a proposal, or to waive any minor irregularities or informalities in the proposal.

L. Insurance

Within three (3) business days of successful selection, consultant must provide the City with Certificates of Insurance providing coverage as outlined in Section 9.5 of the draft agreement (Attachment 6) naming the City, its agents and officers as additional insureds by written endorsement.

M. Subcontracting

The Proposer may utilize the services of specialty subcontractors on those parts of the work that, under normal contracting practices, are performed by specialty subcontractors. Unless a specific subcontractor is listed by Proposer, Proposer is representing to City that Proposer has all appropriate licenses, certifications, and registrations to perform the work hereunder. As described in Section 4.4.16 of the Draft Agreement, street sweeping services must be provided by Franchisee and may not be performed by subcontractors.

After submission of the proposal, the Proposer shall not award work to any unlisted subcontractor(s) without prior written approval of the City. The Proposer shall be fully responsible to the City for the performance of their subcontractor and of persons either directly or indirectly employed by them.

Nothing contained herein shall create any contractual relation between any subcontract and the City.

N. Public Information

All materials received relative to this RFP will become public information and be available for inspection after the award of contract. The City reserves the right to retain all proposals submitted, whether or not the proposal was selected or judged to be responsive.

CITY OF CHINO HILLS
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- Attachment 2: Existing Service Data**
- Attachment 3: Rate Proposal Forms**
- Attachment 4: Supporting Cost and Operating Data Worksheets**
- Attachment 5: Anti-Collusion Affidavit**
- Attachment 6: Draft Integrated Waste Management Services Franchise Agreement**
- Attachment 7: Current Rate Schedule**
- Attachment 8: Current Street Sweeping Agreement**
- Attachment 9: 2020 Hauler Tonnage Report**

SECTION I - INTRODUCTION

SUMMARY OF REQUESTED SERVICES

Existing service data provided by Republic and the City is included in Attachments 2 and 3. Current rates are provided in Attachment 7. The services for which the City is seeking proposals are summarized in Table 1 below and are briefly described in Section III of this RFP. A more comprehensive description of the scope of services is found in the draft franchise agreement in Attachment 6.

Table 1: Requested Services

CUSTOMER TYPE	SERVICE DESCRIPTION
Single-Family and Multi-Family Cart Customers	◆ SB 1383 Compliant Cart System Including Refuse, Recycling, and Organics Carts.
Single-Family and Multi-Family Special Services	◆ Bulky Item Collection, including electronic waste and universal waste ◆ Holiday Tree Collection ◆ Sharps Collection ◆ Used Oil and Used Oil Filter Collection
Commercial and Multi-Family Bin Services	◆ SB 1383 Compliant Refuse, Recycling, and Organics Services (Bins and/or Carts) ◆ Permanent and Temporary Refuse Bin Collection ◆ Permanent and Temporary Roll-off Box Collection ◆ Holiday Tree Collection ◆ Manure Collection
Other Services at No Additional Charge	◆ Refuse, Recyclables, and Organics Collection from City Facilities ◆ Refuse, Recyclables, and Organics Collection for City-Sponsored Events ◆ Neighborhood Cleanup Events ◆ Annual Document Shredding Event ◆ Two Compost/Mulch Giveaway Events Per Year ◆ Large Venue and Event Assistance ◆ Battery Collection Program ◆ Procurement of Recovered Organic Waste Products ◆ Community Development Department Reviews ◆ Abandoned Item Collection ◆ Special Cleanup Events ◆ Carbon Canyon Brush Abatement Program ◆ Preparation of CalRecycle's Electronic Annual Report
Optional Service	◆ Street Sweeping Services

Section V of this RFP describes the required contents of the proposal. Failure to complete and submit all of the forms and the other information required in Section V may be grounds to disqualify a proposal. The proposal should be organized according to the outline shown in Attachment 1.

Please note that the City's procurement of Integrated Solid Waste Management Services is not subject to state or local public bidding laws, and the City does not intend to cause the current RFP process to become subject to such public bidding laws or regulations. This RFP contemplates an award of franchised rights. By submitting a proposal, all proposers acknowledge and accept that this RFP is not a purchase of supplies, services and equipment and is thus not subject to the purchasing system procedures set forth in Chapter 3.16 of the Chino Hills Municipal Code.

SECTION II – CURRENT SERVICE DATA

CURRENT SERVICE DATA

The City has obtained from Republic and/or provided from its own records, the data provided in Attachments 2, 3 and 7. Existing subscription levels are contained in rate proposal forms in Attachment 3. The City neither warrants nor accepts responsibility for the accuracy of the information and the proposer agrees to indemnify and hold the City harmless for the accuracy of this data. It is the responsibility of each proposer to undertake, at its sole cost, any verification of this information necessary for it to submit a response to this RFP.

CURRENT RATES

The current residential and commercial rates effective July 1, 2020 are shown in Attachment 7. Also, see Exhibit 2 of Attachment 6 for additional rates that will be retained in the new contract.

RATE REVENUES

Total residential rate revenue billed by the City for fiscal year 2020 is included in Attachments 2-B, and commercial rate revenue billed by Republic Services for fiscal year 2020 is included as Attachments 2-C.

CALRECYCLE COMPLIANCE

The City is committed to fully complying with AB 939, and future increases in diversion rate goals, AB 341, AB 1826, AB 827 AB 2176, SB 1383, and future regulations. The City's reported 2018 CalRecycle diversion rate was 65%.

SECTION III – PROPOSED SERVICE REQUIREMENTS

The City is requesting proposals for the services described below. If these services represent a significant change to current services, such changes are noted. A more comprehensive description of these services is found in the draft franchise agreement, included as Attachment 6 of this RFP. Section references to the draft franchise agreement are included in the following summary.

RESIDENTIAL COLLECTION SERVICE REQUIREMENTS

Collection Services

Refuse Cart Collection – Single family and multi-family customers with cart service will continue to receive once per week automated refuse collection. Refuse carts should be offered in 35, 60, or 96-gallon sizes. Each customer shall receive one refuse cart as part of the basic service provided by the Franchisee. Customers may request additional refuse carts for a monthly fee. See Sections 4.2.1 and 4.2.2, and Exhibit 9 of Attachment 6.

Recycling Cart Collection – Cart customers will continue to receive weekly automated recycling collection on the same day as their refuse collection. Each customer shall receive one recycling cart (any size) as part of the basic service provided by the Franchisee. Recycling carts shall be offered, in 35, 60, or 96-gallon sizes. Customers may request additional recycling carts for a monthly fee. See Sections 4.2.1 and 4.2.2, and Exhibit 9 of Attachment 6.

Organics Cart Collection – Cart customers will continue to receive weekly automated organics cart collection on the same day as their refuse collection. Each customer shall receive one organics cart as part of the basic service provided by the Franchisee. Organics carts shall be offered, at a minimum, in the 35, 60 or 96-gallon size. Proposers may propose, but are not required, to offer additional sizes. Customers may request additional organics carts for a monthly fee. See Sections 4.2.1 and 4.2.2, and Exhibit 9 of Attachment 6.

Residential Food Waste Collection – A residential food waste collection program is required to be provided by the Franchisee at the start of this Agreement. Residential food waste may be co-collected with yard waste in the organics cart, or in a separate food waste cart, or diverted in some other manner that achieves regulatory compliance. See Exhibit 9 of Attachment 6.

Food Scraps Kitchen Pails – Franchisee shall provide each occupant of a residential and multi-family premises with a kitchen food scraps container. See Section 4.4.17.

Service for Disabled Customers – Franchisee shall provide disabled cart customers with backyard service at no additional charge. See Section 4.2.5.1.

Special Services

Bulky Item Collection – The Franchisee will be required to provide three (3) bulky item pickups per residential account per year at no additional charge. Multi-family premises will receive the

equivalent of one bulky-item collection for each dwelling unit in the building per calendar year at no additional charge. Franchisee will be required to collect a maximum of ten (10) items or 10 bags of yard waste per pickup. Franchisee may charge a fee for additional items/pickups. See Section 4.2.6.

E-Waste and U-Waste – The Franchisee will continue to collect certain, specified e-waste items (such as televisions, and computer monitors) with bulky items. The Franchisee will also collect certain, specified u-waste (such as batteries, fluorescent light bulbs, and mercury switches) with bulky items, this is a new service. Franchisee will be responsible for the proper disposal/recycling of these materials. See Section 4.2.8.

Sharps Collection Program – Franchisee will provide a mail-back sharps collection program to each single and multi-family resident requesting such service at no additional charge. See Section 4.2.9.

Holiday Tree Collection and Recycling – Franchisee will continue to provide collection and proper recycling of holiday greenery placed curbside on the regularly scheduled weekly Collection days for three (3) weeks following December 25 at no additional charge. See Section 4.2.4.

COMMERCIAL COLLECTION SERVICE REQUIREMENTS

Bin or Cart Service – Franchisee shall offer collection of refuse, recycling and organics in bins or carts to commercial customers. See Sections 4.3.1 and 4.3.2.

Commercial and Multi Family Collection Services

Collection will be at least once every week or more frequently if necessary to handle the waste stream of the premises where the bins are located.

Refuse Bin Service - The Contractor will be required to collect all of the refuse that has been placed in bins. Collection will be at least once every week or more frequently, if necessary, to handle the waste stream of the premises where the bins are located. See Section 4.3.1.

Bin Cleaning - Upon Customer or City request, or if required to maintain the containers in a clean condition, Contractor shall clean or exchange customer bins at the approved rates. See Section 4.7.4.3.A.

Cart Service – Contractor will continue to offer refuse, recycling, and organics carts to commercial customers that do not have space for, or do not generate enough waste to require the use of bins for collection. See Section 4.3.2.

Commercial Recycling - Contractor shall provide source separated recycling using bins or carts for commercial customers requesting such services. See Exhibit 9. Contractor shall document customers that demonstrate compliance with recycling and organics regulations by self-hauling/back-hauling in lieu of services provided by contractor.

Organics Recycling Services - Contractor shall provide all customers required to participate in these programs with compliant programs such as organic waste collection and recycling

services, identification, and assistance with inspections of Tier One and Tier Two Edible Food Generators, education and outreach, reporting, contamination monitoring and enforcement in accordance with AB 1826 and SB 1383. See Exhibit 9 and Section 4.3.13 of the agreement.

Temporary Bin Service - Franchisee shall deliver a temporary bin to customers requesting temporary service within one business day (excluding weekends and select holidays) of request. See Section 4.3.4.

Roll-Off Box Collection - Franchisee will provide permanent and temporary roll-off box collection services. See Section 4.3.3.

Manure Collection - Franchisee shall provide collection, processing, and diversion from landfilling of manure upon request of customer. See Section 4.3.8.

Scout Service - Customers that require scout service and bin push-out service shall only be charged for scout service in accordance with the approved rate schedule. See Section 4.3.9.

Locking Bins - There shall be no additional charge to provide locking bin service. See Section 4.3.11.

CITY AND SPECIAL SERVICES REQUIREMENTS

City Facilities Collection - Franchisee will collect and dispose of all refuse, recyclables, and organic materials generated and accumulated at premises owned and/or operated by the City at no additional charge (including bulky waste items, universal waste, and E-waste) to City or ratepayers. Such premises include, but are not limited to, offices, parks, and maintenance operations. See Attachment 2-D for the current list of facilities and service levels. Note that these facilities and service levels may vary over the term of the new agreement, with no increase in compensation to the Franchisee for additional collection services. See Section 4.4.1.

City-Sponsored Events - The Franchisee will be required to provide refuse, recyclable material, and organic material collection service at no additional charge to City or ratepayers at City-sponsored events. See Attachment 2-E for the current list of events and service levels. Franchisee will assist City planners of large venue events with reporting and planning needs to provide recycling as may be useful in meeting the requirements of AB 2176, and in lowering disposal quantities generated at such events at no additional charge. See Section 4.4.2.

Neighborhood Cleanups- Franchisee will continue to supply up to six 40-yard roll-off containers, and containers in additional sizes for the collection of refuse, recyclables, and organic waste per rate year for six annual City sponsored neighborhood cleanups at no additional charge. See Section 4.4.3.

Shredding Event - Franchisee shall provide an annual document shredding event at no additional charge. This is a new service. See Section 4.4.4.

Compost and Mulch Giveaway Events - Franchisee will continue to provide at least two compost and mulch giveaway events per year at no additional charge. See Section 4.4.5.

Community Development Department Reviews – Franchisee will continue to assist the City in the review of applicant’s development plans to ensure adequate space is provided for the accumulation and collection of refuse, recyclables, and organics. See Section 4.4.9.

Provision of Recovered Organic Waste Products – Franchisee shall procure sufficient compost, mulch, and/or renewable natural gas to meet the City’s per capita requirement contained in SB 1383. Based on the City’s January 1, 2020 population as reported by the Department of Finance, the City’s estimated procurement requirements include either 138,400 diesel gallon equivalents of renewable natural gas, 9,500 cubic yards of compost, or 6,600 tons of mulch. The procurement requirement may be met by combining these materials to meet the City’s recovered organic waste products requirement. This is a new requirement under SB 1383. See Section 4.4.10.

Abandoned Items – The City will continue to receive abandoned item collection from the Franchisee at no additional charge. If Franchisee is notified before 1:00 p.m., items will be removed the same day. If Franchisee is notified after 1:00 p.m., items will be removed by 4:00 p.m. the following day. See Section 4.4.12.

Special Cleanup Events – Franchisee shall provide temporary bins for up to 6 special cleanup events per year at locations requested by the City. See Section 4.4.13.

OPTIONAL SERVICE

The City is requesting costs for the following optional service:

Citywide Street Sweeping Services – The City currently has an exclusive agreement for street sweeping services with Arakelian Enterprises, dba Athens Services. Through this RFP process the City may choose to incorporate Citywide street sweeping services in the exclusive services provided under this agreement. Proposers may propose rates for these services as an Optional Service to be provided. This service is intended to be performed solely by Franchisee and not Subcontractors. A copy of the current agreement for street sweeping services is included as Exhibit 8 to this RFP. See Section 4.4.16.

SECTION IV –KEY CONTRACT TERMS

A comprehensive description of contract terms is found in the draft franchise agreement. Below are some key terms to bring to your attention. Section references to the draft franchise agreement are included in the following summary.

HOLIDAY COLLECTION

If the regularly scheduled collection day falls on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day, collection days for the remainder of that week shall all be postponed one collection day and residential collection is permitted on Saturday during the make-up week. See Section 4.7.1.

COMMERCIAL SUNDAY SERVICE

In the event that commercial customers, including restaurants and shopping centers, require Sunday service, the Franchisee may charge a Sunday surcharge in accordance with the approved rate schedule. See Section 4.7.1.

EDUCATION AND PUBLIC AWARENESS

The City recognizes that effective public education is the key to implementing effective programs and regulatory compliance. Refer to Section 5.3 and other various sections of the draft franchise agreement for specific requirements relating to public outreach.

CONTAINER SPECIFICATIONS AND DISTRIBUTION

Containers – Franchisee will be responsible for supplying and maintaining all bins and carts under this agreement. Containers shall adhere to the color and labeling requirements of SB 1383. See Sections 4.7.4.1 and 4.7.4.3, and Exhibit 9 of Attachment 6.

FAITHFUL PERFORMANCE BOND AND LETTER OF CREDIT

The Franchisee will be required to provide a performance bond and letter of credit totaling \$1,300,000. See Sections 9.6 and 9.7.

INSURANCE REQUIREMENTS

The draft agreement requires the Franchisee to maintain minimum insurance levels. See Section 9.5 for the minimum limits of insurance for general liability, automobile liability, and workers compensation.

REPORTING AND AUDITING

The draft franchise agreement contains detailed auditing procedures, and specific reporting and record keeping requirements. See Article 8 of the draft franchise agreement for detailed information on the required records, reports, and review requirements.

Biennial Audits - Franchisee shall reimburse to the City the cost of biennial audits as described in Section 8.2.7.

COLLECTION VEHICLE REQUIREMENTS

Franchisee collection vehicles shall be new (model year 2021 or later) upon initiation of services and no more than 10 years of age during the term, and any term extensions, of the Agreement. Vehicles will comply with South Coast Air Quality Management District and California Air Resource Board requirements. See Section 4.7.3.

DEDICATED ROUTES

Solid waste collected in the City may not be commingled in collection trucks with solid waste from other jurisdictions. All routes shall be dedicated within the City's boundaries. If this is not feasible, Franchisee may commingle routes upon approval by the City. See Section 4.12.

FEES

Contracting Fee - Franchisee shall pay to City a Contracting Fee in a one-time lump sum payment of \$400,000 within seven days of execution of this agreement to reimburse the City for its staff time and out-of-pocket costs of awarding the franchise. See Section 3.1.

Franchise Fee - In consideration of the exclusive Franchise provided in Section 2.2 of the agreement, Franchisee shall pay to City a franchise fee to be negotiated between City and Franchisee prior to award of the franchise. The existing franchise fee is 10% of gross revenue. See Section 3.2.

AB 939/SB 1383 Regulatory Reimbursement - Franchisee shall pay the City an AB 939/SB 1383 Regulatory Reimbursement of 1.75% of gross revenues. See Section 3.3.

Administration Fee - Franchisee shall pay the City an Administration Fee of \$2,083 per month. See Section 3.4.

BILLING

Residential and Multi-Family Cart Billing - Residential and multi-family cart billing is currently performed by the City and will be transitioned to the Franchisee under the new agreement. Franchisee shall bill residential and multi-family cart customers monthly. See Section 5.1.2.

Multi-Family Bin, Commercial Premises, Roll-Off and Temporary Services Billing - Franchisee will continue to bill monthly for multi-family bin, commercial premises, roll-off box, temporary services, and other special charges as described in Section 5.1.4.

Customers sharing a bin may request to be billed separately for their share of service, based on the number of businesses sharing the bin, or as otherwise divided and agreed to among such customers. See Section 5.1.3.

RATE ADJUSTMENT METHOD

Initial rates will be set based on the maximum rates proposed in Attachment 3. The rates will thereafter be adjusted using a rate adjustment index according to the computations described in Article 6 of the draft franchise agreement. The first rate adjustment will be effective July 1, 2023.

MINIMUM DIVERSION RATES

The City's current hauler reported diverting 31% of the material it collected during calendar year 2019.

Proposers are required to propose a Franchisee-collected diversion rate to which they will contractually commit and demonstrate how they will achieve that rate on Attachment 4-C. Third-party diversion and tonnage collected outside of this agreement, such as commercial recycling sold to third-party recyclers, is not to be included in this calculation. See Section 4.5.

SECTION V - PROPOSAL SUBMISSION REQUIREMENTS

The following information must be organized according to the outline in Attachment 1. Requested information should be identified by letter or number in the outline.

1. GENERAL REQUIREMENTS

At the beginning of the proposal, include a:

- a. Title page
- b. Transmittal letter identifying the name, mailing address, e-mail address, telephone number and fax number of the proposal contact person
- c. Table of contents
- d. An executed anti-collusion affidavit (Attachment 5)
- e. Executed signature page of RFP addenda
- f. Required statements:
 - i. A written statement by the proposer that all federal laws and regulations shall be adhered to notwithstanding any state or local laws and regulations. In case of conflict between federal, state, or local laws or regulations, the strictest shall be adhered to.
 - ii. A written statement by the proposer shall allow all authorized federal, state, county, and the City officials access to place of work, books, documents, papers, fiscal, payroll materials, and other relevant contract records pertinent to this project. All relevant records shall be retained for at least three (3) years.
 - iii. A written statement that the proposer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
 - iv. A written statement that the proposer shall comply with the California Labor Code., pursuant to said regulations entitled: Federal Labor Standards provisions; Federal Prevailing Wage Decision; and State of California Prevailing Wage Rates, respectively.
 - v. A written statement that the proposer shall comply with the Copeland Anti-kickback Act (18 USC 874 C) and the implementation regulation (29 CFR 3) issued pursuant thereto, and any amendments thereof.

2. RATE PROPOSAL FORMS (ATTACHMENT 3)

The service rates proposed for each type of service should be included in the rate schedules in Attachment 3. Proposed rates should be inclusive of all City fees. As noted in Section IV above, the franchise fee will be negotiated between City and Franchisee prior to award of the franchise. For the purposes of comparison, proposers should include a 10% franchise fee in the proposed rates.

In addition to the rates, proposers should calculate the estimated total annual rate revenue from each type of service and ensure that the total annual rate revenue from the proposed rates is accurately summarized in Attachment 3-A and reconciled to the proposer's estimated revenue

requirement (explained below) in Attachment 4-A. Calculations from Attachments 3-B, 3-C, 3-D, 3-E, and 3-F should flow through to Attachment 3-A. Attachment 3-G contains rates for other services.

The container distributions in Attachments 3-C, 3-D, and 3-E are the levels of service provided by the current service provider. Proposers may propose another container distribution in the yellow highlighted cells only of Attachments 3-C, 3-D, and 3-E, should they wish to use different assumptions. A standardized container distribution will be developed in order to evaluate proposals on a consistent basis after submission of proposals. The standardized container distribution may be the average of the proposed distributions should they differ from what is currently contained in Attachments 3-C, 3-D, and 3-E.

A proposal may be deemed nonconforming or incomplete unless Attachment 3 is complete and submitted in its entirety. A Microsoft Excel file containing Attachment 3 will be available and e-mailed to any company that requests it by contacting Debbie Morris of HF&H at (949) 251-1106 or by e-mail at dmorris@hfh-consultants.com.

3. SUPPORTING COSTS AND OPERATING DATA (ATTACHMENT 4)

The supporting cost and operating data worksheet in Attachment 4-A provides a format for proposers to estimate their annual revenue requirement for providing all of the proposed services. Proposers must provide the operational statistics on which their estimated costs are based in Attachment 4-B. The operating statistics will be used to evaluate the reasonableness of the proposer's estimated revenue requirement. The proposer's estimated revenue requirement will be used to evaluate the reasonableness of the proposed rates. Attachment 4-C demonstrates how the proposer plans to reach proposed diversion level. Note that diversion programs put forth in Attachment 4-C, and elsewhere in proposer's proposal, will be incorporated into the franchise agreement.

A proposal may be deemed nonconforming or incomplete unless Attachment 4 is complete and submitted in its entirety. After the deadline for submission of written questions, a Microsoft Excel file containing Attachment 4 will be available and e-mailed to any company that requests it by contacting Debbie Morris of HF&H at (949) 251-1106 or by e-mail at dmorris@hfh-consultants.com.

4. EXCEPTIONS TO TERMS OF THE FRANCHISE AGREEMENT

Include a list of any exceptions to the RFP and draft franchise agreement. Please describe the RFP and/or agreement section and nature of the proposed exception and identify proposed substitute language. In order to demonstrate that, but for the noted exceptions, the proposer agrees to all terms and conditions of the agreement as written, sign and include in this proposal the signature page of the draft agreement, along with the noted exceptions. The proposal is not considered complete without this signed page.

5. PROPOSER OVERVIEW

5.a. Business Structure

Provide the following information regarding the proposing entity and entity that would provide a corporate guarantee, if applicable:

- i. Legal name of proposing entity that would sign franchise agreement and whether it is an individual, a partnership, a corporation, or a joint venture;
- ii. Entity that would submit financial statements and whether it is an individual, a partnership, a corporation, or a joint venture. If other than proposing entity, indicate relationship and willingness to sign corporate guarantee (see Exhibit 4 to Attachment 6);
- iii. Number of years in which proposing entity has been organized and doing business under this legal structure (if other than an individual);
- iv. Names of owners/stockholders with more than 10% of the Franchisee's equity;
- v. Names of all officers;
- vi. Corporate headquarters; and,
- vii. Local headquarters (if different).

5.b. Description of Proposer's Experience

Identify the names of all the public agencies in San Bernardino County and Orange County, in which the proposer currently provides service, including what type of service (manual or automated residential, commercial, roll-off, temporary bin) and the nature of the exclusivity (exclusive franchise, non-exclusive franchise, permit, or open system).

Additionally, the proposer should submit a brief description of the proposer's experience in California providing solid waste services under exclusive agreements to city or county customers that qualifies it to perform the services being procured through this RFP; provide a table, including each jurisdiction's services (residential, commercial, etc.). Include preferably three or more detailed citations for current municipal customers with services most similar to those requested in this RFP. Citations shall include:

- i. The name of the jurisdiction;
- ii. Time period during which proposer provided service to the jurisdiction;
- iii. The type of customers served (e.g. residential or commercial);
- iv. The services performed (e.g. refuse collection, recyclable materials collection, or organics collection);
- v. Residential collection methods (e.g. manual or automated);
- vi. Whether the services were exclusively or non-exclusively provided in the jurisdiction by the proposer; and,
- vii. The name, address and telephone number of the jurisdiction representative responsible for administering the contract.

Additionally, please provide at least one municipal citation for service transitions from another hauling company, including a brief description of the old and new services, and service transition dates, as well as the information listed in i. to vii. above.

5.c. Information Regarding Past and Pending Litigation

List all civil or misdemeanor or felony criminal court or administrative filings by and/or against California government agencies that are currently pending and/or that have been filed, settled or otherwise received a disposition within the last ten years that relate to the provision of solid waste service listing the names of the parties, the case number and a brief description of the case and disposition, if any. This paragraph is applicable to the following persons and entities:

- i. The key personnel described in Section 5.d;
- ii. The owners and officers of the company;
- iii. The entity submitting the proposal; and/or,
- iv. Any parent or affiliated company for actions filed in the State of California (For affiliates, proposer may limit disclosures of non-criminal matters to those in the Orange County and San Bernardino County area).

Please include the resolution and current status of each civil legal action.

5.d. Key Personnel

Identify and describe the qualifications and experience the City can expect of the key personnel your company would assign to the City. Provide a brief biographical description of the proposed management team members that will fill these described jobs, specifically including the City Liaison and Route Supervisor per Sections 5.2.4 and 5.2.5 of the draft agreement. Indicate the office locations for each key person assigned to the franchise.

5.e. Financial Information

Initially, proposers must provide the following financial information in the proposal for the proposer or, if a corporate guaranty is to be provided, for the guarantor:

- i. The type of financial statements produced (e.g. audited, reviewed, or compiled) and the corporate entity that they represent (proposer or corporate guarantor);
- ii. The most recently completed fiscal year for which financial statements are available;
- iii. Annual revenue from the most recently completed financial statements;
- iv. Current Assets to Current Liabilities ratio (current assets/current liabilities) from the most recently completed financial statements; and,
- v. Total Liabilities to Total Assets ratio (total liabilities/total assets) from the most recently completed financial statements.

If selected for further consideration, proposers must be prepared to submit financial statements upon which this requested financial information is based within five (5) business days of the request for the most recently completed fiscal year. All such statements would need to be prepared and presented in accordance with Generally Accepted Accounting Principles applied on a consistent basis and must include a statement by the chief financial officer of the proposer's company that there has been no material adverse change in conditions or operations, as reflected in the submitted balance sheets, income statements and cash flow statements, since the date on which they were prepared. If requested to submit financial statements, the proposer

may submit a single copy of its financial statements stamped “confidential” with a written request that it be returned to the proposer after the proposal process is complete. The City will not make copies of financial statements and will attempt to maintain the confidentiality of such a request, although confidentiality cannot be guaranteed.

Prior to award, the selected proposer will be required to submit “reviewed” or “audited” financial statements that demonstrate reasonable financial resources and stability to the satisfaction of the City. If awarded the contract, the financial statements shall remain with either the City or its consultant.

5.f. Insurance

Proposer must submit evidence that the proposer either has, or is able to obtain, the insurance coverage required in the draft franchise agreement in Attachment 6, Section 9.5.

5.g. Workers Compensation Experience Modification Rate

Proposer must submit their Workers Compensation Experience Modification Rate for the most recent 3 years.

6. APPROVED FACILITY DESCRIPTIONS REQUIRED IN PROPOSAL

(All Approved Facilities shall comply with the standards specified in Exhibit 8 of the Agreement)

6.a. Transfer Facilities

For each transfer facility, if any, please identify the following:

- i. The name and address of the facility;
- ii. Owner/facility operator;
- iii. Statement regarding any relationship between the proposer and the facility owner/operator (if any);
- iv. SWIS number;
- v. The price per ton for transfer and disposal of trash;
- vi. Estimated date for start of operation, if facility is not currently in operation; and,
- vii. Indicate any solid waste facility capacity guarantees being offered.

6.b. Processing Facilities

Proposers must identify in their proposals the facilities they plan to use for the:

- i. Source separated recyclable processing;
- ii. Organic waste processing;
- iii. High diversion organic waste processing;
- iv. Construction and demolition debris processing.

For each facility, please identify the following:

- i. The name and address of the facility;

- ii. Owner/operator;
- iii. A statement regarding any relationship between the proposer and the facility owner/operator (if any);
- iv. SWIS number;
- v. The material to be processed (source separated organic waste, source separated recyclables, mixed organic waste, or construction and demolition debris);
- vi. The price per ton;
- vii. Indicate any solid waste facility capacity guarantees being offered; and
- viii. Estimated diversion rate for processing of each category of recyclables processed (e.g. residential recyclables, residential organics, source separated commercial recyclables, mixed commercial waste, commercial organics, C&D.)

These eight items must be included for each facility to be used.

6.c. Operating Facilities

Proposers must provide information about the operating facilities that they plan to use, including:

- i. Maintenance Yard address for equipment and personnel staging and arrangements for maintenance of equipment;
- ii. Office address for customer service, public relations, billing, and franchise administration; and,
- iii. Other operating facilities to be used in providing service under this agreement.

6.d Disposal Facilities

For each disposal facility, if any, please identify the following:

- i. The name and address of the facility;
- ii. Owner/operator;
- iii. Statement regarding any relationship between the proposer and the facility owner/operator (if any);
- iv. SWIS number;
- v. The price per ton; and,
- vi. Indicate any solid waste facility capacity guarantees being offered.

These four items must be included for each facility to be used.

7. SERVICE IMPLEMENTATION PLAN

Proposers should provide an implementation schedule that demonstrates that your company has the ability to implement the services in accordance with the service start date, including meeting equipment, personnel, administration, maintenance, and public education requirements. See Section 5.3.4.1.

8. AB 341, AB 827, AB 1826, AND SB 1383 IMPLEMENTATION PLAN

Proposer shall provide an AB 341, AB 827, AB 1826, and SB 1383 implementation plan as Exhibit 7 to the Agreement, detailing planned tasks, procedures and schedule to ensure the City's compliance with AB 341, AB 827, AB 1826 and SB 1383.

9. CUSTOMER SERVICE/CUSTOMER CENTER PROCEDURES

Customer service is very important to the City of Chino Hills. When a customer has a request for, or an issue with, solid waste service, the customer's first contact with the solid waste provider is the company's call center. Describe the company's call-in center procedures, including how each call is initially answered (e.g. phone tree, live operator). Include all geographical locations customer service calls will be answered from (e.g. out-of-state, international call centers, or California based). Describe the company's ability to monitor the following:

- a. Average time customer is on hold; and
- b. Response time to complete a work order from time of request.

Indicate procedures taken to ensure that each Chino Hills caller will receive information accurate to the City's contract. Describe procedures to satisfactorily respond to common customer complaints.

10. AUTOMATED CART DESCRIPTION

Proposer shall describe carts which it intends to use in the City, pending City approval. Include manufacturer, specific sizes, SB 1383 compliance, and colors of carts and lids by waste stream. Color cart photos shall be provided if requested by the City. All carts shall be new within 90 days of service initiation.

11. COLLECTION VEHICLE DESCRIPTION

Please provide the following information for each vehicle to be used under the collector agreement. Proposers should indicate proposed vehicle features that enhance safety and maneuverability on difficult-to-service streets and alleyways.

- a. Make
- b. Model
- c. Model Year
- d. Waste stream(s) to be collected (e.g. cart, bin, and roll-off)

12. MINIMUM RECYCLING REQUIREMENTS

Proposers shall propose a diversion rate in accordance with Section 4.5 of the agreement to which the successful proposer will be held accountable. See Section 11.4.B.8 of the agreement.

13. RECYCLABLE MATERIAL PROGRAM

Proposers shall describe the proposed recycling program based on the options included in Exhibit 9 of the draft agreement, including type of containers proposed. Proposers are requested to submit a sample of outreach materials already distributed to customers in a city with a similar

program in place if proposer has implemented such program. Specify all materials that can be diverted from landfilling through the residential and commercial recycling programs.

14. ORGANIC WASTE RECYCLING PROGRAM

Proposer to include a detailed description of proposed residential and commercial organics collection and processing programs based on the options included in Exhibits 8 and 9 of the draft agreement, including type of containers proposed. Proposers should include detailed information on customer in-house preparation of material prior to disposal (e.g. bag or no bag requirements), include a comprehensive list of organic materials as that are acceptable in the program and a comprehensive list of organic materials that are not accepted in the program. Proposers are requested to submit a sample of outreach materials already distributed to customers in a city with a similar program in place if proposer has implemented such program.

15. FOOD RECOVERY ASSISTANCE

Proposers shall describe how they will comply with Sections 4.3.13 and 5.5 of the Agreement which contain inspection and reporting requirements to determine compliance with SB 1383 with respect to commercial edible food generators, food recovery organizations, and food recovery services.

16. PROVISION OF RECOVERED ORGANIC WASTE PRODUCTS

Proposers shall describe how they will assist the City to ensure that sufficient California recovered organic waste products are procured on behalf of the City to meet the requirements of SB 1383. Proposers shall identify the types and quantities of recovered organic waste products which shall be procured. See Sections 4.4.10 and 4.4.11.

17. OPTIONAL SERVICE: CITYWIDE STREET SWEEPING SERVICES

The City may consider including Citywide street sweeping services within the scope of the exclusive agreement. See Section 4.4.16.

Proposer shall describe:

- i. Experience in providing street sweeping services; and,
- ii. Proposed cost per curb mile as requested in Attachment 3-H.

18. EMPLOYMENT OF PRIOR FRANCHISEE EMPLOYEES

In accordance with Labor Code Sections 1070, 1072, 1075, and 1076, please indicate if proposer will offer employment for available positions to existing employees of the current franchisee that may be displaced if the current franchisee is not retained. Please describe your procedures for offering such employment and any limitations. See Section 4.7.7.

19. PROPOSAL ENHANCEMENTS

Provided that the proposer has submitted a proposal that meets all of the minimum requirements of this RFP, the proposer may also offer additional enhancements that exceed the requirements of this RFP and the franchise agreement. Any such enhancements shall be listed by number under this section in the RFP or it may be omitted from the proposal evaluation. Proposers should include the following information for each enhancement:

- a. The additional charge, if any, to City or ratepayer for enhancement;
- b. How the enhancement exceeds RFP requirements; and,
- c. How the enhancement benefits the City and how it would be incorporated into the contract service requirements or rate schedule.

SECTION VI - PROPOSAL EVALUATIONS

The proposal will be objectively evaluated based on criteria that may include, but is not limited to, the following factors:

PROPOSER'S QUALIFICATIONS

- ◆ General Experience – Demonstrated experience providing similar services to other jurisdictions, and experience of key personnel.
- ◆ Jurisdiction Satisfaction – Satisfaction of proposer references with services received, including but not limited to, implementation, customer services, reporting, assistance developing diversion programs, and working cooperatively with City staff.

TECHNICAL QUALIFICATIONS

- ◆ Waste Diversion – Proposed diversion programs and guaranteed minimum diversion rate and the ability to achieve the diversion goals and CalRecycle compliance requirements identified in the agreement.
- ◆ Implementation Plan – Reasonableness of implementation schedule and ability to meet deadlines (e.g., equipment procurement schedules and personnel available), ability and resources to manage a service transition.
- ◆ Operations – Reasonableness of assumptions (e.g., number of routes).

EXCEPTIONS TO THE TERMS AND CONDITIONS

- ◆ Exceptions to the draft franchise agreement – Number and nature of the exceptions.

FINANCIAL RESOURCES

- ◆ Financial Stability – Comparison of additional revenue from this franchise to company's current revenue stream, financial stability of proposer based on its financial ratios.
- ◆ Insurance - Demonstrated ability of proposer to obtain adequate insurance.

COSTS

- ◆ Cost of service, as measured by rate revenues and street sweeping costs - Cost competitiveness relative to other proposals.
- ◆ Reasonableness of costs - Logically consistent relationship between costs and operational assumptions.

EMPLOYMENT

- ◆ Willingness to retain existing franchisee's employees that may be displaced if the current franchisee is not retained.

EXPERIENCE MODIFICATION RATE

- ◆ Proposer's Experience Modification Rate will be reviewed as a measure of proposer's workers' safety history.

AWARD

To be considered, proposals must be complete and must conform to the requirements of this RFP as to form and content. The franchise will be awarded for the proposal that offers the greatest value to the City. The City's evaluation process may include objective criteria and considerations outside of those listed in this Section VI. The City, however, reserves the right to reject any or all proposals, to accept or reject any one or more items of a proposal, or to waive any minor irregularities or informalities in the proposal. City Council will select the proposal it determines to best serve the City and is not bound to follow the recommendation of City staff or City staff's proposal evaluations in making its selection. It is anticipated that all services will be contracted for. However, the City reserves the right to change such service descriptions prior to award.

ATTACHMENT 1

PROPOSAL OUTLINE

The following is an outline that proposers shall follow when completing their proposals. Under each section, proposer must include all information as outlined below, including all subheadings and subsections as identified in Section V.

- 1) General Requirements
 - a) Title page
 - b) Transmittal letter
 - c) Table of contents
 - d) Anti-Collusion Affidavit (Attachment 5)
 - e) Executed Signature Page of RFP Addenda
- 2) Rate Proposal Forms (Attachment 3)
- 3) Supporting Cost and Operating Data Worksheets (Attachment 4)
- 4) Exceptions to Terms of Franchise Agreement and Agreement Signature Page
- 5) Proposer Overview
 - a) Business Structure
 - b) Description of Proposer's Experience
 - c) Information Regarding Past and Pending Litigation
 - d) Key personnel
 - e) Financial information
 - f) Insurance
 - g) Workers Compensation Experience Modification Rate for the most recent 3 years
- 6) Approved Facility Descriptions
 - a) Transfer facilities
 - b) Processing facilities
 - c) Operating facilities
 - d) Disposal facilities
- 7) Service Implementation Plan
- 8) AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan
- 9) Customer Service/Call Center Procedures
- 10) Automated Cart Description
- 11) Collection Vehicle Description
- 11) Minimum Recycling Requirements
- 13) Recyclable Materials Program
- 14) Organic Waste Recycling Program
- 15) Food Recovery Assistance
- 16) Provision of Recovered Organic Waste Products
- 17) Optional Service: Citywide Street Sweeping Services
- 18) Employment of Prior Franchisee Employees
- 19) Proposal Enhancements

ATTACHMENT 2
EXISTING DATA

Table of Contents

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2-A	Residential, Multi-Family and Commercial Routes and Route Hours
2-B	Rate Revenue to Contractor - City Billed Services - Fiscal Year 2019/20
2-C	Rate Revenue Billed by Contractor - Fiscal Year 2019/20
2-D	City Facilities
2-E	City Sponsored Events

CITY OF CHINO HILLS
Residential Cart and Commercial/Multi-Family Bin Service
Number of Routes and Route Hours
As of July 2020

Please insert data in light blue shaded cells

Line	Route Type	Number of Routes Per Day						Crew Size Per Truck	Hours per Route per Day
		Mon	Tues	Wed	Thurs	Fri	Sat		
1	Residential Refuse	4	4	4	4	4		1	11.25
2	Residential Recycling	3	3	3	3	3		1	11.25
3	Residential Green Waste	3	3	3	3	3		1	11.25
4	Commercial and Multi-Family Bin Refuse	3	2	2	2	3	1.5	1	11
5	Multi-Family and Commercial Recycling			1		0.5			
6	Multi-Family and Commercial Green Waste								
7	Commercial Cart Food Waste								
8	Commercial Bin Food Waste								
9	Commercial Manure								
10	Scout Truck	0.5	0.5	0.5	0.5	0.5		1	5.5
11	Bulky Item Truck	1	1	1	1	1		1	7
12	Roll-Off Truck	2	2	2	2	2		1	9.5
13	Other: Routes which are comprised paritally of scout service (i.e. 20% of route is scout service), or bulky item collection	1	1	1	1	1		1	9.5
14	Other: specify								
15	Other: specify								
16	Total Routes	18	17	18	17	18	2		

CITY OF CHINO HILLS
RATE REVENUE TO CONTRACTOR - CITY BILLED SERVICES
for 12-Month Period Ended June 30, 2020

Row	Month	City Billed Amount (Reported by City)	Reported by Contractor ⁽¹⁾			Administrative Fee	Total Fees Retained by City	Total Paid to Contractor
			Franchise Fee	AB 939 Fee	Billing Reimbursement			
1	July 2019	\$ 441,620	\$ 45,362	\$ 7,938	\$ 6,126	\$ 2,083	\$ 61,510	\$ 380,110
2	August 2019	\$ 449,326	\$ 45,377	\$ 7,941	\$ 6,130	\$ 2,083	\$ 61,532	\$ 387,795
3	September 2019	\$ 449,628	\$ 45,463	\$ 7,956	\$ 6,134	\$ 2,083	\$ 61,637	\$ 387,992
4	October 2019	\$ 448,287	\$ 45,358	\$ 7,938	\$ 6,127	\$ 2,083	\$ 61,505	\$ 386,782
5	November 2019	\$ 451,077	\$ 45,418	\$ 7,948	\$ 6,127	\$ 2,083	\$ 61,577	\$ 389,500
6	December 2019	\$ 448,750	\$ 45,397	\$ 7,944	\$ 6,129	\$ 2,083	\$ 61,553	\$ 387,197
7	January 2020	\$ 464,058	\$ 45,462	\$ 7,956	\$ 6,130	\$ 2,083	\$ 61,631	\$ 402,428
8	February 2020	\$ 479,874	\$ 45,489	\$ 7,961	\$ 6,134	\$ 2,083	\$ 61,666	\$ 418,208
9	March 2020	\$ 479,811	\$ 48,483	\$ 8,485	\$ 6,134	\$ 2,083	\$ 65,186	\$ 414,625
10	April 2020	\$ 479,779	\$ 48,502	\$ 8,488	\$ 6,136	\$ 2,083	\$ 65,208	\$ 414,570
11	May 2020	\$ 480,270	\$ 48,531	\$ 8,493	\$ 6,137	\$ 2,083	\$ 65,244	\$ 415,026
12	June 2020	\$ 480,314	\$ 48,547	\$ 8,496	\$ 6,137	\$ 2,083	\$ 65,264	\$ 415,050
13	Total July 2019 - June 2020	\$ 5,552,793	\$ 557,388					\$ 4,995,405

CITY OF CHINO HILLS

**AMOUNT BILLED BY CONTRACTOR
for 12-Month Period Ended June 30, 2020**

Row	Month	Commercial - Amount Billed	Residential Temporary Bins - Amount Billed	Residential - Mobile Home Units Billed by Republic	Barrel Service	Permanent Roll-off - Amount Billed	Total Amount Billed	Franchise Fee Paid to City	Total Retained by Contractor
	LOB	COM	COM	RES	RES	IND			
1	July 2019	\$ 185,119	\$ 5,569	\$ 13,127	\$ 7,309	\$ 31,831	\$ 237,386	\$ 30,413	\$ 206,973
2	August 2019	\$ 181,371	\$ 6,419	\$ 13,127	\$ 7,309	\$ 30,403	\$ 232,211	\$ 30,039	\$ 202,172
3	September 2019	\$ 175,493	\$ 5,947	\$ 13,127	\$ 7,309	\$ 39,322	\$ 235,251	\$ 29,451	\$ 205,800
4	October 2019	\$ 179,752	\$ 4,153	\$ 13,127	\$ 7,309	\$ 46,702	\$ 246,890	\$ 29,877	\$ 217,013
5	November 2019	\$ 177,937	\$ 4,814	\$ 13,127	\$ 7,309	\$ 40,984	\$ 239,357	\$ 29,695	\$ 209,662
6	December 2019	\$ 177,718	\$ 3,492	\$ 13,127	\$ 7,309	\$ 27,934	\$ 226,089	\$ 29,673	\$ 196,416
7	January 2020	\$ 182,577	\$ 6,702	\$ 13,127	\$ 7,309	\$ 35,483	\$ 238,497	\$ 30,159	\$ 208,338
8	February 2020	\$ 179,827	\$ 5,947	\$ 13,127	\$ 7,309	\$ 35,621	\$ 235,885	\$ 29,884	\$ 206,000
9	March 2020	\$ 167,139	\$ 6,796	\$ 14,026	\$ 7,810	\$ 34,098	\$ 223,074	\$ 29,038	\$ 194,036
10	April 2020	\$ 160,163	\$ 7,929	\$ 14,026	\$ 7,810	\$ 52,079	\$ 234,078	\$ 28,058	\$ 206,020
11	May 2020	\$ 172,743	\$ 8,684	\$ 14,026	\$ 7,810	\$ 46,209	\$ 240,788	\$ 29,316	\$ 211,473
12	June 2020	\$ 187,382	\$ 9,345	\$ 14,026	\$ 7,810	\$ 35,390	\$ 244,608	\$ 30,780	\$ 213,829
13	Total July 2019 - June 2020	\$ 2,127,221	\$ 75,795	\$ 161,121	\$ 89,715	\$ 456,056	\$ 2,834,113	\$ 356,381	\$ 2,477,732

CITY OF CHINO HILLS

CITY FACILITIES

As of July 2020

Row	NAME/LOCATIONS	WASTE TYPE	# CONTAINERS	CONTAINER SIZE	PU'S/WK
1	CITY OF CHINO HILLS -GW 14280 PEYTON DR MCCOY BARN	YARD WASTE	1	20	2
2	CITY OF CHINO HILLS -GW 14280 PEYTON DR MCCOY BARN	YARD WASTE	1	40	ON CALL
3	CITY OF CHINO HILLS -GW 14280 PEYTON DR MCCOY BARN	YARD WASTE	1	40	ON CALL
4	CITY OF CHINO HILLS - GW 3900 SOQUEL CANYON RD	YARD WASTE	1	20	ON CALL
5	CITY OF CHINO HILLS - GW 3900 SOQUEL CANYON RD	YARD WASTE	2	40	ON CALL
6	CITY OF CHINO HILLS - N/C 15091 LA PALMA DR	MSW	1	30	1
7	CITY OF CHINO HILLS - N/C 15091 LA PALMA DR	CONSTRUCTION	2	15	ON CALL
8	CITY OF CHINO HILLS N/C 16333 FAIRFIELD RANCH RD	YARD WASTE	1	30	ON CALL
9	CITY CHINO HILLS-ILLEGAL DUMP CHINO HILLS ILLEGAL DUMP	MSW	1	0	ON CALL
10	CITY OF CHINO HILLS N/C 14276 PEYTON DR	MSW	2	3	2
11	CITY OF CHINO HILLS N/C 14276 PEYTON DR	PULL OUT SVC	2	0	2
12	CITY OF CHINO HILLS N/C 1301 GRAND AVE GRAND AVE PARK	MSW	2	3	1
13	CITY OF CHINO HILLS N/C 14069 PEYTON DR COMMUNITY PARK	MSW	1	3	3
14	CITY OF CHINO HILLS N/C 3280 EUCALYPTUS AVE COMMUNITY PARK	MSW	4	3	3
15	CITY OF CHINO HILLS N/C 14000 CITY CENTER DR CITY HALL	MSW	4	3	3
16	CITY OF CHINO HILLS N/C 14250 PEYTON DR COMMUNITY CENTER	MSW	2	3	2
17	CITY OF CHINO HILLS 1084 CARBON CANYON RD	MSW	2	15	ON CALL
18	CITY OF CHINO HILLS 1084 CARBON CANYON RD	YARD WASTE	2	30	ON CALL
19	CITY OF CHINO HILLS N/C 3280 EUCALYPTUS AVE	MSW	1	30	ON CALL
20	CITY OF CHINO HILLS N/C 14280 PEYTON DR	MSW	1	30	ON CALL
21	CITY OF CHINO HILLS N/C ENGLISH ROAD	YARD WASTE	3	40	ON CALL

CITY OF CHINO HILLS

CITY SPONSORED EVENTS

Row	Event	Event Frequency (e.g., annual, semi-annual, monthly)	Solid Waste Services Typically Provided at Past Events (# and size of trash and recycling containers, event boxes, etc.)	
			Event Boxes and Liners	Collection Containers
1	Carbon Canyon Brush Abatement Event	Annual	N/A	Two - 40 yard containers
2	Compost Giveaway	Two per year (Spring & Fall)	N/A	One - 40 yard container of Compost
3	Concerts in the Park	Eight per year	N/A	Two - lockable 3 yd containers

RATE PROPOSAL FORMS**Table of Contents**

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3-A	Projected Estimated First-Year Rate Revenue
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3-E	Projected Estimated First-Year Commercial and Multi-Family Organics Recycling Rate Revenue
3-F	Projected Estimated First-Year Roll-Off Box and Temporary Bin Rate Revenue
3-G	Proposed Rates for Other Services
3-H	Optional Service: First Year Street Sweeping Cost to City

PROJECTED ESTIMATED FIRST-YEAR RATE REVENUE**Proposing Company:**Instructions: Enter proposer's name in the above blue, bolded box. Confirm that rate revenue is accurately reflected, based on proposer's proposed rates.

Row	Service Category	Projected First Year Annual Customer Rate Revenue*	Reference
1	Projected Residential Cart Rate Revenue	\$ 2,064.00	Attach. 3-B, Row 13
2	Projected Commercial and Multi-Family Refuse Rate Revenue	\$ -	Attach. 3-C, Row 36
3	Projected Commercial and Multi-Family Recycling Rate Revenue	\$ -	Attach. 3-D, Row 28
4	Projected Commercial and Multi-Family Organics Recycling Rate Revenue	\$ -	Attach. 3-E, Row 28
5	Projected Roll-Off Box and Temporary Bin Rate Revenue	\$ -	Attach. 3-F, Row 29
6	Total Annual Estimated First-Year Rate Revenue	\$ 2,064.00	Sum Rows 1-5

* Includes all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROJECTED ESTIMATED FIRST YEAR RESIDENTIAL CART RATE REVENUE

Proposing Company: _____

Instructions: Provide rates in blue, bolded boxes. The other rates should automatically calculate. Confirm accuracy of calculations.

Row	Service Category	Monthly Customer Rate*	# of Units as of August 2020	Monthly Rate Revenue
1	Basic Service - 1x week, one refuse, recycling and yard waste cart - Per Dwelling Unit Fee	\$ -	20,274 accounts (1)	\$ -
2	Backyard/pushout Service (2) - Non-Qualifying Customers - Per Dwelling Unit Fee	\$ -	- accounts (3)	\$ -
3	Backyard/pushout Service - Qualifying Customers - Per Dwelling Unit Fee	\$ -	7 accounts (3)	\$ -
4	Additional Cart Rates			
5	Refuse -Any Size	\$ 4.00	24 carts (1)	\$ 96.00
6	Recycling - Any Size	\$ 4.00	7 carts (1)	\$ 28.00
7	Yard Waste - Any Size	\$ 4.00	12 carts (1)	\$ 48.00
8	Projected Additional Cart Revenue	\$ 4.00	43 carts (1)	\$ 172.00
9	Multi-family cart	\$ -	267 carts (3)	\$ -
10	Mobile home cart	\$ -	619 carts (3)	\$ -
11	Total Projected Monthly Rate Revenue		21,210	\$ 172.00
12	Months			12
13	Total Projected Annual Rate Revenue			\$ 2,064.00

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

(1) Number of accounts and carts as of August 2020 as reported by the City.

(2) Non-Qualifying Customers are able-bodied customers who elect to receive container pushout service at a higher cost. Please provide the total rate for non-qualifying backyard pushout service.

(3) Number of accounts/carts as reported by the current hauler.

PROJECTED ESTIMATED FIRST-YEAR COMMERCIAL AND MULTI-FAMILY REFUSE RATE REVENUE

Proposing Company: _____

Instructions: Enter proposed rates in blue, bolded boxes and estimated container counts in yellow, bolded boxes. Proposed rate revenue on this page should calculate automatically. Confirm accuracy of calculations.

Proposed Customer Rates*							
Row	Container Type/Size	Number of Collections per Week					
		1	2	3	4	5	6
1	96 Gallon Cart - Refuse						
2	1 Cubic Yard - Refuse						
3	1.5 Cubic Yard - Refuse						
4	2 Cubic Yard Refuse						
5	3 Cubic Yard Refuse						
6	4 Cubic Yard Refuse						
7	6 Cubic Yard Refuse						
8	3 Cubic Yard Refuse Compactor						
9	4 Cubic Yard Refuse Compactor						
10	Scout Service						
11	Locking Bin Service - Per Bin						

Service Levels**								
Row	Container Type/Size	Number of Collections per Week						Total Containers
		1	2	3	4	5	6	
12	96 Gallon Cart - Refuse							-
13	1 Cubic Yard - Refuse							-
14	1.5 Cubic Yard - Refuse							-
15	2 Cubic Yard Refuse							-
16	3 Cubic Yard Refuse							-
17	4 Cubic Yard Refuse							-
18	6 Cubic Yard Refuse							-
19	3 Cubic Yard Refuse Compactor							-
20	4 Cubic Yard Refuse Compactor							-
21	Scout Service							-
22	Locking Bin Service - Per Bin							-

COMMERCIAL AND MULTI-FAMILY REFUSE RATE REVENUE								
Row	Container Type/Size	Number of Collections per Week						Monthly Rate Revenue
		1	2	3	4	5	6	
23	96 Gallon Cart - Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24	1 Cubic Yard - Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25	1.5 Cubic Yard - Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26	2 Cubic Yard Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
27	3 Cubic Yard Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
28	4 Cubic Yard Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
29	6 Cubic Yard Refuse	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
30	3 Cubic Yard Refuse Compactor	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
31	4 Cubic Yard Refuse Compactor	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
32	Scout Service	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
33	Locking Bin Service - Per Bin	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
34	Projected Monthly Rate Revenue							\$ -
35	Months							12
36	Projected Annual Rate Revenue							\$ -

Current Container Distribution (For Reference Purposes Only)**								
Row	Container Type/Size	Number of Collections per Week						Total Containers
		1	2	3	4	5	6	
37	96 Gallon Cart - Refuse	-	-	-	-	-	-	-
38	1 Cubic Yard - Refuse	-	-	-	-	-	-	-
39	1.5 Cubic Yard - Refuse	-	-	-	-	-	-	-
40	2 Cubic Yard Refuse	15.00	-	-	-	-	-	15
41	3 Cubic Yard Refuse	71.00	124.00	181.00	54.00	15.00	22.00	467
42	4 Cubic Yard Refuse	17.00	34.00	12.00	4.00	8.00	36.00	111
43	6 Cubic Yard Refuse	3.00	-	2.00	-	1.00	-	6
44	3 Cubic Yard Refuse Compactor	-	2.00	4.00	3.00	-	7.00	16
45	4 Cubic Yard Refuse Compactor	-	-	-	-	-	-	-
46	Scout Service	9.00	1.00	1.00	1.00	-	-	12
47	Locking Bin Service - Per Bin	14.00	9.00	5.00	1.00	2.00	-	31

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

** The Current Container Distribution reflects the level of service provided by the current service provider. Proposers should input the anticipated level of service in the yellow, bolded boxes, based on addressing the requirements of AB 341, AB 1826, and SB 1383. A standardized container distribution will be developed in order to evaluate proposals on a consistent basis after submission of proposals. The standardized container distribution may be the average of the proposed distributions.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROJECTED ESTIMATED FIRST-YEAR COMMERCIAL AND MULTI-FAMILY RECYCLING RATE REVENUE

Proposing Company: _____

Instructions: Enter proposed rates in blue, bolded boxes and estimated container counts in yellow, bolded boxes. Proposed rate revenue on this page should calculate automatically. Confirm accuracy of calculations.

Proposed Customer Rates*							
Row	Container Type/Size	Number of Collections per Week					
		1	2	3	4	5	6
1	96 Gallon Cart - Recycling						
2	1 Cubic Yard - Recycling						
3	1.5 Cubic Yard - Recycling						
4	2 Cubic Yard - Recycling						
5	3 Cubic Yard - Recycling						
6	4 Cubic Yard - Recycling						
7	6 Cubic Yard - Recycling						
8	3 Cubic Yard OCC						

Service Levels**								
Row	Container Type/Size	Number of Collections per Week						Total Containers
		1	2	3	4	5	6	
9	96 Gallon Cart - Recycling							-
10	1 Cubic Yard - Recycling							-
11	1.5 Cubic Yard - Recycling							-
12	2 Cubic Yard - Recycling							-
13	3 Cubic Yard - Recycling							-
14	4 Cubic Yard - Recycling							-
15	6 Cubic Yard - Recycling							-
16	3 Cubic Yard OCC							-
17	Total Containers	-	-	-	-	-	-	-

Commercial and Multi-Family Recycling Rate Revenue								
Row	Container Type/Size	Number of Collections per Week						Monthly Rate Revenue
		1	2	3	4	5	6	
18	96 Gallon Cart - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
19	1 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20	1.5 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21	2 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22	3 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23	4 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24	6 Cubic Yard - Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25	3 Cubic Yard OCC	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26	Projected Monthly Rate Revenue							\$ -
27	Months							12
28	Projected Annual Rate Revenue							\$ -

Current Container Distribution (For Reference Purposes Only)**								
Row	Container Type/Size	Number of Collections per Week						Total Containers
		1	2	3	4	5	6	
29	96 Gallon Cart - Recycling	-	-	-	-	-	-	-
30	1 Cubic Yard - Recycling	-	-	-	-	-	-	-
31	1.5 Cubic Yard - Recycling	-	-	-	-	-	-	-
32	2 Cubic Yard - Recycling	-	-	-	-	-	-	-
33	3 Cubic Yard - Recycling	21	11	-	-	-	-	32
34	4 Cubic Yard - Recycling	-	-	-	-	-	-	-
35	6 Cubic Yard - Recycling	-	-	-	-	-	-	-
36	3 Cubic Yard OCC	31	9	-	-	-	-	40
37	Total Containers	52	20	-	-	-	-	72

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

** The Current Container Distribution reflects the level of service provided by the current service provider. Proposers should input the anticipated level of service in the yellow, bolded boxes, based on addressing the requirements of AB 341, AB 1826, and SB 1383. A standardized container distribution will be developed in order to evaluate proposals on a consistent basis after submission of proposals. The standardized container distribution may be the average of the proposed distributions.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROJECTED ESTIMATED FIRST-YEAR COMMERCIAL AND MULTI-FAMILY ORGANICS RECYCLING RATE REVENUE

Proposing Company: _____

Instructions: Enter proposed rates in blue, bolded boxes and estimated container counts in yellow, bolded boxes. Proposed rate revenue on this page should calculate automatically. Confirm accuracy of calculations.

Proposed Customer Rates*						
Row	Container Type/Size	Number of Collections per Week				
		1	2	3	4	5
1	60 Gallon Cart - Organics Recycling					
2	90 Gallon Cart - Multi-Family Organics Recycling					
3	1 Cubic Yard - Organics Recycling					
4	1.5 Cubic Yard - Organics Recycling					
5	2 Cubic Yard - Organics Recycling					
6	1 Cubic Yard - Manure					
7	3 Cubic Yard - Manure					
8	4 Cubic Yard - Manure					

Service Levels**							
Row	Container Type/Size	Number of Collections per Week					Total Containers
		1	2	3	4	5	
9	60 Gallon Cart - Organics Recycling						-
10	90 Gallon Cart - Multi-Family Organics Recycling						-
11	1 Cubic Yard - Organics Recycling						-
12	1.5 Cubic Yard - Organics Recycling						-
13	2 Cubic Yard - Organics Recycling						-
14	1 Cubic Yard - Manure						-
15	3 Cubic Yard - Manure						-
16	4 Cubic Yard - Manure						-
17	Total Containers	-	-	-	-	-	-

Commercial and Multi-Family Organics Recycling Rate Revenue							
Row	Container Type/Size	Number of Collections per Week					Monthly Rate Revenue
		1	2	3	4	5	
18	60 Gallon Cart - Organics Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
19	90 Gallon Cart - Multi-Family Organics Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
20	1 Cubic Yard - Organics Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21	1.5 Cubic Yard - Organics Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
22	2 Cubic Yard - Organics Recycling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
23	1 Cubic Yard - Manure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
24	3 Cubic Yard - Manure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
25	4 Cubic Yard - Manure	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
26	Projected Monthly Rate Revenue						\$ -
27	Months						12
28	Projected Annual Rate Revenue Organics Recycling						\$ -

Current Container Distribution (For Reference Purposes Only)**							
Row	Container Type/Size	Number of Collections per Week					Total Containers
		1	2	3	4	5	
29	60 Gallon Cart - Organics Recycling	-	-	-	-	-	-
30	90 Gallon Cart - Multi-Family Organics Recycling	-	-	-	-	-	-
31	1 Cubic Yard - Organics Recycling	-	-	-	-	-	-
32	1.5 Cubic Yard - Organics Recycling	-	-	-	-	-	-
33	2 Cubic Yard - Organics Recycling	-	-	-	-	-	-
34	1 Cubic Yard - Manure	-	-	-	-	-	-
35	3 Cubic Yard - Manure	1	-	3	-	-	4
36	4 Cubic Yard - Manure	-	-	3	-	-	3
37	Total Containers	1	-	6	-	-	

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

** The Current Container Distribution reflects the level of service provided by the current service provider. Proposers should input the anticipated level of service in the yellow, bolded boxes, based on addressing the requirements of AB 341, AB 1826, and SB 1383. A standardized container distribution will be developed in order to evaluate proposals on a consistent basis after submission of proposals. The standardized container distribution may be the average of the proposed distributions.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROJECTED ESTIMATED FIRST-YEAR ROLL-OFF BOX AND TEMPORARY BIN RATE REVENUE

Proposing Company: _____ -

Instructions: Enter proposed rates in the blue, bolded boxes. Proposed rate revenue on this page should calculate automatically. Confirm accuracy of calculation.

Row	Container/Service Type	Customer Rate*	Service Count for 12-Months Ended June 30, 2020	Annual Projected First Year Rate Revenue (Rounded)
1	Permanent Roll-Off			
2	30 Cubic Yard			
3	Haul Charge	per pull	134 pulls	\$ -
4	Disposal	per ton	412 tons	\$ -
5	40 Cubic Yard			
6	Haul Charge	per pull	33 pulls	\$ -
7	Disposal	per ton	93 tons	\$ -
8	Compactor Roll-off Box			
9	20 Cubic Yard			
10	Haul Charge	per pull	57 pulls	\$ -
11	Disposal	per ton	250 tons	\$ -
12	30 Cubic Yard			
13	Haul Charge	per pull	234 pulls	\$ -
14	Disposal	per ton	690 tons	\$ -
15	40 Cubic Yard			
16	Haul Charge	per pull	115 pulls	\$ -
17	Disposal	per ton	705 tons	\$ -
18	Saturday Service (Surcharge)	per pull	69 pulls	\$ -
19	Temporary Roll-Off			
20	30 Cubic Yard	per load (1)	294 pulls	\$ -
21	Surcharge Over 5 Tons/Load	per ton	228 tons	\$ -
22	30 Cubic Yard Yard Waste rate	per load (1)	9 pulls	\$ -
23	Surcharge Over 5 Tons/Load	per ton	tons	\$ -
24	Temporary Bins			
25	3 Cubic Yard Temp Construction			
26	1x per week	per empty	247 empties	\$ -
27	2x per week	per empty	15 empties	\$ -
28	Extra Pick-Up	per empty	11 empties	\$ -
29	Annual Rate Revenue			\$ -

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

(1) Includes pull and disposal fee up to five (5) tons.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROPOSED RATES FOR OTHER SERVICES

Proposing Company: _____

Instructions: Rates for certain ancillary services are defined at current rates. Enter proposed rates for new services in the blue, bolded boxes. Proposed rate revenue on this page should calculate automatically. Confirm accuracy of calculation.

Row	Service Type	Customer Rate*		Reference/Note
	Additional Residential Rates			
1	Residential and Multi-Family Premises - Additional Bulky Item Pickup Charge ⁽¹⁾	\$ 44.38	Per pickup	In excess of 3 pickups per year (10 items per pickup).
2	Additional Bulky Item: Additional Charge for Items in Excess of 10	\$ 4.28	Per item	
3	Cart Exchange	\$ 37.22	Per request	One exchange per year at no additional charge. Rate for additional exchanges of ALL containers.
4	Cart Replacement Due to Misuse	\$ 65.86	Each	
5	Re-Start Service Fee	\$ -	Per re-start	
6	Special Non-scheduled Trash Collection	\$ 21.46	Per occurrence	
7	Overage Charge	\$ 15.00	Per occurrence	New rate
8	Contamination Fee	\$ 25.00	Per occurrence	New rate
	Additional Commercial Rates			
9	Bulky Item Pick-up	\$ 41.03	Per pickup	Charge for up to 2 items
10	Bulky Item Fee for Additional Items	\$ 16.42	Per item	Charge for 3 or more items
11	Extra Pick-up	\$ 41.66	Per occurrence	
12	Overage Fee	\$ 41.67	Per occurrence	
13	Overage Cleanup Fee	\$ -	Per occurrence	
14	Return Trip Fee	\$ -	Per occurrence	
15	Redelivery of Bins (due to non-payment)	\$ 83.21	Per re-delivery	
16	Bin Exchange	\$ 82.06	Per occurrence	After 1 year of service
17	Sunday Service	\$ -	Per container, monthly surcharge	
18	Bin Cleaning	\$ -	Per occurrence	
20	Emergency Services	\$ -	Per hour	Hourly rate 1 truck/2 crew
21	Contamination Fee	\$ 72.33	Per occurrence	
22	Holiday Tree Pick-Up	\$ -	Per occurrence	

* Rates should include all City fees. The franchise fee amount will be determined during negotiations. For rate proposal comparison purposes, all proposers should include a 10% franchise fee in their proposed rates.

⁽¹⁾ Multi-family premises receive the equivalent of one bulky-item collection for each dwelling unit in the building per calendar year at no additional charge.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

OPTIONAL SERVICE - FIRST YEAR STREET SWEEPING COST TO CITY

Proposing Company: _____ -

Instructions: Enter proposed rates in the blue, bolded boxes. Proposed total cost on this page should calculate automatically. Confirm accuracy of calculation.

STREET TYPE	MILES	FREQUENCY	TOTAL SWEPT (Miles)	COST PER CURB MILE	TOTAL FIRST YEAR COST TO CITY
Residential	254	2x/month	508		
Commercial	12	4x/month	48		
Arterials	<u>106</u>	4x/month	424		
Total	372	N/A	980	\$ -	\$ -

ATTACHMENT 4
SUPPORTING COST AND OPERATING DATA WORKSHEETS

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- 4-A Projected Revenue Requirement for First Twelve Months of Franchise Agreement
- 4-B Projected Routes and Route Hours
- 4-C Tonnage Diversion Plan
- 4-D Comparison of Rate Revenues and Revenue Requirements

PROJECTED REVENUE REQUIREMENT FOR FIRST TWELVE MONTHS OF FRANCHISE AGREEMENT

Proposing Company: _____

Instructions: Fill in blue, bolded boxes.

Row		Residential Cart Service			Commercial Service			Roll-Off Service	Bulky Item Pickup, Holiday Trees, Neighborhood Cleanups, Special Events, Other (f)	TOTAL ANNUAL REVENUE RQMT
		Refuse	Recyclables	Green Waste/ Organics	Refuse	Recyclables	Organics Collection			
1	Operations									
2	Truck Operating Costs (a)									\$ -
3	Transfer Station, Transport, MRF costs, net of recycling revenues									\$ -
4	Transformation Costs (if applicable)									\$ -
5	Organics Processing/Composting Costs									\$ -
6	Landfill Disposal Costs (b)									\$ -
7	Container Depreciation/Amortization Costs									\$ -
8	Other Operating Costs: ([please describe])									\$ -
9	Subtotal: Operations Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
10	Other Fees									
11	General, Administrative and Profit									
12	Annualized Auditing Fee (c)									\$ 18,750
13	AB 939/SB 1383 Regulatory Reimbursement (1.75% of Gross Revenue)									\$ 36
14	Administration Fee									\$ 25,000
15	Franchise Fee (d)									\$ 206
16	Contracting Fee (e)									\$ 50,000
17	Other: ([please describe])									
18	TOTAL REVENUE REQUIREMENT									\$ 93,992
19	Tons Collected									\$ -
20	Operations Cost Per Ton Collected	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
21	Revenue Requirement per Ton Collected									\$ -

(a) Includes Driver/Helper/Supervisor Wages and Benefits, Vehicle Depreciation and Maintenance, Vehicle Insurance, Fuel, Uniforms and Other Route Costs.

(b) Includes actual disposal costs at landfill, excluding transfer, transport, and MRF costs to be included on Row 3.

(c) Biennial audit fee is \$50,000 per audit. Annualized auditing fee is \$18,750, assuming three (3) audits over the eight (8) year term of the agreement. $(\$50,000 \times 3) / 8 = \$18,750$.

(d) Amount to be negotiated. For presentation purposes, this form assumes a 10% franchise fee and is calculated at 10% of Sheet 3-A, Row 6.

(e) \$400,000 amortized over the 8-year base term of the agreement.

(f) Neighborhood cleanups, shredding event, battery recycling program, compost/mulch giveaways, Carbon Canyon Brush Abatement, etc.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

PROJECTED ROUTES AND ROUTE HOURS

Proposing Company: _____

Instructions: Fill in blue, bolded boxes.

Row	Route Type	Routes Per Day						Total Route Days/Week	Hours per Route Per Day (1)	Total Route Hours Per Week (2)	Crew Size Per Truck (3)
		Mon	Tues	Wed	Thurs	Fri	Sat				
1	Residential Refuse							-		-	
2	Residential Recycling							-		-	
3	Residential Organics							-		-	
4	Commercial and Multi-Family Refuse							-		-	
5	Commercial and Multi-Family Recycling							-		-	
6	Commercial and Multi-Family Organics Carts										
7	Commercial and Multi-Family Organics Bins										
7	Scout							-		-	
8	Bulky Items							-		-	
9	Roll-Off							-		-	
10	Other: ____[specify]____							-		-	
11	Other: ____[specify]____							-		-	
12	Other: ____[specify]____							-		-	
13	Total	-	-	-	-	-	-	-		-	

(1) For example: 8, 9, or 10 hours per day.

(2) Total Route Days/Week multiplied by Hours Per Route per Day.

(3) 1 or 2 persons.

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

TONNAGE DIVERSION PLAN

Proposing Company: _____

Instructions: Fill in blue, bolded boxes. Confirm automatic calculations. Proposers must demonstrate how they will reach their proposed diversion rate for hauler-collected waste.

Row	Waste Stream	Annual Tons Collected (from Att. 4-A, row 19)	Annual Tons Diverted						Tons Diverted as % of Tons Collected
			Recycling	Organics	C&D	Transformation	Other (1)	Total Diverted	
1	Residential Refuse	-						-	-
2	Residential Recycling	-						-	-
3	Residential Organics	-						-	-
4	Commercial and Multi-Family Refuse	-						-	-
5	Commercial and Multi-Family Recycling	-						-	-
6	Commercial and Multi-Family Organics	-						-	-
7	Roll-Off	-						-	-
8	Bulky Item Pickup, Holiday Trees, Neighborhood Cleanups, Special Events, Other	-						-	-
9	Total	-	-	-	-	-	-	-	-

(1) Describe "Other" programs below:

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

COMPARISON OF RATE REVENUES AND REVENUE REQUIREMENTS

Proposing Company: _____ -

Instructions: Confirm automatic references and accuracy of automatic calculations.

Row		Amount	Reference
1	Proposed Rate Revenue	\$ 2,064	Attach. 3-A, Row 6
2	Proposed Revenue Requirement	\$ 93,992	Attach. 4-A, Row 18
3	Difference (should be \$0)	\$ 91,928	Row 2 - Row 1

Failure to complete and submit this form will deem the proposer's franchise proposal non-responsive.

ATTACHMENT 5
ANTI-COLLUSION AFFIDAVIT

Proposer as a part of this proposal submits the following affidavit:

The undersigned deponent, of lawful age, being duly sworn, upon his oath deposes and says: That he has lawful authority to execute the within and foregoing proposal; that he has executed the same by subscribing his name hereto under oath for and on behalf of said proposer; that proposer has not directly or indirectly entered into any agreement, express or implied, with any proposer or proposers, having for its object the controlling of the price or amount of such proposal or proposals, the limiting of the proposals or proposers, the parceling or farming out to any proposer or proposers or other persons of any part of the contract or any part of the subject matter of the proposal or proposals or of the profits thereof, and that he has not and will not divulge the sealed Proposal to any person whomsoever, except those having a partnership or other financial interest with him in said proposal or proposals, until after the said sealed proposal or proposals are opened.

Deponent further states that the proposer has not been a party to any collusion among proposers in restraint of freedom of competition; by agreement to make a proposal at a fixed price or to refrain from submitting a proposal; or with any City official or employee as to quantity, quality, or price in the prospective contract; or in any discussions between proposers and any City official concerning exchange of money or other things of value for special consideration in the letting of a contract; that the proposer has not paid, given or donated or agreed to pay, give or donate to any official, officer or employee of the City directly or indirectly, in the procuring of the award of contract pursuant to this proposal.

Executed under penalty of perjury on this _____ day of _____, _____ at _____.

SIGNED _____

BY _____

TITLE _____

COMPANY _____

Failure to complete and submit this form will deem the proposer's proposal incomplete and nonconforming.

ATTACHMENT 6
DRAFT INTEGRATED
WASTE MANAGEMENT SERVICES
FRANCHISE AGREEMENT
(Includes both Residential and Commercial Services)

DRAFT

AGREEMENT

BETWEEN

CITY OF CHINO HILLS

AND



FOR

INTEGRATED SOLID WASTE

MANAGEMENT SERVICES

* * *

Draft, March 10, 2021

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Exhibits

1. Franchisee's Proposal
2. Initial Maximum Rates
3. Example Rate Adjustment Formulas
4. Corporate Guarantee
5. Franchisee's Faithful Performance Bond
6. Notary Certification
7. AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan
8. Processing, Transfer, and Disposal Services and Facility Standards
9. Collection System Options

RECITALS

This Franchise Agreement (“Agreement”) is entered into this ____ day of _____, 2022, by and between the City of Chino Hills (“City”) and, _____ (“Franchisee”), for the Collection, Transportation, Recycling, Processing, and Disposal of Solid Waste and other services related to meeting the goals of the City and requirements of Applicable Law.

WHEREAS, pursuant to City of Chino Hills Municipal Code Chapter 13.20., Sections 13.20.070 and 13.20.080, the City Council may award one or more Franchises, permits, or licenses for Refuse Collection from single-family residential properties, commercial, including industrial, governmental, institutional, and multifamily residential properties. Such Franchises shall be granted by the City Council by resolution, upon a determination that the public health, safety, and well-being are served by the award of the Franchise, permit, or license.

WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2), the City of Chino Hills has determined that the public health, safety, and well-being of the community require that an exclusive Franchise be awarded to a qualified company for the Collection, Transfer and Transportation, Recycling, Processing, and Disposal of Solid Waste and other services related to meeting the Diversion goals stipulated under by AB 939, and other requirements of the California Integrated Waste Management Act; and,

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

WHEREAS, the State of California has found and declared that the amount of Solid Waste generated in California, coupled with diminishing Disposal capacity and potential adverse environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of AB 939 and subsequent related legislation including, but

not limited to: the Jobs and Recycling Act of 2011 (AB 341), the Event and Venue Recycling Act of 2004 (AB 2176), Diversion Compliance: Per Capita Disposal Rate 2007 (SB 1016), the Mandatory Commercial Organics Recycling Act of 2014 (AB 1826), and the Short-Lived Climate Pollutants Bill of 2016 (SB 1383), directed the responsible State agency, and all local agencies, to promote a reduction in landfill Disposal and to maximize the use of feasible waste reduction, re-use, Recycling, and Composting options in order to reduce the amount of material that must be disposed; and,

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

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

WHEREAS, the City declares its intention of maintaining reasonable rates and quality service related to the Collection, Transportation, Recycling, Processing, and Disposal of Solid Waste and other services; and,

WHEREAS, the City's Chino Hills Recycles! Agreement No. A00-148 with Taormina Industries LLC/Republic Services Inc., for Commercial Solid Waste and Recycling Services (Organic Waste), and, Chino Hills Recycles! Agreement No. A00-147 with Taormina Industries LLC/Republic Services Inc., for Residential Solid Waste and Recycling Services (Organic Waste) expire on June 30, 2022; and,

WHEREAS, in response to a Request for Proposals, the Franchisee has submitted a proposal to the City and the City selected the Franchisee on the competitive advantages of that proposal over other proposals received by the City; and

WHEREAS, City and Franchisee ("Parties") hereto desire to enter said Agreement; and,

WHEREAS, City and Franchisee are mindful of the provisions of the laws governing the safe Collection, Transport, Recycling, Processing and Disposal of Solid Waste,

including AB 939, AB 341, AB 1826, SB 1383, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C §§ 9601 et seq., the Electronic Waste Recycling Act of 2003 (SB 20 Sher, Chapter 526, Statutes of 2003; SB 50, Sher, Chapter 863, Statutes of 2004; AB 575, Wolke, Chapter 59, Statutes of 2005), and laws governing Universal Waste and Electronic Waste; and,

WHEREAS, City and Franchisee desire to leave no doubts as to their respective roles and to memorialize that by entering into this Agreement, City is not thereby becoming an "arranger" or a "Generator" as those terms are used in CERCLA, and that it is Franchisee, not City, who is "arranging for" the Collection from Premises in the City, Transport for Disposal, Composting or other Processing, and Recycling of municipal Solid Waste which may contain Hazardous Material; and further to confirm that as a material inducement to City entering into this Agreement, Franchisee has agreed to fully indemnify City, its officers, employees, director and agents, in connection with any claims, losses, liabilities, lawsuits or actions relating to the inadvertent or intentional Collection, Transportation and/or Disposal of Hazardous Materials that may occur in connection with Franchisee's performance under this Agreement, and

WHEREAS, Franchisee has agreed, as part of this Agreement, to provide such services as are necessary or desirable to ensure City complies with the requirements of all Applicable Laws and regulations including specifically, without limitation, AB 939, AB 341, AB 1594, AB 1826, SB 1383, Public Resources Code Section 40000, *et seq*, as it may be amended from time to time, and such other laws and regulations of the State of California as may be enacted from time to time concerning Solid Waste, Organic Waste, Recyclable Materials, or the Collection, handling Composting, Recycling or Disposal of such materials; and

WHEREAS, there are no places within the City limits of the City of Chino Hills where landfills are located, or which are suitable for the siting of a landfill and therefore Solid Waste must be exported from the City; and

WHEREAS, City and Franchisee agree that, subject to City's exercise of its reserved flow control right under Section 2.10.4 of this Agreement, (1) Franchisee, and not City, will select the landfill destination of the non-recyclable Solid Waste which

Franchisee will arrange to Collect; and (2) City has not and, by this Agreement does not, instruct Franchisee on its Collection methods, nor supervise Franchisee in the Collection of waste and nothing in this Agreement or other action of the City shall be construed to give rise to any interference that the City has any title, ownership or right of possession of such Solid Waste; and

WHEREAS, City intends that this Agreement will contribute to safeguarding public health by providing the most cost-effective, efficient, reliable, and environmentally appropriate Solid Waste services to its citizens,

WHEREAS, the successful implementation of Solid Waste Handling in Residential, Commercial and industrial areas in the City will entail the expenditure of large sums of capital by the Franchisee, for which the Franchisee is, subject to the terms of Proposition 218, entitled to be compensated. City intends that this Agreement will contribute to safeguarding public health by providing the most cost-effective, efficient, reliable, and environmentally appropriate Solid Waste services to its citizens, and

WHEREAS, Franchisee has agreed, as part of this Agreement, acting as an independent contractor to provide such personnel, equipment and supplies as are necessary to ensure City complies with the requirements of Public Resources Code Section 49100 et seq.,

WHEREAS, Franchisee agrees to and acknowledges that it shall arrange for the proper Collection, Transportation, Recycling, and Disposal of all Solid Waste Collected in City in accordance with the terms of this Agreement and Applicable Law.

NOW, THEREFORE, in consideration of the premise above stated and the terms, conditions, covenants and agreements contained herein, the Parties do hereby agree as follows:

ARTICLE 1

DEFINITIONS

Whenever any term used in this Agreement has been defined by the provisions of Chapter 13.20, Article 1 of the Chino Hills Municipal Code or by Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or the Public Resources Code shall apply unless the term is otherwise defined in this Agreement, in which case this Agreement shall control.

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

1.1 AB 341

“AB 341” means the Assembly Bill approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded and replaced from time to time.

1.2 AB 827

“AB 827” means the Assembly Bill approved by the Governor of the State of California on October 2, 2019, which amended Sections 42649.2, 42649.2, 42649.8, and 42649.81 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

1.3 AB 939

"AB 939" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

1.4 AB 1594

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

1.5 AB 1826

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

1.6 Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Franchisee by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Franchisee and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Franchisee owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Franchisee and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Franchisee. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater. Being an Affiliate does not exempt a business from the application of assignment requirements under Section 12.5.

1.7 Agreement

"Agreement" means this Franchise Agreement between City and Franchisee for Collection, Transportation, Recycling, Processing and/or Disposal of Recyclable Materials, Organic Materials, and Solid Waste, and other services, including all exhibits and attachments, and any amendments thereto.

1.8 Alternative Daily Cover (ADC)

"Alternative Daily Cover" or "ADC" has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations.

1.9 Alternative Facility

"Alternative Facility" means any Facility other than Approved Facilities approved by City for temporary use.

1.10 Applicable Law

"Applicable Law" means all statutes, rules, regulations, guidelines, actions, determinations, Permits, orders, or requirements of the United States, State, County, City (including Chino Hills Municipal Code Chapter 13.20) and local and regional government authorities and agencies having applicable jurisdiction, that apply to or govern the Facility, the Site or the performance of the Parties' respective obligations hereunder, including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation monitoring plans, building codes, zoning, non-discrimination, and prevailing wages if applicable, and the San Bernardino County Integrated Waste Management Plan. All references herein to Applicable Law include subsequent amendments or modifications thereof, unless otherwise specifically limited in this Agreement.

1.11 Approved C&D Processing Facility

"Approved C&D Processing Facility" means the Facility Name at Facility Address, which is owned and operated by Owner Name, which is a C&D Processing Facility.

1.12 Approved Disposal Facility

"Approved Disposal Facility" means the Facility Name at Facility Address, which is

owned and operated by **Owner Name**, which is a Disposal Facility.

1.13 Approved Facilities

“Approved Facility(ies)” means any one of or any combination of the: Approved C&D Processing Facility; Approved Disposal Facility; Approved High Diversion Organic Waste Processing Facility; Approved Organic Waste Processing Facility, Approved Source Separated Recyclable Materials Processing Facility; and, Approved Transfer Facility.

1.14 Approved High Diversion Organic Waste Processing Facility

“Approved High Diversion Organic Waste Processing Facility” means the **Facility Name** at **Facility Address**, which is owned and operated by **Owner Name**, which is a High Diversion Organic Waste Processing Facility.

1.15 Approved Organic Waste Processing Facility

“Approved Organic Waste Processing Facility” means the **Facility Name** at **Facility Address**, which is owned and operated by **Owner Name**, which is an Organic Waste Processing Facility.

1.16 Approved Source Separated Recyclable Materials Processing Facility

“Approved Source Separated Recyclable Materials Processing Facility” means the **Facility Name** at **Facility Address**, which is owned and operated by **Owner Name**, which is a Source Separated Recyclable Materials Processing Facility.

1.17 Approved Transfer Facility

“Approved Transfer Facility” means the **Facility Name** at **Facility Address**, which is owned and operated by **Owner Name**, that is a Transfer Facility.

1.18 Back-Haul

“Back-Haul” means generating and Transporting Recyclable Materials and/or Organic Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).

1.19 Billings

"Billings" means any and all statements of charges for services rendered in accordance with this Agreement, howsoever made, described or designated by City or Franchisee, or made by others for City or Franchisee, to Customers in the City.

1.20 Bin

"Bin" means a rigid Container with hinged lids and wheels with a capacity of at least one (1) cubic yard and less than ten (10) cubic yards.

1.21 Blue Container

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

1.22 Brown Container

"Brown Container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of Source Separated Food Waste.

1.23 Bulky Items

"Bulky Items" means Solid Waste that cannot and/or would not typically be accommodated within a Cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); Residential wastes (including wood waste, tree branches, scrap wood, debris from building remodeling, rocks, sod and earth); electronic equipment (including stereos, televisions, computers and monitors, microwaves and other similar items commonly known as "brown goods" and "E-Waste"); Universal Waste, "U-Waste," (including, but not limited to batteries, thermostats, lamps; and cathode ray tube materials); and clothing. Bulky Items do not include car bodies, tires, Construction and Demolition Debris, or items requiring more than two Persons to remove. Other items not specifically included or excluded above will be Collected provided that they are not more than eight feet in length, four feet in width, or more than 150 pounds. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Items, City shall be

responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

1.24 California Code of Regulations (CCR)

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

1.25 CalRecycle

“CalRecycle” means the State of California’s Department of Resources Recycling and Recovery.

1.26 Cart

“Cart” means a polyethylene wheeled Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30 and no greater than 101 gallons.

1.27 City

"City" means City of Chino Hills, California, a municipal corporation, and all the territory lying within the municipal boundaries of City as presently existing or as such boundaries may be modified during the term of this Agreement.

1.28 Collect/Collection

"Collect" or "Collection" means to take physical possession, Transport, and remove Solid Waste within and from City.

1.29 Commercial

"Commercial" refers to services performed at or for Commercial Premises.

1.30 Commercial Edible Food Generators

“Commercial Edible Food Generators” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery

Organizations and Food Recovery Services are not Commercial Edible Food Generators.

1.31 Commercial Premises

"Commercial Premises" means Premises upon which business activity is conducted, and any other Premises not defined as Residential Premises per Section 1.95 of this Agreement, including but not limited to Multi-Family Dwelling Units utilizing common or shared Bins, retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding Residential Premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, in the Chino Hills Municipal Code, or otherwise, for purposes of this Agreement, means all Premises upon which the following uses (as defined in the Chino Hills Municipal Code) are occurring shall be deemed to be Commercial Premises: stores, restaurants; rooming houses; hotels; motels; offices; manufacturing, Processing, or assembling shops or plants; hospitals; clinics; nursing homes; convalescent centers; dormitories; barracks; and card rooms.

1.32 Compactor

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

1.33 Compost

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

1.34 Compostable Plastics

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

1.35 Construction and Demolition Debris

"Construction and Demolition Debris" or "C&D Material," means any combination of inert building materials and Solid Waste resulting from construction, remodeling, repair, cleanup, or demolition operations as defined in California Code of Regulations, Title 22 Section 66261.3 et seq. This term includes, but is not limited to, asphalt, concrete, Portland cement concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging; roofing material, ceramic tile, carpeting, plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

1.36 Containers

"Containers" mean Bins, Carts, Compactors, and Roll-off Boxes.

1.37 CPI

"CPI" means the Consumer Price Index for All Urban Consumers (CUUR0000A0L1E), all items less food and energy – U.S. City Average.

1.38 Customer

"Customer" means the Person having the care and control of any Premises in the City receiving Collection Service from the Franchisee pursuant to the terms of this Agreement.

1.39 Designated Waste

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

1.40 Discarded Materials

"Discarded Materials" are a form of Solid Waste, and shall be regulated as such. For purposes of this Agreement, material is deemed to have been discarded, without regard to whether it is destined for Recycling or Disposal, and whether or not it has been separated from other Solid Wastes, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or, levied, charged, or otherwise imposed on, or paid by, the Generator or Customer in exchange for handling services. As used herein, handling services include, without limitation, the Collection, removal, Transportation, delivery, and Processing and/or Disposal of the material. Discarded Materials do not include Edible Food that is recovered for human consumption and is not discarded. For the purposes of this Agreement, Discarded Materials include Source Separated Recyclable Materials, Organic Waste, Food Waste, Gray/Black Container Waste or Mixed Waste, and C&D once the materials have been placed in Containers for Collection.

1.41 Disposal

"Disposal" or "Dispose" means the ultimate disposition of Solid Waste Collected by Franchisee at a landfill or otherwise in full regulatory compliance.

1.42 Disposal Site(s)

"Disposal Site(s)" means the Solid Waste Handling Facility or Facilities utilized for the ultimate Disposal of Solid Waste Collected by Franchisee.

1.43 Divert/Diversion

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

1.44 DBA

“DBA” means a fictitious name, assumed name, or trade name that is different from Franchisee’s legal name, which Franchisee uses for “doing business as” to provide Collection services.

1.45 Edible Food

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

1.46 Effective Date

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

1.47 Electronic Waste or E-Waste

“Electronic Waste” or “E-Waste” means electronic equipment and includes, but is not limited to, stereos, televisions, computers and computer monitors, cellular phones, fax machines, household copiers, computer printers, other items with electric plugs that are banned from landfilling, and other similar items commonly known as “brown goods”.

1.48 Environmental Law

"Environmental Law" means any federal and State statute, county, local and City ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions or permits, licenses and other operating authorizations relating to (i) pollution or protection of the environment, including natural resources, (ii) exposure of Persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or Commercial activities, or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling,

distribution, Transportation, handling, storage and Disposal.

1.49 Excluded Waste

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

1.50 Facility

"Facility" means any plant or site, owned or leased and maintained, operated or used by Franchisee for purposes of performing under this Agreement.

1.51 Food Recovery

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

1.52 Food Recovery Organization

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

A. A food bank as defined in Section 113783 of the Health and Safety Code;

- B. A nonprofit charitable organization; and,
- C. A nonprofit charitable temporary food Facility as defined in Section 113842 of the Health and Safety Code.

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

1.53 Food Recovery Service

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

1.54 Food Scraps

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

1.55 Food-Soiled Paper

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

1.56 Food Waste

“Food Waste” means source-separated Food Scraps, Food-Soiled Paper, and Compostable Plastics. Food Waste is a subset of Source Separated Green Container Organic Waste. [Note to company: If Compostable Plastics are not part of the Food Waste stream Collected by Franchisee, this definition will be amended.]

1.57 Franchise

"Franchise" means the exclusive right and privilege granted by this Agreement.

1.58 Franchise Fee

"Franchise Fee" means the fee paid by Franchisee to City for the right to hold the Franchise for Solid Waste services granted by this Agreement.

1.59 Franchisee

"Franchisee" means _____ organized and operating under the laws of the State of _____, and its officers, directors, employees, agents, companies, Affiliates, DBAs, and Subcontractors.

1.60 Franchisee's Proposal

"Franchisee's Proposal" means the proposal submitted by Franchisee to City on _____ in response to a Request for Proposals dated _____. Franchisee's Proposal was selected by City based on its competitive advantages over other proposals received, and City specifically relied upon the representations and warranties set forth therein in entering into this Agreement. Franchisee's Proposal is attached as Exhibit 1 and incorporated into this Agreement by reference, and Franchisee represents and warrants that all representations set forth in such proposal are true and correct.

1.61 Franchisee Compensation

"Franchisee Compensation" means the revenue received by the Franchisee from Billings in return for providing services in accordance with this Agreement and any amendments to this Agreement.

1.62 Generator

"Generator" means any Person whose act first causes Discarded Materials to become subject to regulation under federal, State, or local regulations.

1.63 Gray/Black Container

"Gray/Black Container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of Gray/Black Container Waste or Mixed Waste.

1.64 Green Container

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

1.65 Gross Revenue

“Gross Revenue” means any and all revenue or compensation in any form, derived directly or indirectly, of Franchisee, or their subsidiaries, or other affiliates of Franchisee, in which Franchisee has a financial interest, for the Collection, Transportation, Processing, Recycling, Diversion and Disposal of Solid Waste pursuant to this Agreement, in accordance with Generally Accepted Accounting Principles, including, but not limited to, monthly Customer fees for Collection of Solid Waste, without subtracting fees paid to the City as required by Article 3 of this Agreement, or any other cost of doing business, but excluding revenues from the sale of Recyclable Materials.

1.66 Hazardous Material

“Hazardous Material” is defined to include any hazardous or toxic substance, material or waste, or a mixture of wastes, which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term “Hazardous Material” includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a “hazardous waste,” “extremely hazardous waste” or “restricted hazardous waste” under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iv) defined as a “Hazardous Material,” “hazardous substance,” or “hazardous waste” under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (v) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (vi) “used oil” as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii)

listed under Captor 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (ix) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (x) designated as a “toxic pollutant” pursuant to the Federal Water Pollution Control Act, 33 U.S.C. Section 1317; (xi) defined as “hazardous waste” pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903); (xii) defined as a “hazardous substance” pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 6901); (xiii) defined as “Hazardous Material” pursuant to the Hazardous Materials Transportation Act 29 U.S.C. Section 5101, et seq.; or (xiv) defined as such or regulated by any “Superfund” or “Superlien” law, or any other federal, State or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

1.67 High Diversion Organic Waste Processing Facility

“High Diversion Organic Waste Processing Facility” means a High Diversion Organic Waste Processing Facility as defined in 14 CCR Section 18982(a)(33). Per SB 1383, the High Diversion Organic Waste Processing Facility is a Facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025 as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the Mixed Waste.

1.68 Household Hazardous Waste (“HHW”)

“Household Hazardous Waste” or “HHW” means material used in residences that may threaten human health or the environment when improperly discarded and usually has one or more of the following characteristics: flammable, toxic, corrosive, and/or reactive.

1.69 Incompatible Materials

“Incompatible Material” or “Incompatibles” mean(s) human-made inert material,

including, but not limited to, glass, metal, plastic, and also includes Organic Waste that the receiving end-user, Facility, operation, property, or activity is not designed, permitted, or authorized to perform Organic Waste recovery activities as defined in 14 CCR Section 18983.1(b), or as otherwise defined by 14 CCR Section 17402(a)(7.5).

1.70 Inerts

“Inerts” means materials such as concrete, soil, asphalt, and ceramics.

1.71 Large Event

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Agreement.

1.72 Large Venue

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Agreement, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of 14 CCR, Division 7 Chapter 12 and this Agreement, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this Agreement.

1.73 Materials Recovery Facility (“MRF”)

“Materials Recovery Facility” means a permitted Solid Waste Facility where Solid Wastes or Recyclable Materials are sorted or separated for the purposes of Recycling,

Processing or composting.

1.74 Mixed Waste

“Mixed Waste” means Mixed Waste Organic Collection Stream and Solid Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be Transported to a High Diversion Organic Waste Processing Facility.

1.75 Mixed Waste Organic Collection Stream

“Mixed Waste Organic Waste Collection Stream” means Organic Waste Collected in a Container that is required by 14 CCR Sections 18984.1, 18984.2, or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility, or as otherwise defined in 14 CCR Section 17402(a)(11.5).

1.76 Mulch

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

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

1.77 Multi-Family Premises or Multi-Family Dwelling Units

"Multi-Family Premises" or "Multi-Family Dwelling Units" means any Residential Premises that generally receive Collection service through the use of shared Bins, but may use Carts. Service is not dependent upon unit count unless specifically stated.

1.78 Non-Compostable Paper

"Non-Compostable Paper" includes, but is not limited to, paper that is coated in a plastic material that will not breakdown in the Composting Process, or as otherwise defined in 14 CCR Section 18982(a)(41).

1.79 Non-Organic Recyclables

"Non-Organic Recyclables" means non-putrescible and non-hazardous recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass, or as otherwise defined in 14 CCR Section 18982(a)(43). Non-Organic Recyclables are a subset of Source Separated Recyclable Materials.

1.80 Organic Materials

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

1.81 Organic Waste

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

1.82 Owner

"Owner" means the Person holding the legal title to the real property constituting the Premises to which Solid Waste Collection service is to be provided under this

Agreement or the Person holding legal title to the Disposal Site.

1.83 Party or Parties

“Party” or “Parties” refers to the City and Franchisee, individually or together.

1.84 Person

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of San Bernardino, towns, cities, and special purpose districts.

1.85 Premises

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

1.86 Process, Processed, or Processing

“Processing” means the controlled separation, recovery, volume reduction, conversion, or Recycling of Solid Waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines, or volume reduction equipment, or as otherwise defined in 14 CCR Section 17402(a)(20).

1.87 Prohibited Container Contaminants

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

1.88 Proposition 218

"Proposition 218" means Articles XIIC and XIID of the California Constitution and any implementing legislation promulgated thereunder, as amended, supplemented, superseded, and replaced from time to time.

1.89 Putrescible Waste

"Putrescible Waste" means wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to Food Waste, offal, and dead animals; or as otherwise defined in 14 CCR Section 17402(a)(21).

1.90 Rate Year

"Rate Year" means the period July 1 to June 30, for each year during the Term of this Agreement.

1.91 Recycling

"Recycling" or "Recycle" means the Process of Collecting, sorting, cleansing, treating, and reconstituting materials for the purpose of returning them to the economic mainstream in the form of raw material for new, Reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling includes Processes deemed to constitute a reduction of landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or Transformation as defined in Public Resources Code Section 40201.

1.92 Recyclable Materials

"Recyclable Materials" means those Discarded Materials that: the Generators set out in Recyclables Containers for Collection for the purpose of Recycling by the Franchisee and that exclude Excluded Waste. No Discarded Materials shall be considered Recyclable Materials unless such material is separated from Organic Materials, and Solid Waste. Recyclable Materials shall include, but not be limited to: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, brown paper, paperboard, paper egg cartons, telephone books, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, gabletop beverage

containers, cereal, and other similar food boxes yet excluding paper tissues, paper towels, paper with plastic coating, paper contaminated with food, wax paper, foil-lined paper and cartons, Tyvex non-tearing paper envelopes); chipboard; corrugated Cardboard; glass containers of any color (including brown, clear, and green glass bottles and jars); aluminum (including beverage containers and small pieces of scrap metal); steel, tin, or bi-metal cans; mixed plastics such as plastic containers (no. one (1) to seven (7)), except expanded Polystyrene (EPS); bottles including containers made of HDPE, LDPE, or PET; film plastic (when clean, dry, and contained inside of a plastic bag); dry cell household batteries when placed on the Recycling Cart in a sealed heavy-duty plastic bag; and, those materials added by the Franchisee from time to time. {Note to Proposers: this list will ultimately reflect the materials included in Franchisee's Proposal}

1.93 Refuse

"Refuse" means Solid Waste or debris, except sewage, Construction and Demolition Debris, Recyclable Materials, and/or Organic Waste placed in source-separated Containers for Collection.

1.94 Renewable Natural Gas (RNG)

"Renewable Natural Gas" or "RNG" means gas derived from Organic Waste that has been Diverted from a landfill and Processed at an in-vessel digestion Facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

1.95 Residential Premises or Residential Dwelling Units

"Residential Premises" or "Residential Dwelling Units" means a detached building, or each unit of a Multi-Family Premises, in which the residents utilize one or more Carts or trash cans, but not a common or shared Bin, for the temporary accumulation and Collection of Solid Waste.

1.96 Roll-off Box

"Roll-off Box" means Solid Waste Collection Containers of 10-yards or larger.

1.97 SB 1383

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time. For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on [REDACTED] 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

1.98 Self-Hauler

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

1.99 Sharps

“Sharps” means hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications.

1.100 Solid Waste

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

Waste at the site of generation.

1.101 Solid Waste Handling Services

“Solid Waste Handling Services” means the Collection, Transfer, Transport, Recycling, Processing, and Disposal of Solid Waste.

1.102 Source Separated

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

1.103 Source Separated Blue Container Organic Waste

“Source Separated Blue Container Organic Waste” means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(18.7). SSBCOW is a subset of Organic Waste.

1.104 Source Separated Green Container Organic Waste

“Source Separated Green Container Organic Waste” or means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Organic Waste, carpets, Non-Compostable Paper, and textiles. Source Separated Green Container Organic Waste is a subset of Organic Waste.

1.105 Source Separated Recyclable Materials

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue Container Organic Waste.

1.106 Split Container or Split-Container

“Split Container” or “Split-Container” means a Container that is split or divided into segregated sections, instead of an entire Container, or as otherwise specified in 14 CCR, Division 7, Chapter 12, Article 3.

1.107 State

“State” means the State of California.

1.108 Subcontractor

“Subcontractor” means any Person, firm, or entity hired by Franchisee to carry out any of Franchisee’s duties under this Agreement.

1.109 Tier One Commercial Edible Food Generators

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

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

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

1.110 Tier Two Commercial Edible Food Generators

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

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large Venue.
- E. Large Event.
- F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency with an on-site food facility.

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

1.111 Transformation

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

1.112 Transfer Station

“Transfer Station” means a Facility that receives Solid Waste from Collection vehicles and Transfers the material to larger vehicles for Transport to landfills and other destinations. Transfer Stations may or may not also include MRFs Transferring residual Refuse (Refuse left after the sorting of Recyclable Materials) to landfills and Recyclable Materials, including Organic Waste and/or Construction and Demolition Debris, to processors, brokers or end-users.

1.113 Transfer

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

1.114 Transportation or Transport

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

1.115 Universal Waste

“Universal Waste” or “U-Waste” means all wastes defined by 22 CCR Subsections 66273.1 through 66273.9. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

1.116 Yard Waste

“Yard Waste” means leaves, grass clippings, brush, branches, and other forms of Organic Waste generated from landscapes or gardens, which have been Source Separated from other Solid Waste. Yard Waste is a subset of Organic Waste and excludes Hazardous Materials.

ARTICLE 2

GRANT AND ACCEPTANCE OF FRANCHISE

2.1 Grant and Acceptance of Franchise, Indemnity of Award

Subject to the terms and conditions of this Agreement (including but not limited to the exclusions set forth in Section 2.9 hereof) and Applicable Laws, and to the rights of State, county and school district facilities to use a solid waste enterprise other than Franchisee, City hereby grants to Franchisee and Franchisee hereby accepts from City, for the term hereof, the exclusive Franchise, right and privilege to provide Solid Waste Handling Services at all Residential, Multi-Family, and Commercial Premises within the boundaries of the City (the “Franchise”).

Franchisee agrees to and shall timely take all actions that are reasonably necessary to defend the validity and enforceability of this Agreement and shall pay all costs related to such defense. Franchisee shall defend, indemnify, protect and hold harmless, the City, its officers, agents and employees from any and all claims, actions or proceedings to attack, set aside, void, annul or seek monetary damages resulting from an approval by the City of this Agreement. The City shall promptly notify Franchisee of any such claim, action, or proceeding. The City and Franchisee shall meet in good faith in an effort to come to a mutual agreement for a joint defense; provided that the City shall be entitled to select legal counsel of its choice to conduct the defense if an agreement cannot be reached. Franchisee’s obligations to pay all costs, defend, indemnify, protect and hold harmless under this section shall not be altered in the event City retains separate counsel.

Franchisee hereby accepts the Franchise on the terms and conditions set forth in this Agreement.

2.2 Exclusive Nature of Franchise

During the term of this Agreement, except as otherwise provided in Section 2.9 below, or as may otherwise be provided by federal or State law, the rights granted to the Franchisee under this Agreement shall be exclusive to the Franchisee. The City will not let any contract to, or enter into any agreement with, any other Person for the performance of the services herein required to be performed by the Franchisee.

To the extent permitted under State or federal law, the City shall protect the Franchisee's exclusive rights by proper ordinances, and by reasonable enforcement of those ordinances. Should the City be required to take administrative, law enforcement, or other legal action against any Person that infringes on the Franchisee's exclusive rights, the Franchisee shall reimburse the City for its reasonable administrative, law enforcement, or other legal costs related to any such action. Nothing herein shall preclude Franchisee from taking such legal action against third parties as it deems appropriate to protect the exclusive nature of its Franchise.

2.3 Effective Date

The Effective Date of this Agreement shall be the date on which the latter of the two Parties signs this Agreement.

This Agreement shall become effective at the Effective Date. However, the provision of Solid Waste Handling Services, imposition of Customer rates, payment of City fees, and actual Collection services by Franchisee shall commence on July 1, 2022, as described in Section 2.4. Franchisee understands and agrees that the interim time between the Effective Date and July 1, 2022, is intended to provide Franchisee with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build Facilities, obtain required service agreements, begin the public awareness campaign as part of Franchisee's transition program as specified in this Agreement, and undertake a Proposition 218 hearing process for purposes of adopting the initial Maximum Rates at Exhibit 2.

2.4 Term of Agreement

The term of this Agreement shall commence on the Effective Date. Solid Waste Handling services under this Agreement shall commence at midnight July 1, 2022, and expire at 11:59 P.M. January 31, 2030, subject to extension as provided herein. Notwithstanding the foregoing, the unexcused failure or refusal of Franchisee to perform any material term, covenant, obligation or condition contained in this Agreement shall give rise to the right, in favor of City, for earlier termination of this Agreement for cause in accordance with the procedures elsewhere contained herein.

2.5 Option to Extend Term

City shall have the sole option to extend this Agreement up to twenty-four (24) months. The City may, upon 90-day advance written notice to the Franchisee prior to Agreement expiration, exercise the extension option. If such extension notice is provided by City, the Agreement will automatically renew monthly, up to a maximum of twenty-four (24) months unless City gives Franchisee a 60-day written notice of expiration.

2.6 Representations and Warranties of Franchisee

Franchisee hereby covenants, represents, and warrants the following to City for the purpose of inducing City to enter into this Agreement and to consummate the transaction contemplated hereby, all of which shall be true as of the date of this Agreement and as of the Effective Date:

Franchisee is wholly owned by _____, a corporation duly organized and validly existing as a corporation under the laws of the State of _____.

Neither the execution of this Agreement nor the delivery by Franchisee of services, nor the performance by Franchisee of its obligations hereunder: (1) conflicts with, violates or results in a breach of any Applicable Law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of Franchisee) or instrument to which Franchisee is a Party or by which Franchisee or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of Franchisee.

There is no action, suit or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Franchisee's knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Franchisee or _____ [parent/guaranteeing company] which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by Franchisee or _____ [parent/guaranteeing company] in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Franchisee to perform its obligations

hereunder or which would have a material adverse effect on the financial condition of Franchisee or [redacted] [parent/guaranteeing company]. [This provision may be waived by the City.]

Franchisee has no knowledge of any Applicable Law in effect as of the date of this Agreement that would prohibit the performance by Franchisee of this Agreement and the transactions contemplated hereby.

Franchisee has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection services required by this Agreement.

The information supplied by Franchisee in all submittals made in connection with negotiation and execution of this Agreement, including all materials in Exhibits of this Agreement, and all representations and warranties made by Franchisee throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Effective Date of this Agreement. Franchisee understands and agrees that inaccuracies in its Proposal, such as material omissions of past and pending litigation as requested under the Request for Proposals through which this Agreement was procured, are grounds for termination of this Agreement.

Franchisee's representative, designated in Section 5.2.4, shall have authority in all daily operational matters related to this Agreement. City may rely upon action taken by such designated representative as action of Franchisee unless the actions taken are not within the scope of this Agreement.

2.7 Conditions to Effectiveness of Agreement

The obligation of City to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement is subject to the satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City.

- a) **Accuracy of Representations.** Representations and warranties made by Franchisee throughout this Agreement are accurate, true and correct on and as of the Effective

Date of this Agreement.

- b) Absence of Litigation. There is no litigation pending in any court challenging the award of this Franchise to Franchisee or the execution of this Agreement or seeking to restrain or enjoin its performance.
- c) Furnishing of Insurance and Bonds. Franchisee has furnished evidence of the insurance and bonds required by Article 9.
- d) Effectiveness of City Council Action. City's Ordinance approving this Agreement shall have become effective pursuant to California law prior to the Effective Date.
- e) Franchisee shall have paid the Contracting Fee to City, as provided in Section 3.1.

2.8 Delegation of Authority

The administration of this Agreement by the City shall be under the supervision and direction of the City Manager's office and the actions specified in this Agreement, unless otherwise stated, shall be taken by the City Manager, or his or her designee.

2.9 Limitations to Scope

Notwithstanding any provision to the contrary contained herein, the exclusive Franchise, right and privilege to provide Solid Waste Handling Services at Premises within City granted to Franchisee by this Agreement specifically excludes the following services, which services may be provided by Persons other than Franchisee and which may be the subject of other permits, licenses, franchises or agreements issued or entered by City:

- a) Recyclable and Organic Materials. Other Persons shall maintain the right to: (1) accept Source Separated Recyclable Materials and Source Separated Organic Waste donated from the service recipient, or (2) to pay the service recipient for Source Separated Recyclable Materials and Source Separated Organic Waste provided that there is no net payment made by the service recipient to such other Person.
- b) Donated or Sold Materials. Any items which are Source Separated at any Premises by the Generator and sold or donated to other Persons, including youth, civic, or

charitable organizations.

- c) Solid Waste, including Recyclable Materials and/or Organic Waste, which is removed from any Premises by the Waste Generator, and which is Transported personally by such Generator (or by his or her full-time employees, but not a Subcontractor) to a Solid Waste Facility in a manner consistent with all Applicable Laws and regulations;
- d) Yard Waste removed from a Premises by a gardening, landscaping, or tree trimming company, utilizing its own equipment, as an incidental part of a total service offered by that company rather than as a hauling service;
- e) The Collection, Transfer, Transport, Recycling, Processing, and Disposal of animal remains from slaughterhouse or butcher shops for use as tallow;
- f) The Collection, Transfer, Transport, Recycling, Processing, and Disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- g) The Collection, Transfer, Transport, Recycling, Processing, and Disposal of Hazardous Material, Household Hazardous Waste and radioactive waste regardless of its source;
- h) Construction and Demolition Debris which is removed by a duly-licensed construction or demolition company or as part of a total service offered by said licensed company or by the City, where the licensed company utilizes its own equipment;
- i) The Collection, Transfer, Transport, Recycling, Processing and Disposal of automobiles and automobile parts by vehicle dismantlers or Owners of vehicle salvage yards;
- j) The Collection, Transfer and Transport of clean dirt;
- k) Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act, Section 14500, et. seq. California Public Resources Code;
- l) The Collection, Transfer, Transport, Recycling, Processing, and Disposal of Solid Waste by City through City officers or employees in the normal course of their

City employment;

- m) Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste; and,
- n) Food Waste or other Organic Waste Diverted from Disposal removed from a Premises and delivered to hog farms or to other Premises for use as animal feed; and,
- o) Edible food removed from a Premises and recovered for human consumption.
- o) Other Services; Niche Recycling Services. City reserves the right to enter into agreements with other entities for other Solid Waste and Recycling services not provided for in this Agreement, including, but not limited to Disposal of Green Waste produced by City's landscape maintenance operations and "niche" Recycling services which Franchisee fails to provide. In the event another solid waste enterprise proposes to provide niche Recycling services, e.g., Collection of used water heaters, Franchisee shall have the right to provide the niche Recycling services at the price equal to or lower than the price proposed by the solid waste enterprise which proposed to provide the niche Recycling services.

Franchisee acknowledges and agrees that City may permit other Persons besides Franchisee to Collect any or all types of the Solid Waste listed in this Section 2.9 as exempt from Franchisee's Franchise, including Recyclable Materials, without seeking or obtaining approval of Franchisee under this Agreement.

This grant to Franchisee of an exclusive Franchise, right and privilege to Collect, Transport, or Process and Dispose of Solid Waste shall be interpreted to be consistent with all Applicable Laws, now and during the term of the Franchise, and the scope of this exclusive Franchise shall be limited by current and developing Applicable Laws with regard to Solid Waste Handling, exclusive Franchise, control of Recyclable Materials, Organic Waste, Solid Waste flow control, and related doctrines. In the event that future interpretations of current law, enactment or developing legal trends limit the ability of City to lawfully provide for the scope of Franchise services as specifically set forth herein, Franchisee agrees that the scope of the Franchise will be limited to those services and materials which may be lawfully provided for under this Agreement, and that City shall not be responsible for any lost profits claimed by Franchisee to arise out

of further limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of Franchisee to minimize the financial impact to other services being provided as much as possible.

2.10 City's Right to Direct Changes

2.10.1 General

City may direct Franchisee to perform additional services (including new Diversion programs, etc.) or modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services which may entail new Collection methods, and different kinds of services and/or new requirements for Generators are included among the kinds of changes which City may direct. Franchisee acknowledges that State law may increase the Diversion requirement during the term of this Agreement and Franchisee agrees to propose services to meet such Diversion requirements. Franchisee shall be entitled to an adjustment in its Franchisee's compensation for providing such additional or modified services, if Franchisee demonstrates that its cost of service would increase. Any adjustment will be subject to meeting the provisions of Proposition 218. City may utilize cost components included in the Franchisee's Proposal in calculating equitable rate adjustments. If City and Franchisee cannot agree on compensation for new or additional services, then City may contract with other parties for such services, which shall be considered exempt from the exclusivity provisions of Section 2.2. If Franchisee cannot receive agreed to compensation due to Proposition 218 restrictions, Franchisee will not be required to implement additional services.

2.10.2 New Diversion Programs

Franchisee shall present, within sixty (60) days of a request to do so by City, a proposal to provide additional or expanded Diversion services. The proposal shall contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.).
- Transfer and Processing methods to be used in compliance SB 1383.
- Facilities utilized.
- Equipment to be utilized (vehicle number, types, capacity, age, etc.).

- Labor requirements (number of employees by classification).
- Type(s) of Containers to be utilized.
- Type(s) of material to be Collected.
- Provision for program publicity/education/marketing.
- Projection of annual financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.

2.10.3 City's Right to Acquire Services

Franchisee acknowledges and agrees that City may permit other Persons besides Franchisee to provide additional Solid Waste services not otherwise contemplated under this Agreement. If pursuant to this Section 2.10.3, Franchisee and City cannot agree on terms and conditions of such services within ninety (90) days from the date when City first requests a proposal from Franchisee to perform such services, or compensation cannot be provided due to Proposition 218 restrictions, Franchisee acknowledges and agrees that City may permit Persons other than Franchisee to provide such services.

2.10.4 Flow Control Option

City has the option to provide written direction to the Franchisee specifying a Facility for handling, Processing, and Disposal of Solid Waste, Recyclable Materials, Organic Waste, and other Discarded Materials. If City directs Franchisee to a Facility other than an Approved Facility listed in this Agreement, or otherwise requested by Franchisee, and in doing so it adversely affects the ability of the Franchisee to meet either or both of the requirements of Section 9.3 and Section 4.5, then in this event the City and Franchisee shall meet and confer and mutually agree on revised obligations for Sections 9.3 and 4.5. The foregoing notwithstanding, in the event City directs Franchisee to a Facility other than an Approved Facility listed in this Agreement or otherwise requested by Franchisee, then a rate adjustment may be implemented based upon any demonstrable increase or decrease in costs associated with handling, Processing, Disposal and Transportation, subject to Proposition 218.

In the event City so notifies Franchisee of its desire to cease exercising its flow control

option, Franchisee shall submit for approval by the City, following the requirements of Exhibit 8, Section 8.1.F, any Disposal Facility, C&D Processing Facility, High Diversion Organic Waste Processing Facility, Organic Waste Processing Facility, Source Separated Recyclable Materials Processing Facility, or Transfer Facility, provided the use of such Facility by Franchisee enables it to meet all other requirements of this Agreement and State law. The Facilities will then become the Approved Facilities.

2.11 Ownership of Solid Waste

Unless otherwise provided by law, once Solid Waste is placed in Containers and properly placed at the designated Collection location, ownership and the right to possession shall Transfer directly from the Generator to Franchisee by operation of this Agreement. Subject to Franchisee's objective to meet the source reduction and Recycling goals which apply to City and City's right to direct Franchisee to Process and dispose of Solid Waste at a particular licensed Solid Waste Facility or to dispose of Solid Waste at a particular licensed Disposal Site, if and only if City exercises such right by providing specific written direction to Franchisee, Franchisee is hereby granted the right to retain, Recycle, Process, Dispose of, and otherwise use such Solid Waste, or any part thereof, in any lawful fashion or for any lawful purpose desired by Franchisee; this does not impact Franchisee's right to retain Recyclable Materials revenue under Section 4.6. Subject to the provisions of this Agreement, Franchisee shall have the right to retain any benefit resulting from its right to retain, Recycle, Process, Dispose of, or reuse the Solid Waste, Organic Waste, and Recyclable Materials which it Collects. Solid Waste, Organic Waste, and Recyclable Materials, or any part thereof, which is disposed of at a Disposal Site or sites (whether landfill, Transformation Facility, Transfer Station, Organic Waste Processing Facility or Material Recovery Facility) shall become the property of the Owner or operator of the Disposal Site(s) once deposited there by Franchisee. City may obtain ownership or possession of Solid Waste placed for Collection upon written notice of its intent to do so, however, nothing in this Agreement shall be construed as giving rise to any inference that City has such ownership or possession unless such written notice has been given to Franchisee.

2.12 Franchisee Status

Franchisee represents and warrants that it is duly organized, validly existing and in good standing under Applicable Laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now

owned and operated and as required by this Agreement.

2.13 Franchisee Authorization

Franchisee represents and warrants that it has the authority to enter into and perform its obligations under this Agreement. The Board of Directors or partners of Franchisee (or the shareholders, if necessary) have taken all actions required by Applicable Law, its articles of incorporation, and its bylaws or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of Franchisee have authority to do so. Franchisee shall authorize one of its employees as a single point of contact for the City for issues arising under this Agreement. City may accept that this employee's actions are taken on behalf of and with the full approval of the Franchisee.

2.14 Annexations

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

2.15 Mandatory Service

At all times during the term of this Agreement, the City shall require the Owner of each occupied Premises where Solid Waste is produced to subscribe to the Collection service provided for in this Agreement and in Chapter 13.20.050 of the Chino Hills Municipal Code.

2.16 Permits and Licenses

Franchisee shall acquire and maintain all necessary permits and licenses for the Collecting, Transporting, Processing, and storing of Solid Waste, Recyclable Materials and Organic Waste, disposing of Solid Waste, and the Recycling of Recyclable Materials as required under this Agreement. Failure to maintain all required permits shall be deemed a material breach of contract for which City may terminate this Agreement as provided in Article 11. Franchisee must follow requirements of the Chino Hills

Municipal Code, including, but not limited to, obtaining a City of Chino Hills business license.

ARTICLE 3

FRANCHISE FEE, AB 939/SB 1383 FEE, & ADMINISTRATIVE FEE

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the exclusive Franchise, right and privilege to provide Solid Waste Handling Services as specified herein, Franchisee shall provide the following:

3.1 Contracting Fee

Franchisee shall pay to City a Contracting Fee in a one-time lump sum payment of four hundred thousand dollars (\$400,000) within seven (7) days of execution of this Agreement to reimburse the City for its staff time and out-of-pocket costs of awarding the Franchise.

3.2 Franchise Fee

In consideration of the exclusive Franchise provided in Section 2.2 of this Agreement, Franchisee shall pay to City a Franchise Fee in the amount of [REDACTED] percent ([REDACTED]%) of Gross Revenues (or another amount as provided in Sections 3.2.1 and 3.7). Concurrent with each Franchise Fee payment, Franchisee shall provide an accounting worksheet showing the amount, if any, of delinquent Customer accounts. The Franchise Fee was the product of extensive negotiation and represents the Parties' estimate of the reasonable value of the Franchise. {Note to Proposer: The City intends to negotiate this amount with the selected proposer.}

3.2.1 Adjustment to Franchise Fee

City may adjust the amount of the Franchise Fee annually, with fee increases permitted only to the extent such an increase can be included in the approved rates. Subject to meeting the provisions of Proposition 218, such adjustment shall be reflected in the rates that Franchisee is allowed to charge and collect from Customers in accordance with Article 6.

3.3 AB 939/SB 1383 Regulatory Reimbursement

Franchisee shall pay to City an AB 939/SB 1383 Regulatory Reimbursement in the amount of one and three-quarter percent (1.75%) of Gross Revenues (or another amount as provided in Section 3.7). The City shall use the AB 939/SB 1383 Regulatory

Reimbursement to offset expenses, including but not limited to, staffing costs related to City programs, pilot studies, education and outreach campaigns, technical assistance to Customers, reporting, compliance, enforcement, or other activities involved in compliance with AB 939/SB 1383 Regulations. The City shall retain the sole right to set priorities for the use of its AB 939/SB 1383 Regulatory Reimbursement.

3.4 Administrative Fee

In order to offset a portion of the City's costs to administer this Agreement, Franchisee shall pay to the City an Administrative Fee in the amount of two-thousand eighty-three dollars and thirty-three cents (\$2,083.33) per month as adjusted herein. The Administrative Fee shall be paid over the course of each Rate Year, beginning with the Rate Year starting July 1, 2022 due under the terms of Section 3.6.

3.5 Annual Adjustment to AB 939/SB 1383 Regulatory Reimbursement and Administrative Fee

The amount of the AB 939/SB 1383 Regulatory Reimbursement and Administrative Fee shall be adjusted automatically at the beginning of each Rate Year by a percentage equal to the annual percentage increase, if any, average annual change to CPI for the twelve (12) months ending December of the previous calendar year. If there is no increase in the CPI or if the CPI decreases, the AB 939/SB 1383 Regulatory Reimbursement and Administrative Fee shall remain unchanged from the previous Rate Year.

3.6 Time and Method of Franchise Fee, AB 939/SB 1383 Regulatory Reimbursement, and Administration Fee Payments to City

On or before 3 p.m. on the twenty-eighth (28th) day following the end of each calendar month, during the Term of this Agreement, Franchisee shall remit to City the Franchise Fee, AB 939/SB 1383 Regulatory Reimbursement, and Administrative Fee, as described in Sections 3.2, 3.3, and 3.4. The fee payments shall be submitted with an itemized statement identifying the amount of each fee. If the fees are not paid to the City on or before the twenty-eighth (28th) day following the end of the calendar month, interest shall accrue at the rate of 18% (eighteen percent) per annum.

Each monthly Franchise Fee remittance to City shall be accompanied by a statement detailing Gross Revenue from Customers direct-billed by Franchisee for the period

covered from all operations conducted or permitted, pursuant to this Agreement. In addition, Franchisee shall maintain copies of all Billing and Collection records for five (5) years, following the date of Billing, for inspection and verification by City at any reasonable time upon request.

3.7 Other Fees

City shall reserve the right to set other fees, or further adjust the Franchise Fee, AB 939/SB 1383 Regulatory Reimbursement and Administrative Fee beyond the regular annual adjustments described above as it deems necessary, to the extent that such further adjustments are also included in the adjustments to the approved rates.

3.8 Discontinuance of Fees

In event one or more of the fees described in Sections 3.2, 3.3, or 3.4 are discontinued during the term of this Agreement including Agreement extensions granted by the City, Customer rates will be reduced based on the amount of the discontinued fee(s).

ARTICLE 4 DIRECT SERVICES

4.1 Services to be Provided by Franchisee - General

The work to be done by Franchisee pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Franchisee of the duty to furnish all others, as may be required, whether enumerated elsewhere in the Agreement or not.

The work to be done by Franchisee pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents within City are provided reliable, courteous and high-quality Solid Waste Collection at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Franchisee of the duty of accomplishing all other aspects in the manner provided in this section, whether such other aspects are enumerated elsewhere in the Agreement or not.

All Collection systems shall comply with CalRecycle requirements under SB 1383 as described in Exhibit 9.

4.2 Residential Services

4.2.1 Residential Cart Collection

Franchisee shall provide all Customers at Residential and Multi-Family Premises without Bin Service with Cart Service sufficient for each Customer's volume of Solid Waste. Customers may select 35, 60, or 90-gallon Carts. See Section 4.7.4.1 for Cart selection procedures. For new Customers that are added after the initial Container roll-out, the 90-gallon Cart shall be the default size unless the Customer requests a smaller size. Collection frequency shall be not less than once per week from Franchisee-provided Carts placed at a suitable location, which is typically on the curb, but may be in the street against the curb or in the alley. If there is a dispute between Customer and Franchisee as to whether Cart or Bin service shall be provided, or the proper location for Cart placement, City will make the final determination. Multi-Family Dwelling Unit

Customers receiving Refuse Cart services are entitled to the same services as Residential Dwelling Unit Cart Customers and will pay the same rates.

4.2.2 Additional Carts

Cart Customers that regularly require more than one Refuse, Recycling, or Organics Cart may request additional Carts for an additional charge per Cart per month in accordance with the approved rate schedule.

4.2.3 Residential Collection Services – See Exhibit 9

4.2.4 Holiday Tree Collection Program

Franchisee shall Collect all holiday trees discarded by Residential and Multi-Family Premises Customers on the regularly scheduled weekly Collection days for three (3) weeks following December 25 at no additional charge. After this period, trees will be Collected as Bulky Items under Section 4.2.6. Holiday trees must be removed from stands; cut into lengths no longer than six (6) feet; and, be free of ornaments, garlands, tinsel, flocking, or other decorations. The Franchisee shall not be required to Collect holiday trees that do not meet the aforementioned criteria. The Franchisee shall affix a non-Collection notice to any non-Collected tree informing the Customer of the reason(s) for non-Collection. Franchisee may charge City-approved Rates to return and Collect a previously non-Collected holiday tree that has been corrected and set out. Franchisee shall Process all holiday trees that are properly set out for Collection as Organic Waste in accordance with Exhibit 8.

4.2.5 Backyard Service

4.2.5.1 Qualified Disabled Cart Customers

Franchisee shall provide disabled Cart Customers with backyard service at no additional charge. Franchisee will remove Refuse, Recyclable Materials and Organic Waste Carts and Yard Waste bundles from Customer's outdoor storage area, place the Carts out for Collection, and return Containers to Customer's outdoor storage area (which shall not be a public right-of-way or street) after Collection, ensuring that all doors or gates are closed securely. Franchisee shall not enter garages.

To be eligible for this service, the Cart Customer shall provide a letter to Franchisee from a licensed physician certifying that he or she is unable to move his/her Carts to the

curb. For all forms of eligibility, Customer must certify that there is no other capable Person living in the Residential Premises. Franchisee may require each eligible Person to provide a new letter from a physician on an annual basis in order to maintain eligibility for backyard service.

Authorization for residents to participate in this optional program shall come from the Franchisee and information on this option shall be provided to Customers by the Franchisee upon request. Franchisee shall notify all residents of this optional program with the Cart selection notice required by Section 4.7.4.1.A, and annually thereafter. Franchisee shall submit, for approval, a draft notification to City prior to distribution to Customers. New Customers shall be notified of this option upon requesting service.

4.2.5.2 Non-Qualified Cart Customers

Non-qualified Cart Customers may request backyard service and shall pay the Non-qualified backyard service rates included in the approved rate schedule.

4.2.6 On-Call Bulky Item Pickup

Franchisee shall provide Bulky Item pickup service to all Residential and Multi-Family Premises Cart Customers. Each Residential Premises Cart Customer, shall be entitled to three (3) Bulky Item pickups per calendar year at no additional charge. Multi-Family Premises with Bin service are entitled to the equivalent of one Bulky Item pickup per calendar year for each dwelling unit in the building, at no additional charge; either Owner, manager or individual dwelling units may request service. Multi-Family Premises Bulky Item pickups are a total count for the entire Multi Family complex; Multi-Family complexes may allocate the Bulky Item pickups as needed among individual tenants. Multi-Family Bulky Items Collection location shall be determined by hauler and property manager.

Customers may put out up to ten (10) Bulky Items at each pickup, or ten (10) bags of Yard Waste. Franchisee may instruct Customers to provide Franchisee with a minimum of one business day's (excluding Saturday, Sunday and holidays listed in Section 4.7.1) notice for the items which shall be Collected on the Customer's regular Collection day. Franchisee shall Collect all Bulky Items as defined in Section 1.23 including items referred to as Electronic Waste or "E-Waste" as defined in Section 1.47, and Universal Waste or "U-Waste" as defined in Section 1.115. The following provisions shall apply to this program:

- No single item that cannot be handled by two workers will be accepted.
- The following items will not be picked up: Hazardous Materials, including waste oil or anti-freeze. For the purposes of this section, Universal Wastes such as fluorescent bulbs, household batteries, and televisions, monitors and other items referred to as “E-Waste” are not considered hazardous and will be Collected by and disposed of in accordance with this section as well as Sections 4.2.7 and 4.2.8 by Franchisee.

Residential Premises and Multi-Family Premises Customers that exceed the number of free pickups may be charged the Residential/Multi-Family Bulky Item fee included in the approved rate schedule.

Franchisee will notify all Residential Premises Customers annually, beginning within thirty (30) days of effectiveness of this Agreement, of this service. New Customers shall be notified of this service upon request of Collection services.

4.2.7 Bulky Item Diversion

Bulky Items Collected by Franchisee in accordance with Section 4.2.6, or otherwise Collected under this Agreement, may not be landfilled or disposed of until the following hierarchy of Diversion efforts has been followed by Franchisee:

- 1) Reuse as is
- 2) Disassemble for reuse or Recycling
- 3) Transport Bulky Items and reusable items to the appropriate Approved Facility for Reuse, Processing
- 4) Transport Yard Waste to the Approved Organic Waste Processing Facility for Processing
- 5) Transport paper products to the Approved Source Separated Recyclable Materials Processing Facility for Processing
- 6) Disposal

This hierarchy is intended to preclude the use of front or rear loading packer vehicles for Bulky Items unless the compaction mechanism is not used to compact the Bulky

Items, unless they have been designated for Disposal.

Franchisee shall ensure that Bulky Items containing freon, such as refrigerators, freezers and dehumidifiers, are safely dismantled, and hazardous/toxic materials are Disposed of in accordance with Applicable Law.

4.2.8 Diversion of Electronic, Universal and Other Special Wastes

Franchisee shall Divert waste requiring special handling, such as Electronic Waste, or “E-Waste,” and Universal Waste or “U-Waste,” Collected in accordance with Sections 4.2.6 and 4.2.7, or by other means under this Agreement, by taking these goods to a properly permitted Facility, and not by landfilling.

Franchisee may encourage Customers through public education materials to bring small items requiring special handling, such as fluorescent bulbs or batteries, to a local HHW drop-off center, but will properly Process such material received through the provision of services under this Agreement at no additional charge.

4.2.9 Sharps Collection Program

Franchisee shall provide Customers, at no additional charge, within one week of request, a pre-paid, postage-paid mail-back container to safely collect Sharps and send Sharps for proper Disposal. Franchisee shall also make Sharps containers available at pick-up location in the City as an alternative for the Customer. Residents are limited to four (4) containers at no additional charge per year. Each container shall be of adequate volume to accommodate the needs of a diabetic Person for a three month period.

4.2.10 Used Oil and Used Oil Filter Collection

Franchisee shall Collect and Recycle used oil and used oil filters placed curbside by Refuse Carts on Collection day. Franchisee may instruct Customers to call-in for this service at least one business day (excluding Saturday, Sunday and holidays listed in Section 4.7.1) in advance, but Franchisee shall Collect used oil and used oil filters left for Collection whether or not a call-in was placed. Franchisee shall provide used oil Recycling Containers to Customers upon request. Upon Collection of used oil, Franchisee shall leave an empty Container. Franchisee shall include in its public education materials the availability of this program and the free used oil Containers, and how to properly place the oil and filters for Collection. Franchisee shall only be

obligated to Collect used oil set out for Collection in Franchisee provided used oil Recycling Containers, and used oil filters placed in plastic, sealable bags.

4.3 Commercial Services

4.3.1 Bin Collection

Franchisee shall provide Bin Service, sufficient for each Customer's volume of Solid Waste, to Residential Dwelling Unit Customers that request this service, Multi-Family Premises Customers not receiving Cart service, and Commercial Premises Customers. Residential Premises Customers receiving Bin service are entitled to all services provided to Residential Premises Cart Customers as set forth in Section 4.2 of this Agreement. Franchisee shall Collect and remove all Solid Waste that is placed in Bins from the property of Customers receiving Bin Service, at least once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. Special consideration shall be given when determining the pickup areas to ensure that the flow of traffic is not impeded. Repeated, reasonable public complaints about unreasonable interference with traffic flows may constitute a default or violation of this Agreement. Customers may lease from Franchisee or third parties compaction equipment that may be attached to Bins. The provision of compaction equipment is outside the scope of the Agreement. Collection of Bins using these devices remains within the scope of this Agreement unless otherwise excluded per Section 2.9.

4.3.2 Commercial Premises Cart Service

As an alternative to Bin service, Franchisee shall offer Collection in Carts to Customers at Commercial Premises that do not have space for, or do not generate enough waste to require the use of Bins for Collection at rates shown in Exhibit 2. If Franchisee and Customer have a disagreement as to whether a Cart is appropriate, or if City determines the Collection in a Cart causes health and safety or other concerns, City shall make the final determination as to whether Collection in a Cart may occur. Commercial Cart Customers are not entitled to the other services provided to Residential Cart Customers as set forth in Section 4.2 of this Agreement. Commercial Cart service must comply with the Container requirements set forth in Exhibit 9.

4.3.3 Roll-off Box Service

Franchisee shall provide exclusive permanent and temporary Roll-off Box Collection

service upon request for Collection of Solid Waste. Franchisee must deliver a temporary Roll-off Box to a Customer within one business day (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of request. Franchisee may not charge for any services not listed in the rate schedule without prior approval of the City.

Franchisee will provide standard 10-, 20-, 30- and 40-cubic-yard standard Roll-off Boxes. The provision of Compactor Roll-off Boxes, which are enclosed Containers attached to a compaction device, is not included in this Agreement. Providing service to such Compactor Roll-off Boxes is included.

4.3.4 Temporary Bin Service

Franchisee shall provide exclusive temporary Bin Service to Customers upon request for Collection of Solid Waste. Franchisee must deliver a temporary Bin to a Customer by the following business day (excluding Saturday, Sunday or holidays listed in Section 4.7.1), if requested by 12:00 noon; otherwise delivery shall be no later than the second day. Rates for temporary Bin Service are listed separately in the approved rate schedule.

4.3.5 Overflowing Containers

Customers that regularly produce more Solid Waste than their current level of service can accommodate may have their service level increased in accordance with the following procedure:

First Incident in Three Month Period – If more material is placed for Collection than fits in a Container or Cart, Franchisee shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer (at both the service and billing addresses) the picture and a letter instructing that the next instance of an overflowing Container may result in a charge, and possibly in an increase in the level of service. Franchisee may charge the Customer the Bin or Cart overage fee included in the approved rate schedule. If the Container overflowed sufficiently to require the driver to leave the Collection vehicle to clean around the Container, Franchisee may charge the Container overage cleanup fee in the approved rate schedule.

Second Incident in Three Month Period – Upon the second event of an overfilled Bin or Cart in a three-month period, Franchisee shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer the picture and a letter instructing

that a third incident in that same three month period may result in an increase in the level of service. If the Container overflowed sufficiently to require the driver to leave the Collection vehicle to clean around the Container, Franchisee may charge the Container overage cleanup fee in the approved rate schedule. If Refuse was left beside the Cart for Collection Franchisee may charge the Bin or Cart overage fee in the approved rate schedule.

Third Incident in Three Month Period – Upon the third event of an overfilled Bin or Cart in a three-month period, Franchisee shall photograph the overflowing Container, Collect the Solid Waste, and send to the Customer the picture and a letter notifying Customer of an increase in its service level. If the Container overflowed sufficiently to require the driver to leave the Collection vehicle to clean around the Container, Franchisee may charge the Bin or Cart overage cleanup fee in the approved rate schedule. If Solid Waste was left beside the Cart for Collection Franchisee may charge the Bin or Cart overage fee in the approved rate schedule.

In the event that this section gives rise to a dispute between Franchisee and a Customer, City shall settle the dispute in accordance with Section 5.2.3.

4.3.6 Holiday Tree Collection Program

Franchisee shall Collect all holiday trees discarded by Commercial Customers on the regularly scheduled weekly Collection days for three (3) weeks following December 25, at the rate included the approved rate schedule. After this period, trees will be Collected as Bulky Items under Section 4.2.6. Trees up to six (6) feet in length will be Collected and Diverted without requiring Customers to cut them. Franchisee may request that Customers with larger trees cut the trees to pieces no longer than six (6) feet and that tinsel, ornaments and stands be removed prior to placement at Collection point (curb, beside Bin or as otherwise determined by Customer and Franchisee). Trees larger than six (6) feet, which have not been cut by Customer in pieces six (6) feet or less, shall be Collected as Bulky Items under Section 4.2.6. Franchisee shall Process all holiday trees that are properly set out for Collection as Organic Waste in accordance with Exhibit 8. Holiday trees with flocking, tinsel, ornaments or stands attached may be landfilled.

4.3.7 Commercial Customer On-Call Bulky Item Pickup

Franchisee shall provide Bulky Item pickup service to all Commercial Customers in

accordance with the approved rate schedule.

Franchisee may instruct Customers to provide Franchisee with a minimum of one business day's (excluding Saturday, Sunday and holidays listed in Section 4.7.1) notice for the items which shall be Collected on the Customer's regular Collection day. Franchisee shall Collect all Bulky Items as defined in Section 1.23 including items referred to as Electronic Waste or "E-Waste" as defined in Section 1.47, and Universal Waste or "U-Waste" as defined in Section 1.115. The following provisions shall apply to this program:

- No single item that cannot be handled by two workers will be accepted.
- The following items will not be picked up: Hazardous Materials, including anti-freeze. For the purposes of this section, Universal Wastes such as fluorescent bulbs, household batteries, and televisions, monitors and other items referred to as "E-Waste" are not considered hazardous and will be Collected by and disposed of in accordance with this section as well as Sections 4.2.7 and 4.2.8 by Franchisee.

Franchisee will notify all Commercial Premises Customers annually, beginning within thirty (30) days of effectiveness of this Agreement, of this service. New Customers shall be notified of this service upon request of Collection services.

Franchisee shall comply with the Bulky Item Diversion requirements stated in Section 4.2.7.

4.3.8 Collection of Manure

Franchisee, as a component of its Collection Services, and upon the request of a Customer, shall provide all Customers with Containers for the Collection of manure in accordance with the schedule of maximum charges and rates attached hereto as Exhibit 2. Franchisee shall Collect manure deposited in such dedicated manure Containers on a schedule determined by the Customer and Franchisee. The Franchisee shall ensure that each manure Container is of high quality and aesthetics for safe and sanitary Collection of manure.

4.3.9 Scout Vehicles

Franchisee shall provide scout service in accordance the approved rate schedule,

whereby Franchisee will access Containers using a small vehicle either to move Containers to street or other public right-of-way for Collection, or Collecting directly from Container storage location, or retrieve a Container when operationally required in order to safely position the Container for Collection.

Customers requiring Bin pushout service and scout service shall only be charged for scout service in accordance with the approved rate schedule.

If Franchisee must place a Container in the public right-of-way to facilitate Collection, Franchisee shall not permit the Container to remain in the public right-of-way over one hour. If the Container is stored under a chute for Collection, the Container must be serviced and returned immediately.

Any changes to the Customer scout service list shall be approved by City prior to Franchisee adding or removing this service for any Customer.

4.3.10 Bin Pushout Service

Franchisee shall provide Bin pushout service, whereby Franchisee will move Bins manually to facilitate Collection. This service is provided at no additional charge to the Customer.

4.3.11 Locking Bins

Franchisee shall provide locking Bin Service (providing the hasp and lock and servicing the lock) to Customers that request such service at no additional charge.

4.3.12 Return Trip Fee

Franchisee may charge a fee, per the approved rate schedule, in the event that Franchisee arrives on time for a scheduled Collection of Carts, Bins or Roll-off Boxes, and is impeded from Collection due to Container being blocked or otherwise unable to be Collected due to issues within the Customer's control, and Franchisee must return a second time for Collection. Charge may be assessed for the trip, not per Container, in the event of a Customer with multiple Containers. If Franchisee attempts to contact Customer to confirm that the Container is accessible, but Customer is non-responsive, Franchisee need not return that day and, therefore, may not charge the return trip fee.

4.3.13 Food Recovery Assistance

- 1) No later than January 1, 2022, Franchisee shall identify all Commercial Customers that meet the definition of Tier One and Tier Two Commercial Edible Food Generators and provide a list of such Customers to the City, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and, type of business (as it relates to the Tier One and Tier Two Commercial Edible Food Generator definitions).
- 2) Commencing January 1, 2022 and at least annually thereafter, Franchisee shall cooperate with City and/or its consultants to conduct inspections of Tier One Commercial Edible Food Generators, Food Recovery Organizations, and Food Recovery Services to assess compliance with the requirements of 14 CCR Chapter 12 Article 10. Commencing January 1, 2024 and at least annually thereafter, Franchisee shall expand its assistance to include Tier Two Commercial Edible Food Generators.
- 3) At least annually, the Franchisee shall provide Commercial Edible Food Generators with the following information:
 - Information about the Franchisee's and/or City's Edible Food Recovery program;
 - Information about the Commercial Edible Food Generator requirements under 14 CCR Chapter 12 Article 10;
 - Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
 - Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
- 4) The Franchisee may provide the education information required by this section (subsection 2 above) by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial businesses.
- 5) Franchisee shall cooperate with the implementation, expansion, or operation of Food Recovery efforts in the City, Food Recovery Organizations, and/or Food

Recovery Services.

4.4 City Services

4.4.1 City Facilities Collection

Franchisee shall provide Solid Waste, Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, and Source Separated Green Container Organic Waste Collection and Disposal/Processing service for materials generated at Premises owned and/or operated by City, now and in the future, at no additional charge to City or ratepayers. Franchisee shall make Collections from Containers Monday through Friday or on Saturdays following non-working holidays. Collections shall be scheduled at a time mutually agreed upon by Franchisee and City.

Franchisee shall provide, at City's direction, Solid Waste Collection, Transport, Disposal, Processing and consulting services entailing:

- 1) Collection of Solid Waste from all City facilities and parks at least once per week or more frequently if required or requested by City staff;
- 2) Collection of Source Separated Organic Waste and Source Separated Recyclable Materials from City facilities and parks;
- 3) Roll-off Box or Container services to City for material Collected by the City such as City litter Containers and Organics; and,
- 4) Collection and proper Disposal of Electronic Waste such as defined in Section 1.47, Universal Wastes such as defined in Section 1.115, and other items that would be considered Household Hazardous Waste as defined in Section 1.68, that are generated by, and placed for Collection at, City facilities.
- 5) Provide and Collect one (1) 30-yard Roll-off Box at the City Yard for the Collection of Refuse, as needed.
- 6) Provide and Collect four (4) 40-yard Roll-off Boxes at the City's facility on English Road for the Collection Yard Waste Collected by City crews, as needed.

4.4.2 City Sponsored Events

Franchisee shall provide Solid Waste, Source Separated Recyclable Materials, and

Source Separated Organic Waste Collection and Disposal/Processing service for City-sponsored events at no additional charge to City or ratepayers. This shall include providing Refuse Containers (Carts, Bins, Roll-off Boxes, and cardboard waste boxes with liners) to Collect and Dispose of, or Process, all Refuse. Franchisee shall provide Collection Containers for the Collection of Source Separated Recyclable Materials, and Source Separated Organic Waste. All events listed below are annual unless otherwise documented. City-sponsored events include, but are not limited to:

- Concerts in the Park

4.4.3 Neighborhood Cleanups

Franchisee shall supply up to six (6) forty (40) yard Roll-off Containers and Containers in additional sizes per Rate Year for the Collection of Refuse, Recyclable Materials, and Organic Waste for six (6) annual City sponsored neighborhood cleanups at no additional cost to City.

Dates and locations of events shall be determined by City. City staff shall inform Franchisee of the date and location for each annual event.

All material Collected must be Transferred, Processed, and/or Disposed in accordance with Exhibit 8.

4.4.4 Shredding Service Event

Franchisee shall provide an on-site mobile shredding service for use by City residents (a "Shredding Event") one (1) time per calendar year at no additional charge to City or City residents. The Shredding Event shall be provided at a date, time, and location designated and approved by the City's designee, in his or her reasonable discretion, and should be for a minimum of three (3) hours in duration. In the event inclement weather prevents a Shredding Event from occurring, Franchisee shall reschedule the Shredding Event to a date, time and location designated and approved by the City's designee. The Shredding Event shall be conducted at Franchisee's sole cost and expense, utilizing equipment, personnel, and methods appropriate for such event, as approved by the City's designee. Prior to each Shredding Event, Franchisee shall coordinate with City staff and/or public safety personnel to make arrangements for safe, convenient, and effective access to and participation by City residents in the Shredding Event, and shall procure all necessary insurance coverage. Each Shredding Event shall be designed to

accommodate up to a maximum of five (5) “Bankers” boxes of paper or other media suitable for shredding from each Residential and Multi-Family Premises Customer within the City that is participating in the Shredding Event. Residents participating in the Shredding Event must be able to visually observe the materials they delivered to the Shredding Event as they are being shredded. Franchisee shall, at no cost to the City, publicize each Shredding Event using methods and materials approved by the City’s designee. Shredded paper from these events must be Recycled and not Disposed or used as ADC or Alternative Intermediate Cover.

4.4.5 Compost and Mulch Giveaway

Franchisee shall conduct at least two (2) Compost and Mulch giveaway events per calendar year at no additional charge. City residents will be allowed to fill up their containers on a first-come, first-serve basis. Franchisee shall provide at least twenty (20) cubic yards of Compost and twenty (20) cubic yards of Mulch delivered to a location designated by the City for each event. Any Compost and/or Mulch remaining after event shall be utilized by the City. The Compost and Mulch giveaway events will be coordinated with the City and may be held in conjunction with other City events.

4.4.6 Large Venue and Event Assistance, Event Recycling

Franchisee shall assist City planners of Large Venue events with reporting and planning needs to provide Recycling and Organics Materials Diversion as may be useful in meeting the requirements of AB 2176 and SB 1383, and in lowering Disposal quantities generated at such events at no additional charge.

4.4.7 Collection of Former Franchisee’s Containers

If any Solid Waste enterprise providing Solid Waste Handling Services to Customers prior to the Effective Date does not remove the Containers it had in use prior to the Effective Date, Franchisee shall Collect and Recycle all such Containers at no additional charge to City or Customers.

4.4.8 Battery Recycling Program

Franchisee shall provide as many battery Recycling containers as requested by City, for placement at City facilities for no additional cost. The program will include placing, maintaining and servicing drop boxes at locations to be designated by the City. This

program does not include the Disposal of automobile batteries.

4.4.9 Community Development Department Reviews

Franchisee, upon City's request, but at no charge to City or applicants, shall assist City's Community Development Department in the review of applicants' plans for Commercial and Multi-Family projects to provide for effective and economical accumulation and Collection of Refuse, Recyclable Materials, and Organic Waste

4.4.10 Provision of Recovered Organic Waste Products

Franchisee shall procure and provide to City sufficient quantities of Compost, Mulch, and/or Renewable Natural Gas generated in California to meet the City's per capita annual Organic Waste product requirement contained in SB 1383 (14 CCR Section 18993.1). Franchisee may meet this obligation by one or a combination of the following activities:

- Bulk Compost and/or Mulch - Franchisee shall make available to City bulk Compost and Mulch that meet requirements defined in SB 1383, and shall Transport such material to City upon request, for City use in City parks and facilities at no cost to the City.
- Compost Giveaway as described in Section 4.4.5.
- Use of Renewable Natural Gas in Collection vehicles.

Franchisee shall ensure sufficient capacity of recovered organics waste products to meet the mandatory procurement requirements for jurisdictions contained in SB 1383 (14 CCR Section 18993.1) and to comply with specifications of these materials as defined in SB 1383, as may be amended, during the term of this Agreement including Agreement extensions granted by the City.

4.4.11 Franchisee Warranty of Recovered Organic Waste Products

Franchisee shall provide assurance through the execution of a liability waiver stating that all Organic Waste products provided by the Franchisee and used within the City are free from pathogens and inorganic waste material that may be harmful to the health and welfare of the City and meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 CCR

Section 17852(a)(24.5)(A)(1) through (3). The Franchisee shall indemnify and hold harmless the City against any claims arising from contaminated recovered Organic Waste products provided by the Franchisee as set forth in Section 9.1.

4.4.12 Abandoned Item Collection

Franchisee will Collect all abandoned items upon notification by the City for no additional charge. If Franchisee is notified before 1:00 p.m., items will be removed the same day. If Franchisee is notified after 1:00 p.m., items will be removed by 12:00 noon the following day. Franchisee shall follow the Bulky Item Diversion requirements included in Section 4.2.7 for Bulky Items Collected by the City, and adhere to the requirements of Exhibit 8.

4.4.13 Special Cleanup Events

Franchisee to provide Roll-off Boxes and/or Temporary Bins for up to six (6) special cleanup events per year at locations requested by the City at no additional charge. These special cleanup events include but are not limited to cleanup of temporary encampments as may be directed by the City. Franchisee is required to provide Containers in the amount and size as requested by City, and to remove Containers upon notification by City.

4.4.14 Carbon Canyon Brush Abatement Program

Franchisee to provide four (4) Roll-off Boxes and/or Temporary Bins for the biannual Carbon Canyon Brush Abatement Program at no additional charge. The amount and size of Containers may change during the term of this Agreement including Agreement extensions granted by the City. Franchisee is required remove Containers upon notification by City. Franchisee shall ensure that materials Collected are Diverted from landfilling to the maximum extent feasible, and in compliance with SB 1383.

4.4.15 Preparation of CalRecycle Electronic Annual Report

Franchisee shall prepare in its entirety, and submit to City for approval, the CalRecycle Electronic Annual Report (EAR). The EAR is due to CalRecycle on August 1st of each year. Franchisee shall provide a draft of the EAR for City approval by July 1st of each year. Franchisee shall assist the City in responding to questions from CalRecycle regarding the EAR.

4.4.16 Street Sweeping Services

[OPTIONAL SERVICE IF ADDED TO EXCLUSIVE SCOPE OF AGREEMENT BY CITY].

Street sweeping services shall be performed by Franchisee and not SubContractors.

As part of the scope of work, Franchisee shall sweep approximately 978 curb miles as follows:

- Sweep 254 miles of residential streets two times (2x) per month
- Sweep 12 miles of commercial areas four times (4x) per month
- and 106 miles of arterial streets two times (4x) per month

The scope of the street sweeping services, including sweeping miles and frequencies, may be varied by the City.

Street sweeping shall be performed in accordance with accepted standards for routine and emergency Municipal Street cleaning. This is intended to be a "Clean Sweep" program and not a "Single Pass" program. When necessary for proper cleaning, the Franchisee shall make more than one pass on a street without extra charge. Such extra passes may include, but shall not be limited to, cleaning of dirt, sand and debris from street centerlines and pavement markings. The Franchisee shall immediately respond when notified by the City to re-sweep unsatisfactory areas at no additional charge.

The momentum or speed of the sweeper, while performing street sweeping operations, shall not exceed eight (8) miles per hour or eighty percent (80%) of the manufacturer's recommendation. Street sweeper shall not go further than one (1) block from parking enforcement officer. A real time GPS device shall be installed on each sweeper to measure and document the location, speed, and curb miles swept. Records produced by this device shall be available to the City upon request and retained according to the City's adopted retention schedule.

Equipment Maintenance:

- A. The Franchisee shall submit a monthly report detailing the following for each piece of equipment:

- List each type of equipment that is to be used at the City by the Vendor with make, year, model and mileage
 - Maintenance Records and repairs
 - Servicing intervals for each piece of equipment
 - Replacement criteria of equipment
 - Number of "back-up" sweepers available for immediate use if a piece of equipment fails to operate
- B. The City shall have the right to perform periodic inspections of the equipment. If primary equipment is faulty, designated repairs or "back-up" equipment must be available within one hour to prevent delay to the sweeping operation.

Alternative fuel vehicles. The City requires that the Franchisee use Compressed Natural Gas (CNG) fuel vehicles for street sweeping. The Franchisee shall provide newer equipment in good working order. Franchisee's equipment must comply with applicable AQMD rules and regulations.

Processing of Sweeping Debris and Refuse: [IF CITY CHOOSES TO INCLUDE STREET SWEEPING IN THIS AGREEMENT, PROPOSERS ARE REQUIRED TO SUBMIT A STREET SWEEPING DIVERSION PROGRAM]

- A. The Franchisee shall Process street sweeping debris in order to Divert the maximum amount feasible from landfilling. All labor, equipment and materials with total debris Processing and Disposal will be borne by Franchisee.

Water. The Franchisee shall make arrangements with the City for use of fire hydrants and hydrant meter(s) to obtain water necessary for the execution of street sweeping services. The Franchisee shall be solely responsible for all water related costs.

Timing Requirements:

- A. The Franchisee will be required to complete street sweeping routes as scheduled. At no time shall Franchisee, for more than five (5) consecutive days, fail to perform their street sweeping contractual duties. Failure to perform for more

than five (5) consecutive days will constitute an event of default under Article 11 of this Agreement.

- B. Street sweeping hours for residential streets to commence at 8:00 a.m. and cease at 4:00 p.m., Monday through Friday unless otherwise directed by City staff.
- C. Franchisee shall sweep commercial and arterial streets between the hours of midnight and 8 a.m.

City May Withhold or Deduct Payment for Street Sweeping Services in the Following Circumstances:

- A. Work required in the specifications which is defective, incomplete, or not performed.
- B. Claims filed and/or reasonable evidence indicating probable filing of claims for damages caused by the contractor to private or public property.
- C. Failure of the Franchisee to make payments properly to employees, Subcontractors, or vendors for materials or services provided.
- D. Expenses incurred by the City to perform work required in the specifications that is defective, incomplete, or not performed.
- E. Costs incurred by the City due to extra administration costs for additional inspections and subsequent correspondence/notifications. These costs shall be based on actual costs incurred by the City, and may include direct and indirect staff costs, as well as third party consultants and vendors.

City Responsibilities. The City will provide the Franchisee with appropriate direction to carry out the Franchisee's efforts. The City will also provide the Franchisee with current street sweeping routes and schedules.

Administrative Elements:

- 1. The Franchisee shall assign a responsible representative and an alternate to coordinate with City staff. Any other changes in responsible representative must be approved, in advance, by the City. The City will have the right to reject other

proposed changes in personnel and may consider any other changes in responsible personnel a breach of contract.

2. The Franchisee shall provide all necessary personnel, instruments, equipment, and materials to perform the described services.
3. The Franchisee shall assign a permanent driver to perform sweeping duties. A permanent back-up driver shall be assigned to perform sweeping duties when the regular driver is scheduled off.

4.4.17 Food Scraps Kitchen Pails

Franchisee shall provide each occupant of a Residential Premises and Multi-Family Premises with a kitchen Food Scraps pail to facilitate transfer of Food Scraps to the Green Container. Customers requesting additional or replacement kitchen Food Scraps pails may be charged the “Kitchen Food Scraps Pail Replacement” fee included in the approved rate schedule.

4.5 Minimum Diversion Requirements

Franchisee shall Divert from landfilling a minimum of % of all Solid Waste it Collects under this Agreement excluding Construction and Demolition Debris. Compliance will be measured on a calendar year basis, beginning with calendar year 2022 (the initial eleven (11) month period from July 1, 2022 to June 30, 2023. Solid Waste Collected shall only be considered to have been Recycled or Diverted as required under this Agreement if it is deemed to be Diversion by CalRecycle in connection with efforts to meet City’s Diversion goals. The Franchisee shall make reasonable efforts to assure that Recyclable Materials and Organic Waste are Transported, handled and Processed at a suitable Facility, so as to prevent or minimize the amount of such materials taken to a landfill and to maximize Diversion credits for the City. Franchisee shall provide documentation to the City within thirty (30) days of the end of each calendar year stating and supporting that calendar year’s Diversion rate. Diversion from sources other than Franchisee’s Collection and Diversion efforts (such as source reduction, reuse, or Recyclable Materials and Organic Waste Diverted by other solid waste enterprises, Collection of materials that are not the subject of this Agreement, or the efforts of Self-Haulers) is not to be counted as Diversion achieved by Franchisee. Transformation may be used as a method to achieve the minimum Recycling requirements to the extent that is allowable as Diversion as defined by CalRecycle.

Franchisee shall Divert from landfilling the State-mandated Construction and Demolition Diversion percentage of all Construction and Demolition Debris loads Franchisee Collects under this Agreement.

Upon the request of either Party, not more often than once every two (2) years, the Parties agree to meet and confer regarding adjustments to the minimum Diversion rate, based on factors including waste composition data provided by Franchisee, trends in source reduction and reuse, trends in third party Diversion, extent of reverse logistics, the availability of permitted Facilities that are capable of Processing material to achieve the required levels of Diversion, emerging methods of Processing and Recycling/reusing new waste materials, the availability of markets, Transportation constraints, embargoes, and the impact of scavenging. City shall consider such information provided by Franchisee and other industry data and shall, at its sole discretion, determine if any adjustments to the minimum Diversion requirements shall be made, and such changes must be approved by the City Council before becoming effective.

If these Diversion requirements are not met, City may instruct Franchisee to initiate new programs at Franchisee's expense in order for this goal to be met on a consistent basis.

4.6 Marketing and Sale of Recyclable Materials

Franchisees agrees to market all Recyclable Materials Collected under this Agreement.

4.7 Operations

4.7.1 Schedules

To preserve peace and quiet, Solid Waste Collected from Residential and Commercial Premises shall not occur before 6 a.m. or after 5 p.m. Monday-Friday, or before 7 a.m. or after 5 p.m. Saturday. Sunday Collection service is strictly prohibited for Residential Premises. Commercial Premises may receive Sunday Collection services in accordance with the approved rate schedule. Franchisee may not make exceptions to these Collection days and times without advanced written approval from the City Manager and/or the City Manager's designee. If the regularly scheduled Collection day falls on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, or Christmas Day, Collection days for the remainder of that week shall all be postponed

one Collection day and Residential Collection is permitted on Saturday during the make-up week. Franchisee will provide notices to Customers regarding Collection day delays due to holidays. The notices may be in the form of an automated or prerecorded voice message, emails, or mailers.

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

4.7.2 Missed Pickups

When notified of a missed pickup by 3:00 p.m., Franchisee shall Collect the Refuse, Recyclable Materials, and/or Organic Waste that was not Collected the same day by 5:00 p.m. If notified after 3:00 p.m., Collection must take place no later than noon of the next Collection day (excludes only Sundays and holidays listed in Section 4.7.1 and, for Residential Cart Customers, Saturday).

4.7.3 Vehicles

A. General. Franchisee shall provide Collection vehicles sufficient in number and capacity to efficiently perform the work required by the Agreement in strict accordance with its terms as described in Franchisee's Proposal. Any additional vehicles/routes that may be required to meet the service standards during the term of this Agreement, above the number included in Franchisee's Proposal shall be done so at Franchisee's sole expense. Franchisee shall have available on Collection days sufficient back-up vehicles for each type of Collection vehicle used to respond to complaints and emergencies.

B. Specifications. Vehicles shall be new (model year 2021 or later) upon initiation of Services under this Agreement. Furthermore, Franchisee shall operate no vehicles within the City over 10-years in age during the term of this Agreement should this Agreement be extended beyond the initial term and extended as described in Sections 2.4 and 2.5. All Collection vehicles used by Franchisee under this Agreement, excluding spares, Roll-off Box Collection vehicles, scout vehicles, supervisor vehicles, Container

delivery and other specialty vehicles used on a sporadic basis, shall be powered by Renewable Natural Gas (RNG) generated by the {insert name of publicly-owned treatment works in-vessel digestion Facility} or powered by RNG that is purchased through a wheeling agreement with a Party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been Diverted from a landfill and Processed at an in-vessel digestion Facility that is permitted or otherwise authorized by 14 CCR to Recycle Organic Waste and meets SB 1383 requirements. Franchisee shall comply with this requirement no later than insert date. Upon City's request, Franchisee shall obtain and provide the City with a written certification by an authorized representative of the publicly-owned treatment works or the wheeling agreement service provider certifying that the in-vessel digestion Facility produces the RNG consistent with the requirements of 14 CCR Section 18993.1(h). Franchisee shall maintain records of the amount of RNG purchased and shall report this information in accordance with Section 8.3.3. Franchisee agrees that the City has the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1. Spares vehicles, Roll-off Box Collection vehicles, scout vehicles, supervisor vehicles, Container delivery and other specialty vehicles used on a sporadic basis, shall be powered by Compressed Natural Gas. Such vehicles must be registered with the California Department of Motor Vehicles and shall have water-tight bodies designed to prevent leakage, spillage or overflow. At all times during the term of this Agreement, Franchisee's Collection vehicles shall comply with South Coast Air Quality Management District Requirements and the California Air Resource Board requirements as they are currently in force and as they may be approved for Refuse removal vehicles, as well as other Federal, State and local laws and regulations that may be enacted during the term of this Agreement.

C. Vehicle Identification. Franchisee's name, local telephone number, and a unique vehicle identification number designed by Franchisee for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than two and one-half (2 1/2) inches high. No advertising shall be permitted other than the name of the Franchisee except promotional advertisement of the Recyclable Materials and Organic Waste programs, other programs specific to the City, or information requested by City. All advertisement must be approved by the City. City may request changes to the vehicle advertising up to two (2) times per year. Franchisee shall not place City's name and/or any City logos on Franchisee vehicles.

D. Cleaning and Maintenance

- 1) Franchisee shall maintain all of its properties, vehicles, Facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times.
- 2) Vehicles used for Collection shall be painted, thoroughly washed, and thoroughly steam cleaned on a regular basis so as to present a clean appearance. City may inspect vehicles at any time to determine compliance with this Agreement. Franchisee shall also make vehicles available to the Los Angeles County Health Department for inspection at any frequency it requests. Franchisee agrees to replace or repair to the City's satisfaction any vehicle which City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.
- 3) Franchisee shall repaint all vehicles used for Collection as needed to maintain a clean and neat appearance and, within thirty (30) days' notice from City, if City determines that their appearance warrants painting.
- 4) Franchisee shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles which are not operating properly shall be removed from service until repaired and operating properly. Franchisee shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. Franchisee shall keep accurate records of all vehicle maintenance, recorded according to date and mileage and shall make such records available to City upon request.
- 5) Franchisee shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Franchisee shall maintain accurate records of repair, which shall include the date and mileage, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.
- 6) Franchisee shall clean up any leaks or spills from its vehicles per the National Pollutant Discharge Elimination System (NPDES) permit in effect at the time. Franchisee shall notify City of any leaks or spills reported to Franchisee or observed by any employee of Franchisee. Franchisee shall ensure that leaks or

spills are remediated within two (2) hours of notification or observation. Franchisee shall notify City immediately upon remediation of leaks or spills. No pollutant that leaks, spills, or otherwise escapes from any Franchisee vehicle may be washed into a storm drain or otherwise allowed to enter a storm drain at any time. Franchisee must take all measures necessary to prevent the discharge of any such pollutant into a storm drain. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts. Franchisee shall provide photographic evidence to the City for each clean up. Payment of liquidated damages for failure to clean up leaks or spills within the required timeframe (Section 11.4.B.2.f), and/or for failure to follow the cleanup procedures (Section 11.4.B.2.g), does not excuse Franchisee from the clean up requirements contained in this Section 4.7.3.D.6.

- 7) Upon request, Franchisee shall furnish City a written inventory of all equipment, including Collection vehicles, used in providing service. The inventory shall list all equipment by manufacturer, ID number, date of acquisition, type, and capacity.

E. Operation. Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. Franchisee shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles.

Franchisee equipment used for Collection services shall be registered with the California Department of Motor Vehicles. Equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205 and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle. Noise levels of equipment used for Collection shall comply with City ordinance and in no event shall the noise level exceed seventy-five (75) dba when measured at a distance of twenty-five (25) feet from the vehicle, five feet from the ground. Franchisee shall store all equipment in safe and secure locations in accordance with City's applicable zoning regulations.

Subject to Section 9.1, Franchisee shall be responsible for any damage resulting from or directly attributable to any of its operations, and which it causes to: City's driving surfaces, whether or not paved; associated curbs, gutters and traffic control devices; and other public improvements.

F. City Inspection Per Code. City may cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the provisions of the State Vehicle Code, including, but not limited to, California Vehicle Code Sections 27000(b), 23114, 23115, 42030, 42032, and all Vehicle Code Sections regarding smog equipment requirements. City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service shall be returned to service until it conforms with, and its return to service has been approved by the City.

G. Vehicle Inspections. Franchisee shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly shall be taken out of service until they are repaired and operate properly. Franchisee shall repair, or arrange for the repair of all its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. City may inspect vehicles at any reasonable time, and within three (3) calendar days of such a request, to determine compliance with sanitation requirements.

H. Correction of Defects. Following any inspection, the City Manager, or the City Manager's designee, shall have the right to cause Franchisee, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly. The City Manager's determination may be appealed to the City Council, whose decision shall be final. City Manager's determination may not be appealed if the vehicle reconditioning or replacement is due to a safety finding by the CHP.

4.7.4 Franchisee-Provided Containers

4.7.4.1 Carts

A. Cart Selection, Distribution and Exchanges. All Carts shall be new within ninety (90) days of initiation of Solid Waste Handling services under this Agreement.

Franchisee shall provide Customers with Carts at no extra charge.

Prior to the start of service under this Agreement, Franchisee shall mail a notice of rates, and provide Customers the opportunity to request service changes. If no response is

received by Customer by specified date, Customer will retain the same level of service currently provided.

Customers may each request one free exchange in Cart sizes for six months after the initial Cart is delivered. One exchange includes all Cart size changes included in the same Customer request and may include changes made to any number of the Customer's Carts. If a second request is made, or if a request is made following the initial six-month period, Franchisee may charge for each request, regardless of the number of Carts exchanged, in accordance with the rate schedule. If the exchange request only includes the changes listed below, the exchange fee shall be waived:

- Increase in Recycling Cart size or number;
- Increase in number of Organic Waste Carts;
- Decrease in size or number of Refuse Carts; and/or,
- Removal of any Cart without replacement.

This procedure shall be described in the initial Cart mailing and in public education materials during the initial six-month window.

B. Cart Design Requirements. The Carts shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to City approval. The City will not permit Carts in poor condition to be used in the City at any time during the term of this Agreement, and may require Franchisee to replace such Carts. Franchisee shall ensure that all Carts in service during the terms of this Agreement comply with CalRecycle requirements under SB 1383.

C. Capacity. References to Cart sizes of 35-, 60-, or 90-gallons are approximate. Acknowledging the different sizes provided by the various Cart manufacturers, the Carts shall be uniform in appearance and must conform to the following ranges in size:

- 30 to 40 gallons,
- 60 to 70 gallons, and
- 90 to 101 gallons.

D. Cart Handles. The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. The Cart handles will provide

comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable.

E. Cart Lid. Each Container shall be provided with a lid that continuously overlaps and comes in contact with the Container body or otherwise causes an interface with the Container body that simultaneously:

- Prevents the intrusion of rainwater, rodents, birds, and flies;
- Prevents the emission of odors;
- Enables the free and complete flow of material from the Container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
- Permits users of the Container to conveniently and easily open and shut the lid throughout the serviceable life of the Container;
- The lid handle shall be an integrally molded part of the lid;
- The lid (and body) must be of such design and weight that would prevent an empty Container from tilting backward when flipping the lid open; and,
- The lid shall be hinged to the Cart body in such a manner so as to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the Container body.

F. Cart Colors. The Refuse, Recyclable Materials and Organic Waste Carts or Cart lids will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Cart and Cart lid colors shall be consistent throughout the City, and shall comply with CalRecycle requirements under SB 1383 (14 CCR Section 18984.7).

G. Cart Labeling and Hot Stamping. Labels used on Carts shall be placed on the inside of the Cart lid, and hot stamps shall be on the top of the lid and/or on the body of the Cart. Each Cart shall be hot stamped with the material type (e.g., Refuse, Recyclable Materials, Organic Waste) in English, Spanish, and Mandarin. Labels shall include graphic instruction on what materials should and should not be placed in each Cart. Design for both the labels and the hot stamps must be approved by City prior to

ordering labels or Carts. City shall approve what information is included on the label and in the hot stamp, as well as approve design and quality. Labels shall be replaced when worn, and when information on the label is in need of updating, but no later than ninety (90) days of request from City. Additionally, all Carts shall be labeled in accordance with CalRecycle requirements under SB 1383 (14 CCR Section 18984.8) throughout the term of this Agreement.

H. Cart Performance Requirements. All Carts shall be designed and manufactured to meet the minimum performance requirements described below.

I. Cart Load Capacity. Depending on the capacity, the Carts shall have a minimum load capacity as noted below without Container distortion, damage, or reduction in maneuverability or any other functions as required herein.

Cart Size (Gallons)	Minimum Load Capacity (LBS)
90-101	200
60-70	130
30-40	70

J. Cart Durability. Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy its intended use and performance, for the term of this Agreement:

- Maintain its original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;
- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with its intended use;
- Resist degradation from ultraviolet radiation;

- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Cart bodies must remain impervious to any damage, that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface;
- All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the City.

K. Chemical Resistant. Carts shall resist damage from common household or Residential products and chemicals. Carts, also, shall resist damage from human and animal urine and feces.

L. Stability and Maneuverability. The Carts shall be stable and self-balancing in the upright position, when either empty or loaded to its maximum design capacity with an evenly distributed load, and with the lid in either a closed or open position.

The Carts shall be capable of maintaining its upright position in sustained or gusting winds of up to twenty-five (25) miles per hour as applied from any direction.

The Carts shall be capable of being easily moved and maneuvered, with an evenly distributed load equal in weight to its maximum design capacity on a level, sloped or stepped surface.

M. Lid Performance. Cart lid assemblies shall meet the following minimum requirements:

- Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and closing of the lid by residents or in the dumping process as intended;
- Remain closed in winds up to twenty-five (25) miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed; and,

- Lid shall be designed and constructed such that it prevents physical injury to the user while opening and closing the Container.

4.7.4.2 Cart Reparability or Replacement

Franchisee shall be responsible for Cart repair and maintenance, and replacing lost, stolen or damaged Carts within two (2) business days of notification (excluding Saturday, Sunday and holidays listed in Section 4.7.1), and for graffiti removal within two business (2) days of notification, at no additional charge to the Customer or to City, unless Franchisee can demonstrate to the City Manager beyond a reasonable doubt that the damage or loss was due exclusively the Customer's intentional or negligent behavior. City Manager shall make the final determination. If City permits a repair or replacement charge to be assessed against a Customer, charge shall be no more than the actual cost of repair or Cart Replacement Due to Misuse rate included in the approved rate schedule, whichever is lower. All repairs must restore the Cart to its full functionality. Unsightly/worn-out Carts shall be replaced by Franchisee upon Customer request at no additional cost to Customer. Residential and Multi-Family Premises Cart Customers shall receive one (1) Cart replacement per Rate Year upon request. Franchisee may charge for additional Cart replacements at the rates included in the approved rate schedule.

All Carts in service for the duration of this Agreement shall comply with color and labeling requirements specified by CalRecycle under SB 1383.

4.7.4.3 Bins

A. Cleaning. Franchisee shall provide Customers with Bins required during the term of this Agreement. The size of Franchisee-provided Bins shall be determined by mutual agreement of Customer and Franchisee, and shall be subject to City approval. Franchisee shall maintain Bins in a clean, sound condition free from putrescible residue. All Bins in use shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other apparatuses, which were designed for movement, loading, or unloading of the Bin shall be maintained in good repair.

Upon Customer or City request, or if required to maintain the Containers in a clean condition, Franchisee shall clean Customer Bins at the rates shown in the approved rate schedule. Franchisee shall perform cleaning, repainting, or replacement of Bins as

necessary to prevent a nuisance caused by odors or vector harborage. When a Bin is removed for cleaning, Franchisee shall replace the Bin, either temporarily or as a change-out, with another Container. Franchisee shall remove graffiti from any Container within two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of request by City or Customer. Franchisee is required to proactively look for graffiti when Collecting Bins, with all graffiti removed from Containers no later than two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) after any Collection without notification.

B. Bin Identification and Color. Each Bin placed in City by Franchisee shall have the name of Franchisee and phone number in letters not less than three (3) inches high on the exterior of the Bin so as to be visible when the Bin is placed for use. Bins shall be labeled to include trilingual (English, Spanish and Mandarin) and graphic instruction on what materials should and should not be placed in each Bin. Franchisee shall repaint Bins upon City's request if the City deems it necessary to maintain a neat appearance. All Refuse Bins shall be painted a uniform color, and all Recyclable Materials and Organic Waste Bins shall be painted a different, uniform color.

All Bins in service for the duration of this Agreement shall comply with color and labeling requirements specified by CalRecycle under SB 1383 (14 CCR Sections 18984.7 and 18984.8).

C. Bin Reparability or Replacement. Franchisee shall be responsible for Bin repair and maintenance, and replacing lost, stolen or damaged Bins at no additional charge to the Customer or to City, unless Franchisee can demonstrate to the City Manager or the City Manager's designee beyond a reasonable doubt that the damage or loss was due exclusively the Customer's intentional or negligent behavior. When a Bin is removed for repair or replacement, Franchisee shall replace the Bin, either temporarily or as a change-out, with another Bin. City Manager or the City Manager's designee shall make the final determination. If City permits a repair or replacement charge to be assessed against a Customer, charge shall be no more than the actual cost of repair or Bin Replacement Due to Misuse rate included in the approved rate schedule, whichever is lower. All repairs must restore the Bin to its full functionality. Unsightly/worn-out Bins shall be replaced by Franchisee upon Customer request at no additional cost to Customer.

4.7.4.4 Roll-off Boxes

Franchisee shall provide sufficient Roll-off Boxes to meet Customer demand throughout the Term of the Agreement, and will keep all Roll-off Boxes clean, free from graffiti, equipped with reflectors, and with the name and phone number of Franchisee in letters not less than three (3) inches high on the exterior of the Roll-off Box so as to be visible when the Roll-off Box is placed for use. Franchisee shall properly cover all open Roll-off Boxes during Transport as required by the State Vehicle Code. Franchisee shall remove graffiti from any Roll-off Box within two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of request by City or Customer. Franchisee is required to proactively look for graffiti when Collecting Roll-off Boxes, with all graffiti removed from Roll-off Boxes no later than two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) after any Collection without notification.

All Roll-off Boxes in service for the duration of this Agreement shall comply with color and labeling requirements specified by CalRecycle under SB 1383 (14 CCR Sections 18984.7 and 18984.8).

4.7.5 Litter Abatement

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

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

B. Clean Up. During the Collection or Transportation Process, Franchisee shall clean up litter in the immediate vicinity of any Solid Waste storage area whether or not Franchisee has caused the litter. Franchisee shall identify instances of repeated spillage not caused by it directly with the Waste Generator responsible and will report such instances to City. Franchisee may charge Customers the Bin overage fee in accordance with the approved rate schedule for the cleaning of Container enclosures or around the Container if it is littered due to overflowing Containers. Franchisee may address

habitual offenders in accordance with Section 4.3.5.

C. Covering of Loads. Franchisee shall properly cover all open debris boxes during Transport to the Disposal Site.

4.7.6 Personnel

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

B. Hazardous Material Employee Training. Franchisee also agrees to establish and vigorously enforce an educational program which will train Franchisee's employees in the identification of Hazardous Material. Franchisee's employees shall not knowingly place such Hazardous Material in the Collection vehicles, nor knowingly dispose of such Hazardous Materials at the Processing Facility or Disposal Site.

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

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

E. Unauthorized Material Removal. Franchisee shall dismiss or discipline employees who remove documents or any other material from Containers, other than specifically for the purposes of Disposal and Diversion as described in this Agreement.

4.7.7 Employment of Former Franchisee Employees

Franchisee shall invite for interview all former employees of the previous hauler to be displaced by the transition of Solid Waste Collection under this Agreement. Franchisee shall make offers of employment to all such applicants qualified for available positions with Franchisee

4.7.8 Identification Required

Franchisee shall provide its employees, companies and Subcontractors with identification for all individuals who may make personal contact with residents or businesses in City. All Franchisee employees shall wear clothing bearing the Franchisee name and/or logo at all times while in the City and providing services under this Agreement. City may require Franchisee to notify Customers yearly of the form of said identification. Franchisee shall provide a list of current employees, companies, and Subcontractors to City upon request.

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

4.7.9 Fees and Gratuities

Franchisee shall not, nor shall it permit any agent, employee, or Subcontractors employed by it, to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for services authorized to be performed under this Agreement except as described in this Agreement, in accordance with Exhibit 2 as updated and approved by City throughout the Term of the Agreement.

4.7.10 Non-Discrimination

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

4.7.11 Coordination with Street Sweeping Services

Franchisee shall make reasonable efforts to coordinate route schedules with the City's

street sweeping schedule. Franchisee shall provide all routes and route schedules to the City and work with City to resolve conflicts with street sweeping schedules.

4.7.12 Change in Collection Schedule

Franchisee shall notify City forty-five (45) days prior to, and Customers not later than thirty (30) days prior to, any change in Collection operations which results in a change in the day on which Collection occurs. Franchisee will not permit any Customer to go more than seven (7) days without service in connection with a Collection schedule change. City's approval of any change in Collection is required prior to such change, and such approval will not be withheld unreasonably.

Any changes in the route map or Collection schedule shall require the prior approval of the City. City may require reasonable changes in the route map or Collection schedule, to improve service, to resolve complaints or for other reasons. Prior to the change of a route schedule, Franchisee shall provide written notice of the change to affected Customers ninety (90) days in advance and shall publish the changes in a newspaper of general circulation.

4.7.13 Report of Accumulation of Solid Waste; Unauthorized Dumping

Franchisee shall direct its drivers to note (1) the addresses of any Premises at which they observe that Solid Waste is accumulating and is not being delivered for Collection; and (2) the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Franchisee shall deliver the address or description to City within five (5) business days of such observation.

4.7.14 Anti-Scavenging Assistance

Franchisee shall document observed events of scavenging of Recyclable Materials including a description of the perpetrator(s), license plate numbers, and any other identifying information, and report such acts to the City's Code Enforcement Department.

4.8 Emergency Services

Franchisee will assist City with emergency services in the event of a major disaster. Franchisee will provide one (1) vehicle with a two (2) Person crew for emergency cleanup efforts in accordance with the approved rate schedule.

4.9 Transportation of Solid Waste

The Franchisee shall Transport all Solid Waste Collected to the Approved Facilities. Franchisee agrees to make all reasonable efforts to separate Recyclable Materials and Organic Waste from Refuse for Diversion from landfill Disposal.

The Franchisee shall maintain accurate records of the quantities of Solid Waste Transported to permitted Solid Waste Facilities and will cooperate with the City in any audits or investigations of such quantities.

The Franchisee shall cooperate with the operator of any Approved Facility with regard to operations therein, including, for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance operations and construction of new Facilities, cooperating with it Hazardous Material exclusion program, and so forth.

4.10 Status of Disposal Site

Any Disposal Site utilized by Franchisee, shall be designed and constructed in accordance with Title 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15"). Any such landfill has been issued all permits from federal, State, regional, county and City agencies necessary for it to operate as a Class III Sanitary landfill and is in full regulatory compliance with all such permits.

The Disposal Site is currently authorized to accept, under its existing permit, and has sufficient uncommitted capacity to accept, all Solid Waste delivered to it by, or on behalf of, City for the term of this Agreement plus any extensions thereto.

4.11 Transfer, Processing, and Disposal

Franchisee shall Transport all Discarded Materials to the Approved Facility(ies) specified in Exhibit 8 and shall Transfer, Process, and Dispose of Discarded Materials in accordance with this Section and Exhibit 8. If the Franchisee does not own or operate one or more of the Approved Facilities, Franchisee shall enter into a subcontract agreement with the Owner or Facility operator of such Approved Facility(ies) and the requirements of this Section 4.11 and Exhibit 8 shall pertain to the Subcontractor. In addition, Subcontractor requirements or obligations related to indemnification (Section 9.1) and insurance requirements (Section 9.5) shall apply, as well as any other

Subcontractor requirements or obligations stated in other sections of this Agreement.

The Approved Facilities shall comply with the following requirements.

Three-Container System (Blue, Green, and Gray/Black Containers)

1. Approved Transfer Facility. Franchisee's Approved Transfer Facility shall be a Transfer Facility or operation that Transfers Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and/or Gray/Black Container Waste Collected from Residential, Multi-Family and Commercial Premises in accordance with this Agreement. [Include if Successful Proposer's Proposal plan to use a Transfer Facility.]
2. Approved Source Separated Recyclable Materials Processing Facility (Blue Containers). Franchisee's Approved Recyclables Processing Facility shall be a Facility or operation that Processes Source Separated Recyclable Materials to recover materials designated for Collection from Residential, Multi-Family and Commercial Premises in the Blue Container.
3. Approved Organic Waste Processing Facility (Green Containers). Franchisee's Approved Organic Waste Processing Facility shall be a Facility that Processes Source Separated Green Container Organic Waste from Residential, Multi-Family and Commercial Premises to recover Organic Waste.
4. Approved Disposal Facility (Gray/Black Containers). Franchisee's Approved Disposal Facility shall be a Disposal Facility that accepts Gray/Black Container Waste Collected from Residential, Multi-Family and Commercial Premises in accordance with this Agreement for Disposal.

4.11.1 Processing Facility Temporary Equipment or Operational Failure Waiver

1. **Notification to the City.** The Franchisee, or their Subcontractor (such as a Facility operator), shall notify the City of any unforeseen operational restrictions that have been imposed upon the Approved Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the Approved Facility from Processing and recovering Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, or Mixed Waste.

The Franchisee or Subcontractor shall notify the City as soon as possible and no later than two (2) business days from the time of the incident. The notification shall include the following: (i) name of Approved Facility; (ii) the Recycling and Disposal Reporting System Number of the Approved Facility; (iii) date the Approved Facility became unable to Process Source Separated Recyclable Materials or Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials; (iv) description of the operational restrictions that have been imposed upon the Approved Facility by a regulatory agency or unforeseen equipment failure or operational restriction that occurred; (v) the period of time the Franchisee anticipates the temporary inability of the Approved Facility to Process Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, or Mixed Waste; (vi) Franchisee's proposed action plan to deliver materials to an Alternative Facility for Processing (refer to Section 8.1.H of Exhibit 8) or Franchisee's request for waiver to deliver Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, or Mixed Waste to the Approved Disposal Facility.

2. **Use of Alternative Facility or Waiver for Disposal of Materials.** Upon notification by Franchisee or Subcontractor of the Approved Facility's inability to Process materials, City shall evaluate the notification and determine if City shall require Franchisee to use an Alternative Facility or allow the Franchisee to Transport the Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, or Mixed Waste to the Approved Disposal Facility for Disposal on a temporary basis for a time period specified by the City. Upon City's decision, the City shall notify the Franchisee of its requirement to use an Alternative Facility for Processing or to use the Approved Disposal Facility for Disposal, and the period of time that the City will allow the Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, or Mixed Waste to be redirected to the Alternative Facility or Approved Disposal Facility. Pursuant to 14 CCR Section 18984.13, the approved Disposal period shall not exceed ninety (90) days from the date the Approved Facility's Processing restriction or failure commenced. In such case, the Franchisee must receive written permission from

the City prior to depositing any Discarded Material in a landfill.

3. **Record Keeping and Reporting.** Franchisee shall maintain a record of any Approved Facility incidents and report this information to the City in accordance with Article 8.

4.11.2 Transportation to Non-Approved Facilities Prohibited

If Franchisee Transports Discarded Materials to a Facility other than the Approved Facility(ies) or an Alternative Facility without prior City approval, Franchisee's failure to comply may result in assessment of liquidated damages as described in Section 11.4.

4.12 Commingling of Collection Routes

Franchisee shall not commingle City Collection routes for any types of Solid Waste with routes servicing other cities, counties, or entities. If this is not feasible, upon written approval by the City, Franchisee may commingle routes, but must submit to City a detailed monthly report setting forth the breakdown of tonnage Collected from the commingled routes within thirty (30) days after the end of each month. Franchisee shall have the methodology used to segregate the loads between jurisdictions approved in advance by the City.

4.13 Route Audit

Once during the first year and thereafter at City's request (but not more than once every three years), Franchisee shall conduct an audit of its Collection routes in the City. City may use information from the audit to develop a request for proposals for a new service provider. City may instruct Franchisee when to conduct the audit in order for the results to be available for use in preparation of a request for proposals or for other City uses. City may also instruct Franchisee to conduct an audit at a time that would produce the most accurate Customer service information for a new service provider to use in establishing service with Customers. In setting these audit dates, City will establish due dates for Franchisee providing routing and account information, and later, the report, to City.

The route audit, at minimum, shall consist of an independent physical observation by Person(s) other than the route driver of each Customer in City. This Person(s) is to be approved in advance by City. The route audit information shall include, as a minimum,

the following information for each account:

For Cart Customers:

- Route Number;
- Truck Number;
- Number and size of Carts by waste stream (Refuse, Recyclable Materials, and Organic Waste)
- Cart condition;

For Bin and Roll-off Customers:

- Route Number;
- Truck Number;
- Account Name;
- Account Number;
- Account Service Address;
- Account Type (Residential, Commercial, Roll-off);
- Service level per Franchisee Billing system (Quantity, Size, Frequency, Waste Stream);
- Observed Containers (Quantity, Size, Frequency, Waste Stream).
- Container condition;
- Proper signage; and,
- Graffiti.

Within thirty (30) days after the completion of the route audit, Franchisee shall submit to City a report summarizing the results of the audit. This summary shall include:

- Identification of the routes;
- Route map;

- Truck numbers;
- Number of accounts, by route and in total (Residential, Commercial and Roll-off);
- Confirmation that all routes are dedicated exclusively to City Customers;
- Number and type of exceptions observed;
- Name and addresses of Customers that do not have Source Separated Recyclable Materials Collection services and documentation of waivers if any for each account;
- Name and addresses of Customers that do not have SSGCWO Collection services and documentation of waivers if any for each account;
- Total monthly service charge (Residential, Commercial and Roll-off Box), pre-audit for each Customer; and,
- Total monthly service charge (Residential, Commercial and Roll-off), post-audit (subsequent to corrections of identified exceptions) for each Customer.

The report shall include a description of the procedures followed to complete the route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations.

The report shall also include a description of the changes and Franchisee's plans to resolve the exceptions. The results of the audit, and supporting back-up data, shall be available for review by City or its representative.

4.14 Service Exceptions; Hazardous Material Notifications

A. Failure to Collect. When Solid Waste is not Collected from any Solid Waste service recipient, Franchisee shall notify its service recipient in writing, at the time Collection is not made, through the use of a "tag" or otherwise, of the reasons why the Collection was not made. Franchisee shall comply with contamination monitoring requirements and protocols in Section 5.4.

B. Hazardous Material Inspection and Reporting. Franchisee reserves the right to reject Solid Waste observed to be contaminated with Hazardous Material and the right

not to Collect Hazardous Material put out with Solid Waste. Franchisee shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of Hazardous Material, found or observed in Solid Waste anywhere within the City. In addition to other required notifications, if Franchisee observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Materials unlawfully Disposed of or released on any City property, including storm drains, streets or other public rights of way, Franchisee will immediately notify the City Manager or the City Manager's designee. Franchisee shall implement and maintain a training program that will assist its employees in identifying and properly disposing of any Hazardous Material that may come into their possession.

C. Hazardous Material Diversion Records. Franchisee shall maintain records showing the types and quantities, if any, of Hazardous Material found in Solid Waste and which was inadvertently Collected from service recipients within the City, but Diverted from landfilling.

4.15 Franchisee/City Meetings

Franchisee and City will meet monthly, or as otherwise requested by City staff for the term of this Agreement, to discuss concerns and comments. City reserves the right to increase or reduce the number of Franchisee/City Meetings at any time during the term of this Agreement.

ARTICLE 5 OTHER SERVICES

5.1 Services and Customer Billing

5.1.1 Service Description

Franchisee shall periodically, at least 30 days prior to the effective date of a rate change, prepare and distribute, subject to the direction of City, a notice to each Owner or occupant of property entitled or mandated to receive service under this Agreement a listing of Franchisee's Collection rates, annual holiday schedule, and a general summary of services required to be provided hereunder and optional service which may be furnished by Franchisee.

5.1.2 Residential and Multi-Family Premises Cart Billing

Franchisee shall perform the Billing and processing of payments for all Customers receiving Cart service within the City's boundaries on a monthly basis no sooner than the first day of the service period to be billed for. City shall not be responsible for or participate in the collection of charges for these services. All bills must carry a due date, not "due upon receipt," and shall be due no earlier than the forty-fifth (45th) day from the date of the billing. Non-payment will be handled in accordance with Section 5.1.5.

5.1.3 Multi-Family Premises with Bin Service, Commercial Premises, Roll-off, and Temporary Services Billing

Franchisee shall bill for Multi-Family Premises with Bin Services, Commercial Premises, Roll-off Box and temporary services and other special charges as permitted in Exhibit 2. Franchisee shall bill monthly, no sooner than the first day of service and require payment no earlier than thirty (30) days from the date of the billing.

For Residential Premises Customers or Customers without an account with Franchisee who request temporary Roll-off Box or temporary Bin service, Franchisee will accept major credit cards for payment. Individually serviced Customers who do not use credit cards may be required by the Franchisee to post a security deposit or to pay on a "Cash on Delivery" (C.O.D.) basis. Any unused portion of a security deposit will be refunded to the Customer within five business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of the termination of service.

Customers sharing a Bin may request to be Billed separately for their share of service, based upon the number of businesses sharing the Bin, or as otherwise divided and agreed to among such Customers.

Bills must be itemized by Container size, frequency of service, and period billed for.

5.1.4 Suspension of Service Due to Non-Payment

5.1.4.1 Residential and Multi-Family Premises Cart Customers

Franchisee may discontinue service as set forth in this section. Customers who have not remitted required payments within 45 days after the date of billing shall be notified in writing by Franchisee. The notification shall contain a statement that services may be discontinued 15 days from the date of notice if payment is not made before that time. Upon receipt of the delinquent payment, Franchisee shall resume collection on the next regularly scheduled collection day.

5.1.4.2 Multi-Family Premises with Bin Service, Commercial Premises, Roll-off, and Temporary Services Customers

Franchisee may discontinue service as set forth in this Section. Customers who have not remitted required payments within 30 days after the date of billing shall be notified in writing (or by electronic mail if the service recipient agrees) by Franchisee. The notification shall contain a statement that services may be discontinued 15 days from the date of notice if payment is not made before that time. Upon receipt of the delinquent payment Franchisee shall resume Collection on the next regularly scheduled Collection day.

5.1.5 Refunds

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

5.2 Customer Service

5.2.1 Customer Service Office

Office hours shall be, at a minimum, from 8:00 A.M. to 5:00 P.M., Monday through Friday, and Saturday from 7:00 A.M. to 5:00 P.M., exclusive of holidays. A responsible

and qualified representative of Franchisee shall be available during office hours for communication with the public. Normal office hour telephone numbers shall be a toll free call. Franchisee's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. Franchisee shall also maintain a toll free telephone number for use during other than normal business hours. Franchisee shall have a representative, answering or message providing/receiving (voice-mail) service available at said after-hours telephone number. After-hour calls shall be responded to on the next business day (excluding Saturday, Sunday and holidays listed in Section 4.7.1).

Franchisee will maintain an emergency telephone number for use outside normal business hours. Franchisee shall have a representative, or an answering service to contact such representative, available at said emergency telephone number during all hours other than normal office hours. Franchisee shall be able to respond to inquiries in English, Spanish, and other languages as directed by the City. Franchisee must also provide a Telecommunications Device for the Deaf (TDD) service for use by persons with hearing or speech difficulties.

5.2.2 Complaint Documentation

Daily logs of complaints shall be retained for a minimum of twenty-four (24) months and shall be available to City at all times upon request.

Franchisee shall log all complaints received by telephone, and or email, and said log shall include the date and time the complaint was received, name, address and telephone number of caller, description of complaint, employee recording complaint and the action taken by Franchisee to respond to and remedy complaint. Missed pickups shall be included in this log.

All Customer complaints and inquiries shall be date-stamped when received and shall be initially responded to within one (1) business day (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of receipt. Franchisee shall log action taken by Franchisee to respond to and remedy the complaint.

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

5.2.3 Resolution of Customer Complaints

Disputes between Franchisee and its Customers regarding the services provided in accordance with this Agreement may be resolved by the City, including Franchisee reimbursement to Customers for damages to personal property. The City's decision shall be final and binding. Franchisee shall reimburse the City's legal and consultant costs for each City intervention in a dispute between Franchisee and a Customer if the City reasonably deems intervention is required and the Customer's dispute is valid.

Should Franchisee and Customers not be able to establish a mutually acceptable fee to be charged for special hauling services, the matter shall also be determined by the City, and the City's decision shall be final.

Intervention by the City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Franchisee. Nothing in this section is intended to affect the remedies of third parties against Franchisee. To the extent that remedies are warranted through this Agreement, this section shall apply.

5.2.4 City Liaison

The Franchisee shall designate a Person to serve as agent and liaison between the Franchisee and the City and shall maintain a telephone and a means, including but not limited to email, for contact at all times including during periods of strike or other emergencies. Franchisee shall not change this designation without prior approval of the City, excluding cases of termination of the employee. City may request that Franchisee change City Liaison, and shall have the right to approve the City Liaison. The Franchisee's City Liaison shall meet with the City as necessary to effectuate the purposes of the Agreement.

5.2.5 Route Supervisor

Franchisee shall designate in writing a route supervisor that shall be assigned exclusively to the City, and who shall be responsible for working with City's designee to resolve Customer service related complaints. Route supervisor shall be accessible via cell phone, email, or radio in the field at all times. City shall be notified in advance of any change in Route Supervisor and shall have the right of approval. City may request that Franchisee change Route Supervisor.

5.2.6 Customer Service Representative for Transition

If requested by City, Franchisee shall station a Customer service representative at City Hall for a three month period beginning one week prior to the roll-out of new services under this Agreement. City shall supply a desk and access to City telephone service. Customer service representative shall remain an employee of Franchisee and Franchisee shall provide such employee with access from an office located at the City of Chino Hills' City Hall located at 14000 City Center Drive, Chino Hills, California 91709 to Franchisee's Customer service system, and radio or mobile phone access to Franchisee's City Liaison and Route Supervisor (see Sections 5.2.4 and 5.2.5).

5.2.7 Review of Generator Waiver Requests

Generators may submit requests for de minimis waivers, and physical space waivers to the Franchisee. Franchisee shall within ten (10) business days review the Generator's waiver application and inspect the Generator's Premises to verify the accuracy of the application. Franchisee shall provide documentation of the inspection, including the Franchisee's recommendation to approve or deny the waiver request, and send this information to the City within fifteen (15) days of receipt of the Generator's waiver application for the City's review and approval. The City ultimately retains the right to approve or deny any application, regardless of the Franchisee's recommendation. Franchisee shall report information regarding waivers reviewed on a monthly basis, in accordance with Section 8.3.2.

5.2.8 Customer Satisfaction Survey

The City reserves the right to conduct a Customer satisfaction survey every Rate Period and such survey shall be paid for by the Franchisee, within thirty (30) calendar days of receipt of invoice from City or its agent, provided that the cost of such survey shall not exceed twenty thousand dollars (\$20,000) per Rate Period. The Contractor can recover the cost of each survey by including the costs in the Contractor's Compensation in the applicable Rate Period as an "other adjustment" pursuant to Exhibit E1, Section 2.F, mutually agreed between City and Contractor.

5.3 Education and Public Awareness

5.3.1 General

Franchisee acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve AB 939, AB 341, AB 1826, SB 1383,

and any future regulatory requirements. Accordingly, Franchisee agrees to take direction from City to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle Solid Waste and to cooperate fully with City in this regard.

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

City may request Franchisee to perform mailing services and if so able, provide not less than thirty (30) days' notice to Franchisee prior to the mailing date of any proposed mailing to permit Franchisee to make appropriate arrangements for inclusion of City's materials. City will provide Franchisee the mailers at least fifteen (15) days prior to the mailing date. Franchisee shall bear all costs incurred for copying and mailing of Proposition 218 notices per Section 6.4.1.1 of this Agreement

5.3.2 Material Distribution Methods

Franchisee shall use the following methods to provide education information to Customers. All materials are to be approved by the City prior to distribution.

- 1) **Printed materials.** Franchisee shall provide printed education materials as described in this Section. The Franchisee shall be responsible for the design, printing, and distribution of these materials. All Franchisee printed public education materials shall, at a minimum, use recycled paper and/or be made of recycled material. The Franchisee will use 100% post-consumer paper, and procure printed materials from local businesses. Franchisee shall provide electronic copies of all print materials, and printed copies, in amount requested by City, for distribution at City facilities.
- 2) **Electronic materials and website content.** Franchisee shall provide electronic and website content for education and outreach materials, which may include but is not limited to: digital graphics, digital versions of print materials, social media posts, and blog posts. The Franchisee shall be responsible for the design, posting, and electronic distribution of these materials.

5.3.3 Non-English Language Requirements

The Franchisee shall make all public education and outreach materials required by this

Section available in English, Spanish, and Mandarin.

Upon City's request, Franchisee shall provide materials in additional languages beyond those specified in this Section in response to shifting demographics within the City; updates to State requirements or Applicable Law; or any other reason deemed appropriate by the City

5.3.4 Implementation Plan and On-going Education Requirements

5.3.4.1 Implementation Plan

a) *Basic Plan and Schedule.* No later than ninety (90) days prior to the initiation of services under this Agreement, Franchisee shall provide City a written implementation plan for the transition of services required by this Agreement from the former Solid Waste enterprise to Franchisee, which plan shall be in a form reasonably acceptable to City ("Implementation Plan"). The Implementation Plan shall detail the activities necessary for a smooth and seamless transition from City's current waste hauler to Franchisee. The Implementation Plan shall also set forth the schedule for each of the activities listed in the Implementation Plan ("Implementation Schedule"). At a minimum, the Implementation Plan shall include all of the tasks listed in the Implementation Schedule that was included in Franchisee's Proposal. In addition, the Implementation Plan shall include any other task that City reasonably requests. A copy of the Implementation Schedule that was included in Franchisee's Proposal is attached to this Agreement as Exhibit 1.

b) *Evolution of Implementation Plan.* The City and Franchisee anticipate that the Implementation Plan and Implementation Schedule may change prior to the service start date. As a result, the City and Franchisee shall meet on a regular basis to discuss the Implementation Plan, Implementation Schedule, cooperation of the predecessor City-Franchised waste haulers, and any other item reasonably requested by either the City or Franchisee.

c) *Shortfalls During Implementation Period, Remedial Action.* City shall use reasonable business efforts to cooperate with Franchisee in reaching the milestones set forth in the Implementation Plan. Notwithstanding the above, Franchisee shall be solely responsible for implementing and reaching the milestones set forth in the Implementation Plan and handling Customer complaints. Franchisee shall have sufficient Solid Waste handling resources (i.e., vehicles, personnel and Containers) prior

to the service start date, and shall use reasonable business efforts to ensure that the transition from the current waste haulers is efficient, clean and accordant with the service standards set forth in this Agreement. In the event Franchisee is unable to meet these service standards during this transition, Franchisee shall at its sole cost have on stand-by another Solid Waste Collection contractor, which while operating as a Subcontractor to Franchisee, will assist Franchisee in resolving any service shortfalls. Under no circumstances shall City be responsible for the resolution of Customer disputes relating to the Implementation Plan, except to the extent such disputes are directly attributable to City's active negligence or gross misconduct. Nothing herein waives or limits the City's rights and remedies to abate nuisance conditions or service shortfalls during the Implementation Plan period.

5.3.4.2 Ongoing Education Requirements

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

- **Initial Mailing** – Franchisee will prepare and mail an initial mailing to Customers explaining the transition from the existing program to the new program. The mailing will describe program changes, route changes, dates of program implementation, and other necessary information.
- **Workshops** – Franchisee will conduct a minimum of three (3) public workshops describing program changes, route changes, dates of program implementation, and other necessary information. Franchisee will display new Containers to be distributed.
- **Instructional Packet Accompanying Franchisee-Provided Containers** – An information packet shall be attached to each set of Carts distributed to a Customer. Packet should describe available services, including how to place Carts for Collection, which materials should be placed in each Cart, Collection holidays, and a Customer service phone number.
- **Cart Instruction Markings** – Franchisee will place stickers on, or hot stamp, Recyclable Materials and Organic Waste Carts to demonstrate to Customers which materials are and are not acceptable for placement in each Cart. Stickers shall be replaced when materials change or as labels become worn. Markings shall be written in English, Spanish, and Mandarin. Additionally, all Carts shall

be labeled in accordance with CalRecycle requirements under SB 1383 throughout the term of this Agreement.

- **How-To Brochure** – Franchisee will prepare and distribute a brochure packet to new Customers when they start service. Packet will contain updated information on how to use the Franchisee-provided Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or Billing questions.
- **Annual Notice of SB 1383 Requirements** – Not less than once per year during each Rate Year, Franchisee shall prepare and distribute to each Generator in the City a mailing that includes information specified in SB 1383 (14 CCR Section 18985.1(a). Such mailer shall be distributed by Franchisee to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units.
- **Annual Brochures/Mailings** – Not less than once per year during each Rate Year, Franchisee shall prepare and distribute to each Customer a mailing to update Customers regarding program basics, program changes, holiday schedules and other service related information. Separate brochures shall be developed for Residential and Commercial Customers, reflecting the different services provided to each group. Mailings should promote and explain: all Solid Waste programs offered by City and Franchisee (such as Recyclable Materials, Organic Waste, Holiday Tree and Bulky Item Collections) describe in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Material such as syringes, paint, etc.; Collection schedules, including holiday schedules; Customers service numbers; and the procedures to begin and terminate services. This brochure shall be at least two (2) pages, and printed in full color. Franchisee is responsible for all associated costs.
- **Quarterly Newsletter** – Not less than four times per year during each Rate Year, Franchisee shall be responsible for all costs incurred for the production and mailing of the City's Quarterly Newsletter. The City reserves the right to direct the production of the Quarterly Newsletter to a contractor of the City's choosing. The Quarterly Newsletter will include information on current regulations, and any additional regulations adopted during the Term of this Agreement and any extensions granted by the City. The Franchisee shall be required to coordinate distribution via U.S. Mail of the Quarterly Newsletter with a local mailing house,

including furnishing Residential Premises Cart and Bin Customer mailing addresses.

- **Corrective Action Notice** – For use in instances where the Customer sets out inappropriate materials.
- **Franchisee Representative** - Franchisee shall provide a representative able to visit civic groups, school assemblies (at the request of City), and homeowners' associations, to promote and explain the Recycling programs, and participate in demonstrations, and civic events.
- **Web Site Page** – Franchisee shall dedicate one page of a Franchisee web site to City services, including, at a minimum, listing contact names and numbers for Customer Service and information on Bulky Item Collection. The Franchisee shall assist the City in establishing a link to this web page from the City's web site.
- **Recycling Curriculum** – Franchisee will provide a Recycling education curriculum for use in classroom visits and workshops, developing materials such as posters, coloring books, puzzles and quizzes.

In addition to the public education and outreach materials described above, Franchisee shall provide the public education and outreach in the form described in Article 4, and other applicable Articles, of SB 1383.

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

The Franchisee may allow Customers to request mailings electronically in lieu of hardcopies. Franchisee shall be required to provide an annual report to the City of Customers that have requested to receive mailings electronically. Customers will be provided the option to request electronic mailings annually.

5.3.5 Community Events

At the direction of City, Franchisee shall participate in and promote Recycling and other Diversion techniques at a minimum of four (4) community events. Such participation would normally include providing, without cost, Collection and educational and

publicity information promoting the goals of City's Solid Waste program. The City reserves the right to modify the required events and Franchisee's participation requirements.

5.3.6 News Media Relations

Franchisee shall notify the City's designee by email or telephone of all requests for news media interviews related to Collection Services hereunder within twenty-four (24) hours of Franchisee's receipt of the request. Before responding to any inquiries involving controversial issues or any issues likely to affect participation or Customer perception of services, Franchisee will discuss Franchisee's proposed response with the City's designee.

A. Copies of draft news releases or proposed trade journal articles shall be submitted to City for prior review and approval at least five (5) business days in advance of release, except where Franchisee is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case Franchisee shall submit such materials to City as soon as practicable but in no event later than simultaneously with Franchisee's submittal to such regulatory agency.

B. Copies of articles resulting from media interviews or news releases shall be provided to the City within five (5) days after publication.

5.4 Contamination Monitoring

5.4.1 Contamination Inspection Methods

Franchisee shall implement an inspection method in compliance with the requirements of SB 1383 (14 CCR Section 18984.5), as described below. Franchisee shall include the contamination inspection method that will be utilized in the "AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan," in Exhibit 7.

[TWO OPTIONS ARE LISTED BELOW. THE LANGUAGE WILL BE AMENDED TO REFLECT THE SELECTED PROPOSERS'S APPROACH.]

Option 1: Physical Container Inspections. When Franchisee's personnel dismounts from Collection vehicles to empty a Container, such personnel shall lift the Container lid and observe the contents. Upon finding Contaminants in a Container, Franchisee shall follow the contamination noticing procedures set forth in Section 5.4.2.2.

Option 2: Waste Evaluation Monitoring by Franchisee. Franchisee shall, at its sole expense, conduct waste composition studies that comply with the requirements of this Section and meet the requirements of 14 CCR Section 18984.5(c). The City maintains the right to observe, or hire a third party to observe, the waste composition studies. Franchisee shall, no later than January 15 of each calendar year, provide the City with a proposed waste composition study methodology and a schedule of waste composition studies for the calendar year for review and approval by City. The City may request, and Franchisee shall accept, modifications to the schedule to permit observation by the City. In addition, Franchisee shall provide an email notice to the City no less than ten (10) business days prior to each scheduled waste composition study that includes the specific time(s), which shall be within the City's normal business hours, and location(s) for the waste composition study.

5.4.1.1 Actions upon Identification of Prohibited Container Contaminants

- A. Record Keeping. The driver or other Franchisee representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray or Black Container); and maintain photographic evidence, if required. Franchisee shall submit this record to the Franchisee's Customer service department, and Franchisee's Customer service department shall update the Customer's account record to note the event, if the documentation of the on-board computer system did not automatically update the Customer's account record.
- B. Identification of Excluded Waste. If Franchisee's personnel observe Excluded Waste in an uncollected Container, the Franchisee's personnel shall record that observation in accordance with Section 5.4.1.3 and immediately inform their route supervisor. Franchisee shall follow protocols specified in Section 5.4.1.1.C. The route supervisor shall investigate and initiate applicable action within one (1) Business Day or sooner if the Hazardous Waste may cause immediate danger.
- C. Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container, Franchisee shall provide the Customer a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Prohibited Container Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed;

(iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in the Blue Container, Green Container, and/or Gray/Black Container; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that following three (3) instances of contaminated materials; Franchisee may assess contamination fees; and, (v) shall include photographic evidence. Franchisee shall leave the courtesy pick-up notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail, or text message.

Franchisee shall Collect the contaminated Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials and Transport the material to the appropriate Approved Facility for Processing; or, Franchisee may Collect the contaminated materials with Gray or Black Container Waste/Mixed Waste and Transport the contaminated materials to the appropriate Approved Facility for Disposal/ Processing.

- D. Notice of Assessment of Contamination Fees. If the Franchisee observes Prohibited Container Contaminants in a Generator's Green Container or Blue Container on more than three (3) occasions and issued courtesy pick-up notices on each of those occasions, the Franchisee may impose a contamination fee. Franchisee shall notify the City in its monthly report of Customers for which contamination fees were assessed. Franchisee shall leave a contamination fee notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, subject to City's approval, may deliver the notice by mail, e-mail or text message. The contamination fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination fee on its next bill. The format of the contamination fee notice shall be approved by the City Contract Manager.

Franchisee shall Collect the contaminated Source Separated Recyclable Materials. Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and/or Organic Waste and Transport the material to

the appropriate Approved Facility for Processing.

- E. Communications with Customer. Whenever a Container is not Collected because of Prohibited Container Contaminants, a Customer service representative shall contact the Customer to discuss, and encourage the Customer to adopt proper Discarded Materials preparation and separation procedures.
- F. Disposal of Contaminated Materials. If the Franchisee observes visible Prohibited Container Contaminants in a Generator's Green Container or Blue Container, Franchisee may Dispose of the Container's contents provided Franchisee complies with the noticing requirements in Section 5.4.1.1.C above.

5.4.1.2 On-Going Contamination Monitoring by Route Personnel

Franchisee shall assist on an ongoing basis in minimizing contamination by helping to educate Customers on acceptable and non-acceptable materials through ongoing education and outreach efforts and through on-going monitoring of the contents of Collection Containers. The ongoing Container monitoring shall be performed by Franchisee using the method described in Section 5.4.1.

Franchisee may refuse Collection of Refuse, Recyclables, or Organic Waste from Customers under the following circumstances: (i) the material is not Source Separated from other Discarded Materials or Excluded Waste; (ii) access is blocked or inhibited by vehicles or other obstacles; or, (iii) the material is commingled with Prohibited Container Contaminants. In the event does not Collect the Refuse, Recyclable Materials, or Organic Waste from a Customer for any of these reasons, Franchisee shall leave a non-collection notice for the Customer recording at a minimum the date, Customer location, and an explanation as to why the materials were not Collected. Franchisee is required to retain photographic evidence of all instances of non-collection.

5.4.1.3 Prescribed Contamination Monitoring

[INCLUDE SECTION ONLY IF SUCCESSFUL PROPOSER CHOSES OPTION 1 (PHYSICAL INSPECTIONS) RATHER THAN OPTION 2 (WASTE EVALUATIONS).]

- A. Methodology and Frequency

Commencing on July 1, 2022, the Franchisee shall, at its sole expense, conduct hauler route reviews for Prohibited Container Contaminants in Containers in a

manner that is deemed safe by the Franchisee; is approved by the City; and is conducted in a manner that results in all hauler routes being reviewed annually or more frequently.

The Franchisee shall conduct hauler route reviews that include inspection of the contents of Blue, Green, and Gray/Black Containers for Prohibited Container Contaminants in a manner that a minimum of ten percent (10%) of Containers on each and every hauler route are randomly inspected annually.

Franchisee shall develop a hauler route review methodology to accomplish the above Container inspection requirements and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b). Franchisee shall submit its proposed hauler route review methodology for the coming year to the City no later than January 15 of each year describing its proposed methodology for the calendar year and schedule for performance of each hauler route's annual review. Franchisee's proposed hauler route review methodology shall include not only its plan for Container inspections, and shall also include its plan for prioritizing the inspection of Customers that are more likely to be out of compliance. City and/or CalRecycle will review and approve the proposed methodology. Franchisee may commence with the proposed methodology upon approval.

If the City and/or CalRecycle notifies the Franchisee that the methodology is inadequate to meet the requirements of 14 CCR Section 18984.5(b), Franchisee shall, at its sole expense, revise the methodology and, after obtaining City or CalRecycle approval, conduct additional hauler route reviews, increased Container inspections, or implement other changes using the revised procedure. If the Franchisee's proposed methodology meets the requirements of 14 CCR Section 18984.5(b), but has been deemed inadequate by the City, the Franchisee shall, at the expense of the City, revise the methodology and implement the necessary changes using the revised procedure.

The City's Contract Manager may request, and Franchisee shall accept, modifications to the schedule to permit observation of the hauler route reviews by the City. In addition, Franchisee shall provide an email notice to the City's Contract Manager no less than ten (10) business days prior to each scheduled hauler route review that includes the specific time(s), which shall be within the

City's normal business hours, and location(s).

B. Noticing of Generators with Contamination, and Disposal of Materials.

Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 5.4.1.1.C.

C. Monthly Reporting Requirements.

Franchisee shall maintain records and report to the City monthly on contamination monitoring activities and actions taken, in accordance with Article 8.

[INCLUDE SECTION ONLY IF SUCCESSFUL PROPOSER CHOOSES OPTION 2 (WASTE EVALUATIONS) RATHER THAN OPTION 1 (PHYSICAL INSPECTIONS).]

Franchisee shall, at its sole expense, conduct waste composition studies that comply with the requirements of this Section and meet the requirements of 14 CCR Section 18984.5(c). The City maintains the right to observe, or hire a third party to observe, the waste composition studies. Franchisee shall, no later than July 15 of each Rate Year, provide the City with a proposed waste composition study methodology and a schedule of waste composition studies for the Rate Year for review and approval by City. The City may request and Franchisee shall accept modifications to the schedule to permit observation by the City. In addition, Franchisee shall provide an email notice to the City no less than ten (10) business days prior to each scheduled waste composition study that includes the specific time(s), which shall be within the City's normal business hours, and location(s) for the waste composition study.

The Franchisee shall conduct waste composition studies at least twice per year and the studies shall occur in two distinct seasons of the year. The Franchisee's waste composition studies shall include samples of Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Waste, Mixed Waste, and Gray/Black Container Waste. The waste composition studies shall include samples from each Container type served by the Franchisee and shall include samples taken from different areas in the City that are representative of the City's waste stream. The study shall include a minimum of forty (40) samples per route.

The Franchisee shall Transport all of the material Collected for sampling to a sorting

area at the Approved Facility, where the presence of Prohibited Container Contaminants for each Container type shall be measured to determine the ratio of Prohibited Container Contaminants present in each material stream by weight. To determine the ratio of Prohibited Container Contaminants, the Franchisee shall use the following protocol:

- a. The Franchisee shall take one sample of at least 200 pounds from the material Collected from each material stream for sampling. For example, Franchisee shall take 200-pound sample taken from the combined contents of the Source Separated Green Container Organic Waste Container samples.
- b. The two hundred- (200) pound sample shall be randomly selected from different areas of the pile of Collected material for that material stream.
- c. For each two hundred- (200) pound sample, the Franchisee shall remove any Prohibited Container Contaminants and determine the weight of Prohibited Container Contaminants.
- d. The Franchisee shall determine the ratio of Prohibited Container Contaminants in the sample by dividing the total weight of Prohibited Container Contaminants by the total weight of the sample.
- e. All weights shall be recorded in pounds.
- f. The Facility, scales, and weighing process used for the study shall meet the standards of Section 8.4 of Exhibit 8.

5.4.1.4 Contamination Response.

If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the measured sample for any material stream, the Franchisee shall notify the City within fifteen (15) Business Days of the waste evaluation. Franchisee shall include the contamination response method that will be utilized in the “AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan,” in Exhibit 7.

[INCLUDE OPTION 1 OR 2 BELOW BASED ON SUCCESSFUL PROPOSER CHOICE]

Option 1: Within fifteen (15) business days of the waste evaluation, notify all Generators on the sampled hauler route of their requirement to properly separate materials into the

appropriate Containers. The Franchisee may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mailing, emailing, or texting the notice to the Generators. The format of the warning notice shall be approved by the City.

Option 2: Within fifteen (15) Business Days of the waste evaluation, perform a targeted hauler route review of Containers on the hauler route sampled for waste composition studies to determine the sources of contamination and notify those Generators of their obligation to properly separate materials. The Franchisee may provide this information to these Generators by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mailing, e-mailing, or texting education notices to the applicable Generators. The format of the warning notice shall be approved by the City.

5.4.1.5 Noticing of Generators with Contamination, and Disposal of Materials

Upon finding Prohibited Container Contaminants in a Container, Franchisee shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 5.4.1.1.C.

5.4.1.6 Monthly Reporting Requirements

In accordance with Article 8, Franchisee shall maintain records and report to the City on a monthly basis on contamination monitoring activities and actions taken.

5.5 Inspection and Enforcement

A. Annual Compliance Reviews

1. **General.** Franchisee shall perform compliance reviews described in this Section commencing July 1, 2022, and at least annually thereafter, unless otherwise noted.
2. **Commercial Generator Compliance Reviews**

The Franchisee shall complete a compliance review of all Multi-Family and Commercial Premises Customers that generate two (2) cubic yards or more per week of Solid Waste, including Organic Waste to determine their compliance with: (i) Generator requirements under the City's Collection program; and, (ii) if

applicable for the Generator, Self-Hauling requirements per 14 CCR Section 18988.3 and Chapter 13.20.180 of the Chino Hills Municipal Code, including whether a Commercial Business is complying through Back-Hauling of Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Waste. The compliance review shall mean a “desk” review of records to determine Customers’ compliance with the above requirements and does not necessarily require on-site observation of service; however, the City may request that the Franchisee perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

3. **Annual Hauler Route Review.** Beginning April 1, 2022 and annually thereafter, the Franchisee shall conduct annual hauler route reviews of Commercial, Multi-Family, and Residential Premises Generators for compliance with the City’s Discarded Materials Collection program and Container contamination monitoring. These hauler route reviews may be performed concurrently with the contamination monitoring hauler route reviews, provided that Franchisee documents a reasonable sampling of Generators for which compliance with the City’s Discarded Materials Collection program during the hauler route review was assessed.
4. **Food Recovery Compliance Reviews.** Commencing July 1, 2022 and at least annually thereafter, Franchisee shall conduct inspections of Tier One Commercial Edible Food Generators, Food Recovery Organizations, and Food Recovery Services to assess compliance with the requirements of 14 CCR Chapter 12 Article 10. Commencing January 1, 2024 and at least annually thereafter, Franchisee shall expand its Food Recovery compliance reviews to include inspections of Tier Two Commercial Edible Food Generators.

B. Generator Waiver Inspections. Franchisee shall verify Commercial Generator de minimis and physical space constraint waivers, if applicable, at least once every five (5) years from the date of issuance of the waiver.

C. Compliance Review Process

1. **Number of Reviews.** The Franchisee shall conduct a sufficient number of compliance reviews, hauler route reviews, and inspections of entities described in this Section 5.5, to adequately determine the entities’ overall compliance with

SB 1383, AB 1826, and AB 341. The City reserves the right to require additional inspections, if the City determines that the amount of inspections conducted by the Franchisee is insufficient. City may require the Franchisee to prioritize inspections of entities that the City determines are more likely to be out of compliance.

2. **Non-Compliant Entities.** From July 1, 2022 through December 31, 2023, when compliance reviews are performed by Franchisee pursuant to Section 5.5.A, Franchisee shall provide educational materials in response to violations. Franchisee shall provide these educational materials to the non-compliant Customers and Generators within five (5) working days of determination of non-compliance or immediately upon determination of non-compliance if such non-compliance is determined during an inspection or hauler route review. Franchisee shall document the non-compliant Customers and Generators and the date and type of education materials provided and report such information to the City in accordance with Article 8. Beginning January 1, 2024, the Franchisee shall document non-compliant Customers and Generators determined through Franchisee's compliance reviews pursuant to Section 5.5.A, and shall report all Customers and Generators with SB 1383 violations to the City in accordance with Article 8. The City shall be responsible for subsequent enforcement action against the Generator.
3. **Documentation of Inspection Actions.** The Franchisee shall generate a written and/or electronic record and maintain documentation for each inspection, hauler route review, and compliance review conducted, including the information described in Article 8.

5.6 Service Complaints

A. Documentation of Complaints

1. **General.** The Franchisee agrees to maintain a computer database log of all oral and written complaints received by Franchisee from Customers or other Persons. Franchisee shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer complaints. Franchisee agrees to document and maintain for a period of at least five (5) years on a form or log all Complaints registered by Customers and Persons, in accordance with this Section and Article 8.

Franchisee shall record complaints received related to SB 1383 non-compliance in its log in a manner further described in subsection A.2 below.

2. **SB 1383-Noncompliance Complaints.** For complaints received in which the Person alleges that an entity is in violation of SB 1383 requirements, Franchisee shall document the information listed in Article 8. Franchisee shall provide this information in a monthly summary report in accordance with Article 8.

B. Investigation of SB1383-Noncompliance Complaints

1. **Investigation.** Franchisee shall commence an investigation, within ninety (90) days of receiving a complaint in the following circumstances: (i) upon Franchisee receipt of a complaint that an entity may not be compliant with SB 1383 and if City determines that the allegations against the entity, if true, would constitute a violation of SB 1383; and, (ii) upon City request to investigate a complaint received by City, in which City determines that the allegations against the entity, if true, would constitute a violation of SB 1383. Franchisee is required to investigate complaints against Customers and Generators, and not against Food Recovery Organizations, Food Recovery Services, and other entities regulated by SB 1383.

Franchisee shall investigate the complaint using one or more of the methods:

- a. Reviewing the service level of the entity that may not be compliant with SB 1383;
 - b. Reviewing the waiver list to determine if the entity has a valid de minimis, or space constraint;
 - d. Inspecting Premises of the entity identified by the complainant, if warranted; and/or,
 - e. Contacting the entity to gather more information, if warranted.
2. **Reporting.** Within ten (10) days of completing an investigation of an SB 1383-noncompliance complaint, Franchisee shall submit an investigation

complaint report that documents the investigation performed and recommends to City on whether or not the entity investigated is in violation of SB 1383 based on the Franchisee's investigation. The City shall make a final determination of the allegations against the entity.

5.7 Technical Assistance Program

Franchisee will include an outreach and technical assistance plan in the AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan required by Section 5.3.4.

5.7.1 Site Visits and Waste Assessments

Franchisee will include an outreach and technical assistance plan in the AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan identifying the site visit schedule for which to send a Franchisee representative to visit each Multi-Family Premises with shared Bin service and Commercial Premises Generator's for the purpose of assessing how much Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials are being Disposed; assessing Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection service level needed to meet the requirements of SB 1383, and encouraging all Generators to establish Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection service. Franchisee shall also notify Customers of opportunities to reduce costs by enrolling in Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection service and reducing Gray/Black Container Waste/Mixed Waste Collection service. Franchisee shall contact Multi-Family Premises with shared Bin service and Commercial Premises Customers and provide site visits according to the City-approved schedule. Franchisee will also provide a site visit to any Multi-Family Premises with shared bin service and Commercial Premises Generator that requests a site visit, even if it is ahead of schedule. Any internal Recycling programs or third-party Recycling programs that the Franchisee encounters while conducting Customer site visits shall be documented using a City-approved electronic reporting form and provided in an electronic format such as a cloud-based file-sharing system that can be accessed by the City or its representatives.

Beginning July 1, 2022, and annually thereafter, Franchisee representative shall follow

up with Multi-Family Premises with shared Bin service and Commercial Premises Generators who are required to participate in Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection service under Applicable Law, including but not limited to AB 341, AB 1826, and SB 1383. The Franchisee shall ensure that these Generators are participating in the Source Separated Recyclable Materials Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection Service. If the Generator is not in compliance or not participating, the representative shall assist the Customers with selecting appropriate Containers and Container sizing, identifying acceptable Discarded Materials Collection services as set forth, and attempt to resolve any logistical barriers to providing Source Separated Recyclable Materials Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Collection service. Franchisee shall provide ongoing, on-site training for Commercial Generators' staff, including, but not limited to: management, kitchen staff, service employees, and janitorial staff; and Multi-Family Premises with shared Bin service Customers' staff, including but not limited to: the property manager, janitorial staff, maintenance, and any other on-site staff members or contractors that handle Discarded Materials processes.

For each on-site waste assessment conducted by Franchisee, Franchisee shall include documentation of the items listed below. City reserves the right to request Franchisee's documentation of additional information, and shall authorize the format for required information.

- a. Pictures of material in all Containers
- b. Characteristics of the property, business, and Generator type
- c. Written recommendations for the appropriate service Level for each material type
- d. Provision of outreach and education materials appropriate to the Generator type
- e. Determination of signage placement
- f. Determination of any on-going training needs
- g. Determination of any access needs
- h. Documentation of any special service needs, (such as, but not limited to,

seasonal, automated on-call Compactor, etc.)

- i. Documentation of records of communications with the Generator

In addition to the site visit requirements stated above, the Franchisee shall assist the City in complying with the requirements included in AB 827, and Section 18984.9(b) of SB 1383. During the site visits required in Section 5.7.1, Franchisee shall provide educational material (to be provided by City) to businesses that meet the requirements of AB 827 and Section 18984.9(b) of SB 1383, and make notation of the name of the business, the business address, business contact information, and business compliance or non-compliance.

5.7.2 Workshops and Meetings

Franchisee shall, at its sole expense, participate in and/or plan, organize, and conduct direct Generator outreach, including, but not limited to: workshops, community events, and meetings to support Generator compliance with the Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials separation and program participation requirements under this Agreement and other local and State regulations, including, but not limited to, AB 341, AB 1826, and SB 1383.

Franchisee shall host at least four (4) technical assistance workshops per calendar year for Residential Premises Customers, four (4) technical assistance workshops per calendar year for Commercial Premises Customers. The workshops shall be open to all residents in the City, and the Franchisee shall publish the time and location of the workshop no later than thirty (30) days prior to the workshop through insert publication method(s), such as publication on the Franchisee's website, email newsletter, printed flyers delivered on hauler routes, etc. The structure and content of these workshops shall be designed by the Franchisee, and submitted at least thirty (30) days prior to the date of the workshop for City approval. Workshops shall be focused on the regulatory requirements of SB 1383, and AB 1826 and any local program or service changes as a result of the regulations.

By request of a Generator or the City, Franchisee shall schedule and conduct an in-person or phone meeting with the Generator to discuss and assess their service needs and compliance with existing and/ or upcoming programs and Applicable Law. The Franchisee shall provide additional technical assistance as needed, which may include, but is not limited to site visits and waste assessments. The Franchisee shall follow up

with the Generator in person or by phone no later than ten (10) working days after the initial meeting to assess the Generator's compliance with existing and upcoming programs under this Agreement and Applicable Law.

5.7.3 Record Keeping and Reporting Requirements.

Franchisee shall maintain records of all technical assistance activities and educational materials conducted pursuant to this Section and submit reports to the City in accordance with Article 8.

5.8 Universal Enrollment Monitoring

Franchisee shall assist the City in ensuring that the enrollment of Generators occurs in a timely and efficient manner. City and Franchisee shall cooperatively develop and agree to a process no later than ninety (90) days prior to the initiation of services. In accordance with Section 8.3, Franchisee shall maintain records and provide reports necessary for the City to verify the enrollment of Generators.

At least one (1) time per year, Franchisee shall reconcile and confirm universal enrollment of Generators by comparing its Customer list to parcel information and calculating the percentage of total Generators enrolled in City's Collection program. As part of this analysis, Franchisee shall provide the City with a summary of any discrepancies found between the Customer list and parcel information, including the names and addresses of all Generators that were found to be the subject of a discrepancy. Franchisee shall also provide a list of Generators that are not enrolled in the City's Collection program due to the provision and approval of a waiver pursuant to Section 5.2.7, including the name, address, and type of waiver for each Generator. In accordance with Article 8.3, Reports, Franchisee shall maintain records and provide reports on the Generators' service level and list of non-enrolled Generators, and other information necessary for the City to verify the universal enrollment of Generators.

ARTICLE 6

COMPANY COMPENSATION AND RATES

6.1 General

Franchisee will perform the responsibilities and duties described in this Agreement in consideration of the right to receive compensation for services. Franchisee Compensation provided for in this Article shall be the full, entire, and complete compensation due to Franchisee pursuant to this Agreement for all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, Disposal, Recycling, Processing, Transfer, profit and all other things necessary to perform all the services required by this Agreement in the manner and at the times prescribed.

6.2 Initial Rates

The rates for the Rate Year ending June 30, 2023 shall not exceed those set forth in Exhibit 2 hereto, unless amended by a written amendment to this Agreement entered into by and between the City and the Franchisee. Franchisee has reviewed these maximum rates and agrees they are reasonably expected to generate sufficient revenues to provide adequate Franchisee Compensation. Unless and until the maximum rates set forth on Exhibit 2 are adjusted, Franchisee will provide the services required by this Agreement, charging no more than the maximum rates authorized by Exhibit 2, except as provided herein in this Article 6.

6.3 Schedule of Future Adjustments

Subject to the limitations set forth in Proposition 218 and Government Code Section 53756, beginning with Rate Year two (2) (July 1, 2023 to June 30, 2024) and for all subsequent Rate Years, Franchisee or City may request an annual adjustment (increase or decrease) to the maximum rates shown in Exhibit 2, excepting that Franchisee shall be entitled to those automatic adjustments in rates as provided in Section 6.4.2 hereof without notice or approval of the City. For all inflationary adjustments extending beyond those set forth in Section 6.4.2, the Franchisee shall submit its request in writing, to be received by City in person or via certified mail, by March 1 of the same year based on the method of adjustment described in Section 6.4. Failure to submit a written request by March 1, shall result in Franchisee waiving the right to request such an increase for the subsequent year. Notwithstanding the above, no rate adjustment

pursuant to this Section 6.4 shall exceed a total of five percent (5%). If an adjustment results in a rate decrease, then the City shall maintain the current rates and rollover the rate decrease to the next rate adjustment; the intent is to ensure subsequent rate increases shall be offset with any decrease not previously implemented.

6.4 Method of Adjustments

6.4.1 General

Pursuant to Section 6.3, Franchisee may request an annual adjustment to the Total Rate according to the formula shown in Exhibit 3, subject to review and approval of the City and the terms and conditions of Proposition 218 and Government Code Section 53756.

6.4.1.1 Compliance with Proposition 218

To the extent applicable, adjustments and/or increases to the maximum rates, including annual requests under Section 6.3, extraordinary request under Section 6.5 and any other request for rate increases, are strictly subject to the assent of the City and compliance with Proposition 218 and Government Code Section 53756. The City intends to comply with all Applicable Laws, (including without limitation Proposition 218 to the extent the City maintains the position that Proposition 218 is applicable to the services provided under this Agreement), concerning the setting of adjustments to the maximum rates under this Agreement.

In the event of a rate adjustment, Franchisee is required to mail Proposition 218 notices to all Customers. Franchisee is responsible for all costs incurred for copying and mailing of Proposition 218 notices.

6.4.1.2 Indemnification

To the maximum extent allowed by law, Franchisee shall indemnify, defend and hold harmless the City, their officers, employees, agents and volunteers, (collectively, Indemnitees) from and against all claims, damages, injuries, losses, costs, including demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including attorneys' and expert witness fees, expenditures for investigations, and administration) and costs or losses of any kind whatsoever paid, imposed upon, endured or suffered by or assessed against Franchisee or any of the Indemnitees resulting in any form from the City's

establishing maximum rates for service under this Agreement or in connection with the application of California Constitution Articles XIII C and Article XIII D to the imposition, payment or collection of rates and fees for services provided by Franchisee under this Agreement. Notwithstanding the foregoing, this indemnity shall not extend to any portion of the rates that is not associated with Franchisee's costs in providing service, such as governmental fees, Franchise Fees or charges, nor shall it apply to any loss arising directly from the negligence of City, its officers and employees. Nothing herein is intended to imply that California Constitution Articles XIII C or XIII D apply to the setting of rates for the services provided under this Agreement; rather, this Section is provided merely to allocate risk of loss between the Parties.

6.4.1.3 No Waiver of City Council Discretion at Hearings

With respect to all matters submitted to the City Council or other administrative decision-making body for hearing, this Agreement does not waive or limit the City's police powers (which police powers the Parties acknowledge cannot be contractually waived) nor does anything in this Agreement waive or limit the exercise of discretion inherent to the City Council or other administrative decision-making body. However, the City will warrant that requests for rate adjustments will be heard and considered in the exercise of good faith on the part of the City. The City's decision on matters submitted to a public hearing will be made at or after the public hearing, not beforehand. While Franchisee's failure to comply with the terms hereof could be a default leading to termination of this Agreement, in no case will City's failure to approve any items submitted to it for hearing (per Section 6.3 or otherwise) be a default hereunder, and, subject to the requirements of due process, City bears no liability to Franchisee for any damages suffered by Franchisee as a result of a hearing outcome.

6.4.1.4 Proposition 218 Protest Contract Remedy

If an annual rate adjustment requested in accordance with Section 6.3 is verified for accuracy by the City and not implemented solely as a result of a fifty percent (50%) plus one protest in accordance with Proposition 218, Franchisee may either: 1) accept that the rate will remain at the rates in effect prior to the requested rate increase, or 2) submit in writing to the City its intent to terminate the Agreement. A request to terminate the Agreement under this section would require a two-year advance written notice and must be submitted within ninety (90) days of the denial of the rate increase request as a result of the fifty percent (50%) protest. This right to terminate does not

apply to rate adjustments requested under Section 6.5 or any other section of this Agreement, or for any other reason other than requests under Section 6.3.

6.4.2 Rate Adjustment Calculation

Subject to the conditions and limitation of Proposition 218 and Government Code Section 53756.

6.4.2.1 Cost Component and Rate Adjustment Indexes

The approved rates consist of the following cost components, followed by the initial weightings of each component. Each cost component may be adjusted by the change in the corresponding index as provided below. See Section 6.4.2.2 for detailed rate adjustment procedures and Exhibit 3 for an example of rate adjustment procedures.

RESIDENTIAL, MULTI-FAMILY, COMMERCIAL, AND ROLL-OFF SERVICES COST COMPONENTS

	Cost Component	% of Costs (1)	Rate Adjustment Index
A.	Service	95%	Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy – U.S. City Average (2)
B.	Fuel	5%	Producer Price Index WPU05522101, Fuels and related products and power - Commercial natural gas (2)
	Total	100%	

(1) Weightings may be adjusted annually based on the adjustment process described in this Article 6.

(2) Average annual change for the 12 months ending December of the previous Calendar Year compared to the 12 months ending in December of year prior.

6.4.2.2 Rate Adjustment Steps

Subject to the conditions and limitation of Proposition 218 and Government Code Section 53756, maximum rates shall be adjusted according to the following procedures

Step One – Calculate the percentage increase or decrease in Service and Fuel component indices listed in Section 6.4.2.1. The increase or decrease in the Service and Fuel component indices will be for the change in the average annual published indices for the twelve (12) month period ending December prior to July 1 when the rate change will take effect.

Step Two – The first rate adjustment cost components as a percentage of total costs are provided in Section 6.4.2.1 above, with subsequent components calculated in Step Four

of the rate adjustment. For Step Two of each subsequent rate adjustment, use the cost components recalculated in Step Four during the previous rate adjustment.

Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

Step Three – Multiply the total weighted percent change from Step Two by the existing maximum rates to determine the increase or decrease in maximum rates. Then add (subtract) the changes in rates to (from) the existing maximum rates to determine the new maximum rates.

Step Four – Recalculate weightings for the following year based on these changes.

6.4.3 Rate Adjustment for Optional Street Sweeping Services

The approved Franchisee compensation shall be based on the percentage change in the average annual published Consumer Price Index ("CPI"), Consumer Price Index for All Urban Consumers (CUUR0000A0L1E), all items less food and energy – U.S. City Average, as published by the United States Department of Labor, Bureau of Labor Statistics, between the 12 months ended December prior to the Rate Year anniversary date, and the twelve (12) months ended the prior December. An example calculation is included in Exhibit 3B. If the index is discontinued, an alternative index must be approved by the City Manager.

If the rate adjustment calculation is calculated to be zero percent (0%) or less, there shall be no changes to charges and rates during the Rate Year corresponding the rate adjustment calculation. In the case of a calculated rate decrease, the amount of such decrease shall be carried forward as an offset to future rate increases.

6.5 Extraordinary Adjustments

Subject to the conditions and limitations in Proposition 218 and Government Code Section 53756, Franchisee or City may request an adjustment to maximum rates at reasonable times other than that allowed under Section 6.3 in the event of extraordinary changes in the cost of providing service under this Agreement. Such changes shall not include changes in Recyclable Materials or Organic Waste Processing costs or, changes in the market value of Recyclable Materials from the values assumed in Franchisee's

Proposal (except as noted below), inaccurate estimates by the Franchisee of its proposed cost of operations, unionization of Franchisee's work force, or change in wage rates or employee benefits. Franchisee may request an extraordinary rate increase for a change recyclable commodity value if the combined total value sold of all recyclable commodities (excluding C&D and Organics), including CRV, is less than zero for a calendar year. Franchisee may request an extraordinary adjustment based on changes in a direct per ton fee assessed at the Disposal Site by federal, State or local regulatory agencies after the Effective Date. Extraordinary rate adjustments shall only be effective after approval by City Council, may not be applied retroactively, and shall undergo a majority protest process under Proposition 218 if such adjustments increase rates above those currently in effect.

For each request for an adjustment to the maximum rates that Franchisee may charge Customers brought pursuant to this section Franchisee shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form acceptable to City with support for assumptions made by Franchisee in preparing the estimate. Franchisee shall also submit a schedule showing how its total costs and total revenues have changed over the past three years for the services provided under this Agreement.

Franchisee shall provide to City a report of its annual revenues and expenses for the services provided in the City prepared by a Certified Public Accountant or a licensed public accountant, which shall have been prepared in compliance with Rule 58 of the "Rules and Regulations of the State Board of Accountancy," as established by the California Code of Regulations, Title 16, Chapter I. Such Certified Public Accountant or licensed public accountant shall be entirely independent of the Franchisee and shall have no financial interest whatsoever in the business of the Franchisee. City shall have right to audit this information in connection with the City's review of Franchisee's rate adjustment request. City shall review the Franchisee's request and, in City's sole judgment and absolute, unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment. The City's approval of an extraordinary rate adjustment request made in response to a change in the City of Chino Hills's Municipal Code shall not be unreasonably withheld. City may consider increases or decreases in the Franchisee's total revenues and total cost of services when reviewing an extraordinary rate adjustment request. A rate adjustment request made in

response to a new service requested by City will be determined in accordance with Section 2.10.

6.6 Additional Customer Rate Increase Procedures

City intends to comply with all Applicable Laws concerning Solid Waste Handling Services rates provided for under this Agreement. Franchisee shall timely prepare and publish as required, at no cost to City, all information, reports, notices and materials necessary for the City to comply with Proposition 218 and its implementing legislation and corresponding court decisions.

In the event a rate increase does not receive approval under applicable Proposition 218 procedures, the City shall not be liable to Franchisee for the failure to implement any such increases, nor shall City be required to compensate Franchisee for any requested rate increases or “pass through” rates. Franchisee agrees to hold harmless and release the Indemnitees from and against any and all Claims Franchisee may have against the City in connection with the application of California Constitution Article XIIC and Article XIID to the imposition, payment or collection of the rates under this Agreement. This Section will survive the expiration or termination of this Agreement for Claims arising prior to the expiration or termination of this Agreement.

ARTICLE 7

REVIEW OF SERVICES AND PERFORMANCE

7.1 Performance Hearing

City may hold a public hearing, or other meeting, on or about the two-year anniversary of the start of this Agreement, and each 12 months thereafter, at which time Franchisee shall be present and shall participate, to review the Solid Waste Collection, source reduction, Processing and other Diversion services and overall performance. The purpose of the hearing is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, Processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided with adequate quality, effectiveness and economy.

Forty-five (45) days after receiving notice from City of a Solid Waste Services and Performance Review Hearing, Franchisee shall, at a minimum, submit a report to City indicating the following:

- a) Changes recommended and/or new services to improve City's ability to meet the goals of AB 939, AB 341, AB 1826, SB 1383, and any current or future regulations, and to contain costs and minimize impacts on rates. A specific plan for regulatory compliance shall be included.
- b) Any specific plans and proposed costs for provision of changed or new services by Franchisee.
- c) Results of the most recent route audit as described in Section 4.13.

The reports required by this Agreement regarding Customer complaints shall be used as one basis for review. Franchisee may submit other relevant performance information and reports for consideration. City may request Franchisee to submit specific information for the hearing. In addition, any Customer may submit comments or complaints during or before the hearing, either orally or in writing, and these shall be considered.

Topics for discussion and review at the Solid Waste Services and Performance Review

Hearing shall include, but shall not be limited to, services provided, route audit results feasibility of providing new services, application of new technologies, Customer complaints, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals, regulatory constraints and Franchisee performance. City and Franchisee may each select additional topics for discussion at any Solid Waste Services and Performance Review Hearing.

Not later than sixty (60) days after the conclusion of each Solid Waste Services and Performance Review Hearing, City may issue a report. As a result of the review, City may require Franchisee to provide expanded or new services within a reasonable time and for reasonable rates and compensation and City may direct or take corrective actions for any performance inadequacies.

7.2 Performance Satisfaction Survey

Franchisee will conduct a survey at Franchisee's expense at request of City or in preparation for this hearing. The purpose of the survey is to determine Customer satisfaction with current Collection services and Customer service provided by the Franchisee. Survey will be distributed to a minimum of 10% of Residential Premises Customers and 10% of Commercial Customers, selected at random. Franchisee will prepare separate Residential and Commercial Customer surveys and will seek City approval of survey content and format prior to distribution and will incorporate City content, if City requests. Survey results must be made available to the City 30 days prior to hearing.

ARTICLE 8

RECORDS, REPORTS AND INFORMATION REQUIREMENTS

8.1 General

Franchisee shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, Franchisee agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and regulation and to meet the reporting and Solid Waste program management needs of City. To this extent, such requirements set out in this and other Articles of this Agreement shall not be considered limiting or necessarily complete. In particular, this Article is intended to only highlight the general nature of records and reports and is not meant to define exactly what the records and reports are to be and their content. Further, with the written direction or approval of City, the records and reports to be maintained and provided by Franchisee in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

8.2 Records

8.2.1 General

Franchisee shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City in the conduct of City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years, and shall continue to be available for five (5) years after the expiration of this Agreement. After minimum holding periods are met, Franchisee will notify City ninety (90) days before destroying records.

Franchisee shall maintain adequate records, and corresponding documentation, of information required by this Agreement, such that the Franchisee is able to produce accurate monthly, quarterly and annual reports, and is able to provide records to verify such reports. Franchisee will make these records available and provide to the City any record or documentation necessary for the City to fulfill obligations under Applicable

Law including, but not limited to, AB 939, AB 341, AB 1826, AB 901, SB 1383, and other current or future federal, State, or local regulations, as amended. Upon request by the City, Franchisee shall provide access to Franchisee's requested records in a timely manner, not to exceed ten (10) Business Days from the time of City's request to Franchisee.

Franchisee agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to City and its official representatives during normal business hours. Account histories shall be accessible to the City by computer for a minimum of five (5) years. City may review or utilize any of the records described in this section for any purpose whatsoever.

8.2.2 Financial Records

Financial records shall be maintained and expense and revenue information for City shall be segregated from other areas served by Franchisee.

Where the allocation of expenses or revenues to various categories of Customers is required to develop equitable rates that reflect the cost of service, Franchisee shall segregate such expenses and revenues.

Franchisee shall maintain at least the following records:

- Audited financial statements for Franchisee or, if a guarantee was provided, for the parent company guarantor as a whole;
- Financial statements (compiled, reviewed or audited) of revenue and expense for this Agreement segregated from the other operations of Franchisee (including without limitation those operations of Franchisee in City and surrounding jurisdictions which are not covered by this Agreement), including a description of segregation methodology; and,
- Complete descriptions of related party transactions (corporate and/or regional management fees, inter-company profits from Transfer, Processing or Disposal operations).

8.2.3 Solid Waste Records

Franchisee will make records available and provide to the City any record or

documentation necessary for the City to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations; and, other current or future federal, State, or local statutes and regulations, as amended. City reserves the right to add or delete items from the listing below.

Records shall be maintained by Franchisee for City relating to:

- Customer services and Billing;
- Tons Collected, Processed, Diverted and Disposed by waste stream (Refuse, Recyclable Materials, Organic Waste, and other Discarded Materials), by Customer type (Cart, Residential Bin, Commercial and Roll-off Box) and Facilities (Transfer Station, MRF, Organic Material Processing Facility, Transformation Facility or landfill) where such material was taken (Residential Bin versus Commercial Bin tonnage may be estimated based upon Container distribution or other method approved by City);
- Quantity of Recyclable Materials recovered by material type;
- Bulky Item results including tons Disposed and Diverted;
- Neighborhood cleanup event results, including tons Disposed and Diverted;
- Routes;
- Facilities, equipment and personnel used;
- Facilities and equipment operations, maintenance and repair;
- Number of Refuse, Recycling and Organic Material Franchisee-owned Containers in service;
- Complaints; and,
- Missed pickups.

Franchisee shall maintain copies of said Billings and receipts, each in chronological order, for a period of five (5) years after the date of service for inspection by City upon request. Franchisee may, at its option, maintain those records in computer form, on microfiche, or in any other manner, provided that the records can be preserved and

retrieved for inspection and verification in a timely manner, are sufficient to verify accuracy of Franchise Fees owed to the City, and may be produced in a form and manner sufficient to establish the existence of Customer obligations in a court of competent jurisdiction.

8.2.4 CERCLA Defense Records

City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), State Hazardous Substance Law, and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) and provide a copy or summary of the reports required in Section 8.3 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to City. Franchisee agrees to notify City's Risk Manager and City Attorney before destroying such records and to offer records to the City. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

8.2.5 Disposal Records

Franchisee shall maintain records of Disposal of all Solid Waste Collected in City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Franchisee discontinues providing Solid Waste services to City, Franchisee shall provide all records of Disposal or Processing of all Solid Waste Collected in City within thirty (30) days of discontinuing service. Records shall be in chronological and organized form and readily and easily interpreted.

8.2.6 Other Programs' Records

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

- a) Plans, tasks, and milestones; and,
- b) Accomplishments in terms such as dates, activities conducted, quantities of

products used, produced or distributed, and numbers of participants and responses.

8.2.7 Cost of Audit

City may conduct an audit of Franchisee at any time. The scope of the audit, and auditing party, will be determined by City and the scope may include, but is not limited to:

- Compliance with terms of this Agreement;
- Customer service levels and Billing;
- Fee payments;
- Receipts;
- Tonnage;
- Complaint log;
- Compliance with Mandatory Commercial Recycling, Mandatory Commercial Organics Recycling, and SB 1383; and,
- Verification of Diversion rate.

The first audit, to be performed during 2024, will be based on the Franchisee's reports and records for Rate Year 2022/23. Audits will be performed every other year thereafter (the biennial audit). Franchisee will reimburse to the City the cost of such audits up to fifty thousand dollars (\$50,000) for the first audit, and fifty thousand dollars (\$50,000) for each subsequent biennial audit in 2022 dollars. The fifty thousand dollars (\$50,000) amount in subsequent years shall be increased annually by the change in CPI as defined in Section 1.37.

Should an audit by the City disclose that Franchise or other fees payable by the Franchisee were underpaid by three percent (3%) or more, or that more than two percent (2%) of the Customers were inaccurately billed, for the period under review, Franchisee shall reimburse the City for the actual cost of the audit to the extent it exceeded fifty thousand dollars (\$50,000) and shall also pay for additional audit costs if City determines it is necessary to expand the scope of the audit.

8.2.8 Payments and Refunds

Should an audit by the City disclose that the Franchise Fees payable by the Franchisee were underpaid or that Customers were overcharged for the period under review, Franchisee shall pay to City any underpayment of Franchise Fees and/or refund to Franchisee's Customers any overcharges within thirty (30) days following the date of the audit. Should an audit disclose that Franchise Fees were overpaid, City shall refund to Franchisee the amount of the overpayment within the same time frame. Should the audit disclose that Customers were undercharged, Customers may be billed for up to, but not exceeding, ninety (90) days of services not previously billed by Franchisee or City.

8.2.9 Compilation of Information for State Law Purposes.

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

8.3 Reports

8.3.1 Report Formats and Schedule

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, at no additional charge. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

- a) Determine and set rates and evaluate the efficiency of operations;
- b) Evaluate past and expected progress towards significantly exceeding AB 939 goals and objectives and complying with SB 1383 requirements;
- c) Determine needs for adjustment to programs; and,

- d) Evaluate Customer service and complaints.

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

Monthly reports shall be submitted within twenty (20) calendar days after the end of each month. If requested, Franchisee's complaint summary, shall be sent to the City Manager, or designated representative, within five days of request. Annual reports shall be submitted before January 31 following the reporting year.

In the event the City receives any penalties from CalRecycle or another State agency directly related to late or incomplete reporting by Franchisee, as required in this Agreement, Franchisee shall pay the penalties assessed to the City in addition to liquidated damages includes in Section 11.4 of this Agreement.

All reports shall be submitted electronically to City, as directed, and to:

City Manager (or designated representative)
City of Chino Hills
14000 City Center Way
Chino Hills, CA 91709

8.3.2 Monthly Reports

The information listed shall be the minimum reported:

A. Tonnage Report

1. Franchisee shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Franchisee, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocols in Section 8.4 of Exhibit 8. Tonnage shall be reported separately by:

- a. Material type, which shall include, at a minimum, based on the SB 1383

compliant Collection system, separate reporting of Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials, Mixed Waste, Gray/Black Container Waste, and any other type of Discarded Material separately Collected by Franchisee (including, but not limited to: Bulky Items, used oil, mixed C&D, dirt, rock, metals, cardboard, wood waste, reusable items, salvageable materials, etc.);

- b. Customer/sector type (Residential, Multi-family, Commercial Roll-off, C&D); and,
 - c. Approved Facility and Facility type.
- 2. Report residue level and Tonnage for all Discarded Materials Processed, listed separately by material type Collected and Approved Facility(ies) used.
 - 3. Source Separated Recyclable Materials tonnage marketed, by commodity, and including average commodity value for each, and Processing residue tonnage Disposed, listed separately by material type Collected and Approved Facility(ies) used.
 - 4. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.
 - 5. Tonnage Collected by month separately for each C&D project site and other data as it relates to the C&D services described in this Agreement.

B. Collection and Subscription Report

- 1. Number of Containers at each Service Level by Customer Type and program, including:
 - a. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Roll-off Box and Compactor service by Customer Type.
 - b. Calculation of the average volume of service received per: Residential Dwelling Unit (separately identifying dwelling units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and, Commercial Premises

Customer.

2. A summary of Customer subscription data, including the number of accounts; the number of Customers subscribing to each Cart, Bin, and Roll-Off Service Level listed separately for Residential, Multi-Family, and Commercial and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
3. Documentation of the universal service enrollment process including a copy of the City-wide Generator enrollment level evaluation conducted pursuant to Section 5.8 of this Agreement.
4. List of all Commercial and Multi-Family Premises Customers with a Gray/Black Container Waste or Mixed Waste Service Level of two (2) cubic yards of service capacity per week or more. Such list shall include each such Customer's service address and Gray/Black Container Waste, Mixed Waste, Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials and Service Levels.
5. The total number of de minimis waivers, and physical space constraint waivers granted in the month, including the Generator name and address for each waiver.
6. The number of waiver reverifications performed by the Franchisee pursuant to Section 5.2.7 of this Agreement in the month, if any, including a copy of documentation for each reverification inspection, which shall include, at a minimum: the Generator's name, address, and Generator type; the type of waiver being verified; any photographic or other evidence collected during the inspection; and the resulting recommended conclusion by the Franchisee regarding the validity of the waiver. The Franchisee shall provide a summary of recommendations to the City of all waivers which the Franchisee concludes to no longer be warranted.
7. Number of Bulky Item/reusable materials Collection events by Customer Type.

C. Contamination Monitoring Report

Option 1: Hauler Route Reviews (Section 5.4.1.3)

The Franchisee shall submit the following information regarding contamination monitoring hauler route reviews conducted pursuant to Section 5.4.1.3 of this Agreement:

1. The number of hauler route reviews conducted pursuant to Section 5.4.1.3 of this Agreement;
2. Description of the Franchisee's process for determining the level of contamination;
3. Summary report of non-Collection notices and/or contamination processing fee assessment notices issued, which for each notice shall include the date of issuance, Customer name, and service address;
4. A record of each inspection and contamination incident, which shall include, at a minimum:
 - a. Name of the Customer
 - b. Address of the Customer
 - c. The date the contaminated Container was observed
 - d. The staff who conducted the inspection
 - e. The total number of violations found and a description of what action was taken for each
 - f. Copies of all notices, and enforcement orders issued or taken against Generator with Prohibited Container Contaminants
 - g. Any photographic documentation or supporting evidence.
5. Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants;
6. A list of all Customers assessed contamination processing fees reported separately by Residential, Multi-Family, and Commercial Premises Customers

and including the Customer name, Customer address, and reason for the assessment of the contamination processing fee, and the total number of instances contamination processing fees were assessed in the month and the total amount of fees collected in the month.

7. Any other information reasonably requested by the City or specified in contamination monitoring provisions of this Agreement.

Option 2: Waste Composition Studies (Section 5.4.1.3)

The Franchisee shall submit the following information regarding waste composition studies conducted pursuant to Section 5.4.1.3 of this Agreement:

1. A description of the Franchisee's process for conducting waste evaluations.
2. Documentation of the results of the waste evaluation studies and the number of resulting targeted hauler route reviews. The documentation shall at a minimum include: dates of the studies; the location of the Facility where the study was performed; hauler routes from which samples were collected, and number of Generators on those hauler routes; the source sector (Customer type) of the material (Residential, Multi-Family, or Commercial); number of samples collected; total sample size (in pounds); weight of Prohibited Container Contaminants (in pounds); ratio of Prohibited Container Contaminants to total sample size; and, any photographic documentation taken or other physical evidence gathered during the process.
3. Copies of all notices, and enforcement actions issued or taken against Generators that have Prohibited Container Contaminants.
4. Documentation of the number of loads or Containers Disposed of due to observation of Prohibited Container Contaminants, including the total weight of material Disposed, and proof of consent from the City to Dispose of such material if given in a form other than this Agreement.
5. Any other information reasonably requested by the City, or specified in contamination monitoring provisions of this Agreement.

D. Customer Service Report

1. Number of Customer calls listed separately by complaints and inquiries (where inquiries include requests for service information, rate information, etc.). For Complaints, list the number of calls separately by category (e.g., missed pickups, scheduled cleanups, billing concerns, damage claims). These complaints and inquiries shall be documented and reported separately from SB 1383 non-compliance complaints or other regulatory non-compliance complaints.
2. Number of missed or incomplete Collections reported in total, and per one thousand (1,000) service opportunities in the City, presented in a graph format, which compares total missed Collections in the City during the current report period to total missed Collections in the City in past reporting periods.
3. Number of new service requests for each Customer type and requested service(s).
4. Franchisee shall maintain a record of all SB 1383 non-compliance complaints and responses pursuant to Section 5.6 of this Agreement and submit the following information:
 - a. Total number of complaints received and total number of complaints investigated
 - b. Copies of documentation recorded for each complaint received, which shall at a minimum include the following information:
 - i. The complaint as received;
 - ii. The name and contact information of the complainant, if the complaint is not submitted anonymously;
 - ii. The identity of the alleged violator, if known;
 - iii. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
 - iv. Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,

- v. The identity of any witnesses, if known.
- c. Copies of all complaint reports submitted to the City, pursuant to Section 5.6.A of this Agreement.
- d. Copies of all investigation reports submitted to the City pursuant to Section 5.6.B of this Agreement, which shall include at a minimum:
 - i. The complaint as received;
 - ii. The date the Franchisee investigated the complaint;
 - iii. Documentation of the findings of the investigation;
 - iv. Any photographic or other evidence collected during the investigation; and,
 - v. Franchisee's recommendation to the City on whether or not the entity investigated is in violation of SB 1383 based on the Franchisee's investigation.

E. Generator Waivers

Franchisee shall provide a report that documents each Generator waiver request reviewed by Franchisee, which are required by Section 5.2.7. Identify in the report the Generator name and service address, the type of waiver requested, the status of the waiver (accepted, denied, pending), and other information reasonably requested by the City.

F. Education Program Report

The monthly status of activities identified in the annual public education plan described in Section 5.3 of this Agreement.

G. Discarded Materials Evaluation Reports

In accordance with Section 8.6 of Exhibit 8, Franchisee shall provide reports of evaluations of Discarded Materials conducted at Approved Facilities.

H. Street Sweeping Report

In accordance with Section 4.4.16 of this Agreement, Franchisee shall submit the following information to the City:

1. List each type of equipment that is to be used at the City by the Vendor with make, year, model and mileage
2. Maintenance Records and repairs
3. Servicing intervals for each piece of equipment
4. Replacement criteria of equipment
5. Number of "back-up" sweepers available for immediate use if a piece of equipment fails to operate

8.3.3 Annual Report

In addition to the monthly reporting requirements in Section 8.3.2, the Franchisee shall provide an Annual Report, covering the most recently-completed calendar year, in accordance with the format and submittal requirements of this Exhibit. The Annual Report shall include the information in the following subsections.

A. Collection and Subscription Report

1. A summary of all data provided in the tonnage report section, including quarterly and annual totals and averages.
2. The type(s) of Collection service(s) provided, a list of all hauler routes serviced, and a record of the addresses served on each hauler route.
3. A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Franchisee for service, listed separately by service level and Container type (Cart, Bin, and Roll-Off service), separately by Residential, Multi-Family, and Commercial Premises Customers, and separately for each type of Discarded Material; and the number of Bulky Items Collections performed.
4. A detailed list of Residential, Multi-Family, and Commercial Premises Customer information, including Gray/Black Container Waste, Mixed Waste, Source Separated Recyclable Materials, Source Separated Blue Container

Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials Service Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of June 30 (for the year in which the report is submitted).

5. The number of C&D Collection sites served and tonnage Collected, tonnage Diverted, and Diversion level for each C&D Collection site.

B. Processing Facility Report

1. High Diversion Organic Waste Processing Facility: In accordance with Section 8.2.G.3 of Exhibit 8, copies of quarterly and annual average Mixed Waste organic content recovery rates for each High Diversion Organic Waste Processing Facility used by the Franchisee to demonstrate that the Facility(ies) meets or exceeds the Organic Waste content recovery requirements specified in 14 CCR Section 18984.3.
2. Temporary equipment or operations failure: If the Franchisee is granted a Processing Facility temporary equipment or operational failure waiver, in accordance with Section 4.11.1 of the Agreement, the Franchisee shall include the following documents and information:
 - a. The number of days the Processing Facility temporary equipment waiver or operation failure waiver was in effect;
 - b. Copies of any notifications sent to the City pursuant to Section 4.11.1.3 of the Agreement, and copies of City notices to Franchisee pursuant to Section 4.11.1.3 of the Agreement;
 - c. Documentation setting forth the date of issuance of the waiver, the timeframe for the waiver; and,
 - d. A record of the tons of Organic Waste, Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, Mixed Waste, and/or Gray/Black Container Waste redirected to an Alternative Facility or Disposed at an Approved Disposal Facility as a result of the waiver, recorded by Collection vehicle or Transfer vehicle number/load,

date, and weight.

3. Quarantined Organic Waste: A record of all compliance agreements for quarantined Organic Waste that are Disposed of, including the name of Generator, date issued, location of final disposition, and the amount of quarantined Organic Waste that was required to be Disposed at a landfill.
4. Compostable Plastics in Green Containers: Written notification that the Approved Organic Waste Processing Facility(ies) has and will continue to have the capabilities to Process and recover the Compostable Plastics included with the Source Separated Green Container Organic Waste Transported to the Approved Organic Waste Processing Facility.
5. Plastic Bags in Food Waste or Green Containers: Written notification to the City that the Approved Organic Waste Processing Facility has and will continue to have the capabilities to Process and recover plastic bags when it recovers Source Separated Green Container Organic Waste.

C. Public Education and Outreach Report

1. A copy of all education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with Section 5.3 of the Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.
2. A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
3. The number of Organic Waste Generators and Commercial Edible Food Generators that received information and the type of education and outreach used.
4. For any mass distribution through mailings or bill inserts, the Franchisee shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.

5. A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
6. Franchisee shall maintain a record of all technical assistance efforts conducted pursuant to Section 5.7 of the Agreement, including:
 - a. The name and address of the Customer/Generator receiving technical assistance, and account number, if applicable.
 - b. The date of any technical assistance conducted and the type of technical assistance, including, but not limited to: site visits, waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications.
 - c. A copy of any written or electronic educational materials distributed during the technical assistance process.
7. A copy of all special event reports submitted to the City in accordance with Section 4.4.6 of the Agreement.

D. Compliance Monitoring and Enforcement Report

1. A summary of the total number of SB 1383 non-compliance complaints that were received and investigated, and the number of notices of violation issued based on investigation of those complaints, in accordance with Section 5.2 and Section 8.3.2.D.4 of the Agreement.
2. The total number of hauler route reviews conducted pursuant to Section 5.4 of the Agreement.
3. The number of inspections conducted by type for Commercial Edible Food Generators, Food Recovery Organizations, and Commercial Businesses.
4. A copy of written and/or electronic records and documentation for all audits, studies, compliance reviews, and all other inspections conducted pursuant to Section 5.5 of the Agreement.
5. The number of Commercial businesses that were included in a compliance review performed by the Franchisee, and the number of violations found and

corrected through compliance reviews, if different from the number reported in subsection D.6 of this Section; including a list with each Generator's name or account name, address, and Generator type.

6. The total number of notices of violation issues, categorized by type of Generator.
7. The number of enforcement actions that were resolved, categorized by type of Generator.
8. Copies of all written notices, violations, educational materials, or other enforcement mechanisms issued to noncompliant Generators.

E. Food Recovery Program Support

1. The total number of Generators classified as Tier One and Tier Two Commercial Edible Food Generators located within the City.
2. The number of Food Recovery Services and Food Recovery Organizations located and operating within the City that contract or have written agreements with Commercial Edible Food Generators for Food Recovery.
3. The number of Generators participating in the Edible Food recovery program, as described in Section 4.3.13 of the Agreement.

F. Vehicle and Equipment Inventory

1. A list of all vehicles used in performing services under this Agreement including the license plate number, VIN, make, model, model year, purchase date, engine overhaul/rebuild date (if applicable), and mileage at June 30.
2. If applicable, the name, physical location, and contact information of each entity, operation, or Facility from whom the RNG was procured.
3. If applicable, the total amount of RNG procured by the Franchisee for use in Franchisee vehicles, in diesel gallon equivalents (DGE), including copies of any receipts, invoices, or other similar documentation evidencing procurement. In addition to the amount procured, Franchisee shall include the total amount actually used in Franchisee vehicles in the calendar year, if these values are

different.

4. Franchisee shall maintain records of the amount of RNG purchased and shall report this information to the City annually. Franchisee agrees to allow the City the right to report this RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

G. Customer Revenue and City Fee Payment Report

Provide a statement detailing Gross Revenue from all operations conducted or permitted pursuant to this Agreement and report of all City fees paid in accordance with Article 3 of this Agreement.

H. Additional Reports

1. Upon Incident Reporting. City reserves the right to request additional reports or documents in the case of unforeseen events or additional requirements imposed upon the City. The Franchisee shall provide the requested reports, documents, or information within ten (10) business days upon receipt of the request or within a timeframe determined by the City, which shall not to exceed ten (10) days.
2. AB 901 Reporting. At City's option, City may require that Franchisee provide the City copies of Franchisee's AB 901 reports on a regular basis (such as monthly, quarterly, or annually) or within ten (10) business days of the request.
3. CALGreen Code Compliance. Franchisee shall maintain records of any information or documentation required to demonstrate compliance with the California Green Building Standards Code (CALGreen Code), as adopted by Chino Hills Municipal Code Section 15.04.080. City may request that this information be included in the monthly or annual report(s), as it pertains to the services provided under this Agreement. City shall notify the Franchisee of this request within ten (10) business days prior to the submittal deadline of the monthly and/or annual report where the information is to be included.
4. Facility Capacity Planning Information. City may require Franchisee to provide City with information of available Organic Waste Processing capacity for any

Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste such Approved Facilities have the ability to receive within permitted limits. Franchisee shall respond to City within 60 days of City's request for information regarding available new or expanded capacity, and, at City's option, may be required to submit reports on a more regular basis (such as monthly, quarterly, or annually). If Franchisee uses a subcontractor to perform some or all of the Facility-related services required by this Agreement, Franchisee shall secure any City-requested Facility capacity planning information from its subcontractor(s). The annual Facility capacity planning report shall comply with the following:

- a. Include reports of current throughput and permitted capacity and available capacity for Source Separated Blue Container Organic Waste and Source Separated Green Container Organic Waste Processing for any Facility in the Jurisdiction that processes Source Separated Blue Container Organic Waste and/or Separated Green Container Organic Waste. Existing capacity may include identification of monthly tons of additional Source Separated Recyclable Materials, Separated Green Container Organic Waste, Source Separated Blue Container Organic Waste, and/or Mixed Waste capacity such Facility has the ability to receive within permitted limits.
 - b. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Separated Green Container Organic Waste and/or Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.
 - c. Be submitted using a form or format approved by the City.
- I. Customized Reports. City reserves the right to request Franchisee to prepare and provide customized reports from records Franchisee is required to maintain.

8.3.4 Financial Report

The City may, at City's option, request the Franchisee's audited financial reports/statements (or parent company, if parent company submits corporate guaranty of performance), and Franchisee's internally prepared supplemental statement of income and expenses related specifically to City of Chino Hills operations, for the most

recently completed fiscal year in connection with any extraordinary rate adjustment request, Billing audit, Franchise Fee audit, or verification of other information required under this Agreement. Such audit may request review or copying of financial statements maintained by Franchisee, which may include, without limitation, comparative balance sheets, comparative operating statements, statements of changes in investments in property and equipment, statements of source and application of funds, and a statement of any changes in Franchisee's equity, in which shall be set forth the names of principal officers and stockholders of the corporation, income statements for local hauling operations, profit/loss statements for local hauling operations, any other documents that may reasonably be requested by a certified public accountant.

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

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

8.4 Reporting Adverse Information

Franchisee shall provide City two copies (one to the City Manager, one to the City Attorney) of all reports, pleadings, applications, notifications, notices of violation, communications or other material relating specifically to Franchisee's performance of services pursuant to this Agreement, submitted by Franchisee to, or received by Franchisee from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, State or local agency, including any federal or State court. Copies shall be submitted to City simultaneously with Franchisee's filing or submission of such matters with said

agencies. Franchisee's routine correspondence to said agencies need not be routinely submitted to City, but shall be made available to City promptly upon City's written request.

8.5 Right to Inspect Records

City shall have the right to inspect or review the specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Franchisee or its related party entities that City shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Agreement and Franchisee's performance provided for in this Agreement. Franchisee shall make all records and documents to be reviewed and inspected by the City as a part of any audit or other record review conducted by the City, available for the City's review, inspection and copying within five (5) business days (excluding Saturday, Sunday and holidays included in Section 4.7.1) of receiving written notice from the City requesting the same.

8.6 Failure to Report

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

8.7 Public Records

All reports made to the City pursuant to this Agreement shall be deemed public records for purposes of the City's use, any litigation, and public records requests made pursuant to the California Public Records Act (Statutes of 1968, Chapter 1473; currently codified as California Government Code § 6250 through § 6276.48).

ARTICLE 9: INDEMNIFICATION, INSURANCE AND BOND

9.1 Indemnification

Without regard to the limits of any insurance coverage, Franchisee agrees to indemnify, defend with counsel appointed by the City, protect and hold harmless the City, its representatives, officers, boards, agents, volunteers and employees (“Indemnitees”) against any and all fines, response costs, assessments, actions, suits (in law or equity), injunctive relief, claims, damages to Persons or property, losses, costs penalties, obligations, errors, omissions or liabilities of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) (“claims or liabilities”) that may be asserted or claimed by any Person, firm or entity arising out of or in connection with (i) violations of the California or U.S. Constitution, AB 939 and related Solid Waste Handling laws, any laws related to Hazardous Materials, and any other federal, State or local statutes, laws or regulations, or municipal ordinances, which arise from or challenge any validity of, or relate to the award and implementation of, this exclusive Franchise Agreement; (ii) the negligent performance of, or failure to perform, the work or services of Franchisee, its agents, employees, Subcontractors, or invitees, provided for in this Agreement; (iii) the negligent acts or omissions of Franchisee hereunder, or arising from Franchisee's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of Indemnitees, and (iv) the acts of Franchisee, its officers, employees, agents, Companies and/or Subcontractors in performing services under this Agreement for which strict liability is imposed by law. The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the City’s negligence, but shall not extend to such claims or liabilities arising from the sole negligence or willful misconduct of the City, its representatives, officers, agents, volunteers or employees, who are directly responsible to the City, and in connection therewith:

A. Franchisee will defend any action or actions filed in connection with any of said claim or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

B. Franchisee will promptly pay any judgment rendered against Indemnitees for any such claims or liabilities arising out of or in connection with the negligent

performance of or failure to perform such work or services of Franchisee hereunder; and Franchisee agrees to save and hold Indemnitees harmless therefrom;

C. In the event the City, its officers, agents, volunteers or employees is made a party to any action or proceeding for claims or liabilities arising out of or in connection with the issues identified in this Section 9.1, Franchisee agrees to pay to the City, its officers, agents, volunteers or employees, any and all costs and expenses incurred by the City, its officers, agents, volunteers or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Franchisee's obligations hereunder shall survive the termination or expiration of this Agreement.

THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

9.2 Hazardous Material Indemnification

A. Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Franchisee specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), reimburse, indemnify, and hold Indemnitees harmless from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Franchisee that:

1. results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnitee is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise cleanup, any Hazardous Contaminant (as defined herein); or
2. relates to material Collected, Transported, Recycled, Processed, treated or Disposed of by Franchisee.

B. Franchisee's obligations pursuant to this section shall apply, without limitation, to:

1. any Claims brought pursuant to or based on the provisions of any Environmental Law;
2. any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation of Franchisee of any Facility;
3. any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, Transportation, Disposal, Processing or use of any materials recovered by Franchisee;
4. any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

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

D. For purposes of this section, the term "Hazardous Contaminant" shall mean any Hazardous Material, any crude oil or refined or unrefined petroleum product, or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to any referenced statutory or regulatory provisions made before or after the date of execution of this Agreement.

E. This indemnity is intended to operate as an agreement pursuant to § 107(e) of the CERCLA, 42 U.S.C. § 9607(e), and California Health and Safety Code § 25364, to defend, protect, hold harmless and indemnify City from all forms of liability under CERCLA, RCRA, other statutes or common law for any and all matters addressed in this section.

F. THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

9.2.1 CERCLA Defense Records

City views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) and a copy or summary of the reports required by Article 8 above, for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to City. Franchisee agrees to notify City Manager and the City Manager's designee, and City Attorney, and to provide copies of such records to City, if requested by City, before destroying such records. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

9.3 CalRecycle Indemnification and Guarantee

Franchisee's duty to defend and indemnify herein includes all fines and/or penalties imposed by CalRecycle, if the requirements of AB 939, AB 341, AB 1826, and/or SB 1383 are not met by the Franchisee with respect to the Franchisees obligations under this Agreement, and such failure is: (i) due to the failure of Franchisee to meet its obligations under this Agreement; or, (ii) due to Franchisee's delay in providing information that prevents Franchisee or County from submitting reports to regulators in a timely manner.

9.4 Electronic and Web based Information Indemnity

Franchisee shall defend with counsel acceptable to City, indemnify, and hold City harmless against and from any and all -related claims, including but not limited to, suits, losses, penalties, damages, responsibility for costs, regulatory fines, penalties, credit monitoring expenses, and liability for damages of every name, kind and description, including attorneys' fees and costs incurred, attributable to the negligence or willful misconduct of Franchisee and any Subcontractors used in performance of this Agreement in handling or protecting Customer information over which Franchisee has control, including but not limited to billing details, electronic payment(s), and Customer account information that is not readily available to the general public. Franchisee shall maintain electronic files and Franchisee's website in accordance with the industry best practices for maintaining such information as safely and securely as possible. Nothing

in this Section 9.4 shall prevent or restrict Franchisee's obligation and responsibility to provide City with information required under this Agreement.

9.5 Insurance

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

A. Insurance Requirements. Franchisee shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to Persons or damages to property which may arise from or in connection with the performance of the work hereunder by Franchisee, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII. Franchisee shall provide the following scope and limits of insurance:

- a. **Minimum Scope of Insurance.** Coverage shall be issued by an insurer with a Best A.- VII-rated company which is California-admitted, and shall be at least as broad as;
 - (1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 000 1);
 - (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code I "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval of the CITY, and
 - (3) Workers' Compensation insurance as required by the Labor Code of State of California and Employees Liability insurance and covering all Persons providing services on behalf of the Franchisee and all risks to such Persons under this Agreement.
- b. **Minimum Limits of Insurance.** Franchisee shall maintain limits of insurance no less than:
 - (1) General Liability: \$10,000,000 aggregate and \$5,000,000 per

occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit;

- (2) Automobile Liability: \$10,000,000 per accident for bodily injury and property damage; and
- (3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
- (4) Technology Professional Liability Errors and Omissions Insurance: (Cyber Liability) appropriate to the Franchisee's profession and industry practice, with limits not less than \$2,000,000 per occurrence. Coverage for cyber risks shall be sufficiently broad to respond to the duties and obligations as are undertaken by Franchisee under this Agreement and shall include, but not be limited to claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security. The policy shall provide coverage for breach response notification and remediation costs, regulatory fines and penalties, credit monitoring expenses, electronic funds transfer losses, electronic data restoration expenses, and business interruption costs with limits sufficient to respond to these obligations, in the sole discretion of the City's Risk Manager.
- (5) Pollution Liability – \$10,000,000 per loss and annual aggregate applicable to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically damaged or destroyed; clean-up costs, including first party cleanup of the City's property and third-party cleanup, and bodily injury

costs if pollutants impact other properties; and defense, including costs, fees and expenses incurred in the investigation, defense, or resolution of claims. Coverage shall include completed operations and shall apply to sudden and non-sudden pollution conditions. Coverage shall apply to acts, errors or omissions arising out of, or in connection with, Franchisee's scope of work under this Agreement. Coverage shall also apply to non-owned deposit sites ("NODS") that shall protect against, for example, claims regarding bodily injury, property damage, and/or cleanup costs involving NODS. Coverage is preferred by the City to be occurrence based. However, if provided on a claims-made basis, Franchisee warrants that any retroactive date applicable to coverage under the policy precedes the Effective Date of this Agreement, and that continuous coverage shall be maintained or an extended discovery period will be exercised through completion or termination of this agreement for a minimum of five (5) years. This provision does not limit or alter any rights or remedies to City allowable under this agreement and/or applicable law in perpetuity.

B. Other Insurance Provisions. Insurance policies required by this Agreement shall contain the following provisions:

- a. All Policies. Each insurance policy shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.
- b. General Liability and Automobile Liability Coverages.
 - (1) City, its officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Franchisee performs, products and completed operations of Franchisee; Premises owned, occupied or used by Franchisee, or automobiles owned, leased or hired or borrowed by Franchisee.

The coverage shall contain no special limitations on the scope of

protection afforded to City, its officers, officials, or employees.

- (2) Franchisee's insurance coverage shall be primary insurance as respect to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees or volunteers shall apply in excess of and not contribute with, Franchisee's insurance.
- (3) Franchisee's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability.
- (4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

- c. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and agents for losses arising from work performed by Franchisee for City.

C. Other Insurance Requirements. Franchisee agrees to deposit with City, at or before the Effective Date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Franchisee furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a Person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

- a. Franchisee shall furnish certificates and endorsements from each Subcontractor which physically performs work in City identical to those Franchisee provides.
- b. Any deductibles or self-insured retentions must be declared to and approved by City in its reasonable judgement. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Franchisee shall procure a bond guaranteeing payment of losses and related investigations, claim

administration, defense expenses and claims.

- c. The procuring of such required policy or policies of insurance shall not be construed to limit Franchisee's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.
- D. **Self-Insurance.** To the extent provided by law, all or any part of any required insurance may be provided under a plan of self-insurance approved by the State of California and the City.
- E. **Waiver of subrogation.** All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Franchisee or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Franchisee hereby waives its own right of recovery against the City, and shall require similar written express waivers and insurance clauses from each of its Subcontractors.
- F. **Acceptability of Insurers** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the Agency's Risk Manager.
- G. **Verification of Coverage.** Simultaneously with the execution of this Agreement, Franchisee shall furnish City with certificates of insurance evidencing the coverage required herein, in form and substance satisfactory to City. The certificates for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. No work under this Agreement shall commence until Franchisee has provided City with the Certificate(s) of Insurance or appropriate insurance binder(s) evidencing the required insurance coverage and said Certificate(s) of Insurance or binder(s) are approved by the City, which appraisal shall not be unreasonably withheld. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies and shall have all required endorsements. If City requests, copies of each policy, together with all endorsements,

shall also be promptly delivered to City throughout the term of the Agreement.

H. Companies and Subcontractors. Franchisee shall include all Companies and Subcontractors, which are involved in Solid Waste removal and hauling operations on behalf of the Franchisee, as insureds under its policies or shall furnish separate certificates and endorsements for each Franchisee and Subcontractor. All coverages for Companies and Subcontractors shall be subject to all of the requirements stated herein.

I. Required Cancellation Notices:

1. The certificate of insurance for the Workers' Compensation policy shall contain an endorsement in the following form:

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

City Manager
City of Chino Hills
114000 City Center Way
Chino Hills, CA 91709

2. The certificate of insurance for the Liability policies shall contain endorsements in the following form:

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

City Manager
City of Chino Hills
14000 City Center Way
Chino Hills, CA 91709

- b) "City, its officers, elective and appointive boards, commissions, employees, and agents are additional insureds on this policy."
- c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City, including

any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."

- d) "Inclusion of City as an insured shall not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Franchisee. This policy shall protect Franchisee and City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Franchisee's liability as set forth in the policy beyond the amount shown or to which Franchisee would have been liable if only one party had been named as an insured."

Renewal certificates will be furnished at time of policy renewal to City to as required throughout the Term of this Agreement.

J. Other Insurance Requirements

1. In the event any services are delegated to a Franchisee or Subcontractor, Franchisee shall require such Franchisee or Subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the Franchisee or Subcontractor's employees engaged in the work in accordance with this Section 9.5. The liability insurance required by this Section 9.5 shall cover all Franchisee or Subcontractors or the Franchisee or Subcontractor must furnish evidence of insurance provided by it meeting all of the requirements of this Section 9.5.
2. Franchisee shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Franchisee from any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Franchisee or any Franchisee or Subcontractor on account of any occurrence related to this Agreement, Franchisee shall promptly report the facts in writing to the insurance carrier and to City.

If Franchisee fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Franchisee's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due Franchisee.

9.6 Faithful Performance Bond

Within fifteen (15) days of the execution of this Agreement, Franchisee shall deliver to City a performance bond in the sum of the amount of Six Hundred and Fifty-Thousand Dollars (\$650,000), similar to the form provided in Exhibit 5, which secures the faithful performance of this Agreement, including, without limitation, payment of any penalty and the funding of any work to cure a breach of this Agreement, unless such requirement is waived by the City Manager. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force (through annual renewals) until released in accordance with Section 9.10.

9.7 Faithful Performance Letter of Credit

In addition to a faithful performance bond as noted in Section 9.5 above, Franchisee shall furnish an irrevocable letter of credit in the amount of Six Hundred and Fifty-Thousand Dollars (\$650,000), from a financial institution acceptable to the City and in a form acceptable to the City Attorney as security for the performance of this Agreement (the "LOC"). The LOC shall be the sole responsibility of Franchisee, and shall remain in force until released in accordance with Section 9.10. Alternatively, Franchisee may furnish an irrevocable letter of credit in the amount of one million three hundred thousand dollars (\$1,300,000) in lieu of the separate letter of credit of \$650,000 and separate performance bond of \$650,000 described in Section 9.6.

9.8 Forfeiture of Performance Bond

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

9.9 Forfeiture of Letter Of Credit

Thirty (30) days following City providing Franchisee with written notice of its failure to

pay City any amount owing under this Agreement, City may draw upon the LOC for purposes including, but not limited to:

- a. Payment of sums due under the terms of this Agreement which Franchisee has failed to timely pay to City
- b. Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Franchisee, including but not limited to the liquidated damages described in Section 11.4.

City may draw upon the entire LOC and convert it to a cash deposit if Franchisee fails to cause the LOC to be extended or replaced with another satisfactory letter of credit no later than 60 days prior to its expiration during the term hereof.

9.10 Performance Security Beyond Service Term

Some Agreement requirements extend beyond the Term of this Agreement and will not be substantiated until after the final service date. Therefore, the Franchisee shall not terminate the performance bond or letter of credit, and will renew them to ensure continuous availability to the City, until receiving a written release from the City. City will provide such a release when City, in its reasonable judgment, is fully satisfied that all requirements have been met. However, permission from the City to discontinue holding these performance securities does not relieve Franchisee of payments to the City that may be due, or may become due.

ARTICLE 10

CITY'S RIGHT TO PERFORM SERVICE

10.1 General

In the event that Franchisee, for any reason whatsoever, fails, refuses or is unable to Collect, Recycle, Process, Transport or Dispose of any or all Solid Waste which it is required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than two business days, excluding Saturday, Sunday and holidays listed in Section 4.7.1, and if, as a result thereof, Solid Waste should accumulate in City to such an extent, in such a manner, or for such a time that such accumulation endangers or menaces the public health, safety or welfare, then City shall have the right, but not the obligation, upon twenty-four (24) hour prior written notice to Franchisee during the period of such emergency as determined by City, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Franchisee; and/or (2) to take possession of any or all of Franchisee's land, equipment, and other property used or useful in the Collection and Transportation of Solid Waste, and to use such property to Collect and Transport any Solid Waste generated within City which Franchisee would otherwise be obligated to Collect, Transport, and properly dispose of or Process pursuant to this Agreement.

Notice of Franchisee's failure, refusal or neglect to Collect, Transport and properly dispose of or Process Solid Waste may be given orally by telephone to Franchisee at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Franchisee within one business day, excluding Saturday, Sunday and holidays listed in Section 4.7.1 of the oral notification.

Franchisee further agrees that in such event:

- A.** It will take direction from City to affect the transfer of possession of equipment and property to City for City's use, or for use by any Person or entity designated by the City.
- B.** It will, if City so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.

C. City may immediately engage all or any personnel, including 3rd parties not directly employed by the City, necessary or useful for the Collection and Transportation of Solid Waste, including, if City so desires, employees previously or then employed by Franchisee. Franchisee further agrees, if City so requests, to furnish City the services of any or all management or office personnel employed by Franchisee whose services are necessary or useful for Solid Waste Collection, Transportation, Processing and Disposal operations and for the Billing and collection of fees for these services.

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

If the interruption or discontinuance in service is caused by any of the reasons listed in Section 11.5, City shall pay to Franchisee the reasonable rental value of the equipment and Facilities, possession of which is taken by City, for the period of City's possession, if any, which extends beyond the period of time for which Franchisee has rendered bills in advance of service, for the class of service involved.

10.2 Temporary Possession of Franchisee's Property

If City suffers an interruption or discontinuance of service (including interruptions and discontinuance due to events described in Section 11.5), City may take possession of and use all of Franchisee's property described above until other suitable arrangements can be made for the provision of Solid Waste Services which may include the grant of a Franchise to another waste hauling company.

10.3 Billing and Compensation to City During City's Possession

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

10.4 City's Right to Relinquish Possession

It is further mutually agreed that City may at any time at its discretion relinquish possession of any or all of the above-mentioned property to Franchisee and thereupon demand that Franchisee resume the Solid Waste services as provided in this Agreement, whereupon Franchisee shall be bound to resume the same.

10.5 City's Possession Not A Taking

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

10.6 Duration of City's Possession

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

10.7 Disaster Preparedness Plan

Within twelve (12) months of the Effective Date, Franchisee shall, with City assistance, prepare a written plan detailing how Solid Waste services will be delivered in a time of emergency or natural disaster. For the plan, City shall provide Franchisee with a written list of critical Facilities being those Facilities that the City deems in need of special consideration in a time of emergency because they are critical to City's emergency response, of priority to the need of the community and/or represent a public

health risk to the community. Franchisee's written plan shall contain a protocol for contacting Franchisee management in the event of an emergency, an overview of Franchisee's resources available for emergency response, a plan for Collection, Disposal, and Recycling of Solid Waste generated by critical Facilities until the time of emergency passes and a plan for resuming normal operations following an emergency.

In the event of a disaster, the City may grant Franchisee a waiver of some or all Collection requirements under this Agreement and 14 CCR, Division 7, Chapter 12, Article 3 in the disaster-affected areas for the duration of the waiver. Any resulting changes in Collection requirements shall be addressed as a change in scope in accordance with Section 2.10.

ARTICLE 11

DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

11.1 Events of Default

Franchisee's breach of each and any provision of the Franchise or this Agreement may constitute a default hereunder to the extent Franchisee's performance, services or obligations under this Agreement are materially and adversely impacted. Events of default by the Franchisee include, but are not limited to, the following:

- A. Fraud or Deceit or Misrepresentation.** If the Franchisee engages in, or attempts to practice, any fraud or deceit upon City or makes a misrepresentation regarding material information to City.
- B. Insolvency or Bankruptcy.** If Franchisee becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.
- C. Failure to Maintain Coverage.** If Franchisee fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement.
- D. Violations of Regulation.** If Franchisee violates any orders or filings of any regulatory body having jurisdiction over Franchisee relative to this Agreement, provided that Franchisee may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred until a final decision adverse to the Franchisee is entered.
- E. Suspension or Termination of Service.** If Franchisee ceases to provide all or a portion of the Collection, Processing or Recycling services, or any other Solid Waste Handling Services as required under this Agreement, if not excused pursuant to Section 11.5, for a period of two (2) consecutive days or more, for any reason within the control of Franchisee.
- F. Failure to Pay.** If Franchisee fails to make any payments required under this Agreement and/or refuses to provide City, within ten (10) days of the demand, with

required information, reports, and/or records in a timely manner as provided for in the Agreement.

G. Failure to Cooperate with Audits. Failure to complete, perform or cooperate with any audit as described by this Agreement.

H. Failure to Submit Reports or Documentation. Failure to complete or to provide required reports or documents to City as required by this Agreement.

I. Acts or Omissions.

A. Any act or omission by Franchisee relative to the services provided under this Agreement which violates the terms, conditions, or requirements of this Agreement, the California Integrated Waste Management Act of 1989, as it may be amended from time to time (AB 939), or any law, statute, ordinance, order, directive, rule, or regulation issued pursuant to AB 939 shall constitute a default by the Franchisee. Any failure to correct or remedy any such violation within the time set in the written notice of the violation or, if Franchisee cannot reasonably correct or remedy the breach within the time set forth in such notice, if Franchisee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter shall constitute a default by Franchisee.

B. Any situation in which Franchisee or any of its officers, directors or employees are found guilty of any crime related to the performance of this Agreement, or of any crime related to anti-trust activities, illegal Transport or Disposal of hazardous or toxic materials, or bribery of public officials shall constitute a default by Franchisee. The term "found guilty" shall be deemed to include any judicial determination that Franchisee or any of Franchisee's officers, directors or employees is guilty as well as any admission of guilt by Franchisee or any of Franchisee's officers, directors or employees including, but not limited to, the plea of "guilty", "nolo contendere", "no contest", and "guilty to a lesser charge."

J. False or Misleading Statements. Any representation or disclosure made to City by Franchisee in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

K. Attachment. The seizure of, attachment of, or levy on, the operating equipment of Franchisee, including, without limits, its equipment, maintenance or office facilities, or any part thereof.

L. Failure to Provide Assurance of Performance. If Franchisee fails to provide reasonable assurances of performance as required under Section 11.7.

M. Commingling of Recyclable Materials With Refuse/Landfilling of Recyclable Materials. If Franchisee negligently or willfully empties Containers of properly set out Recyclable Materials or Organic Waste into a Refuse load, or Transports a load of Recyclable Materials or Organic Waste to a landfill or other location at which the material will not be Diverted from landfilling.

N. Diversion Requirement. If Franchisee does not reach Diversion requirement of % of all tonnage Collected by Franchisee under this Agreement for two consecutive calendar years or fails to make reasonable efforts to assure that Recyclable Materials are Transported, handled and Processed at a suitable Facility, so as to maximize Diversion credits for the City.

O. Failure to Implement Collection Program. Franchisee fails to implement a Collection programs that comply with the requirements of Section 4.1 and Exhibit 9, which is essential for the City to achieve SB 1383 compliance.

P. Failure to Provide Processing Capacity. Franchisee fails to provide adequate Processing capacity in accordance with Exhibit 8, which is essential for the City to achieve SB 1383 compliance.

Q. Failure to Achieve Processing Standards. Franchisee fails to achieve the Processing standards specified in Exhibit 8 including achievement of minimum Organic Waste recovery rates, which are essential for the City to achieve SB 1383 compliance.

R. Failure to Comply with Other Requirements of SB 1383. Franchisee fails to comply with other requirements of the Agreement including public education, reporting, contamination monitoring, recordkeeping, or other obligations of this Agreement that delegate City's responsibility and/or authority under SB 1383 to

Franchisee.

S. Failure to Perform Street Sweeping Services. At no time shall Franchisee, for more than five (5) consecutive days, fail to perform its street sweeping contractual duties. Upon determination of the Public Works Director that the quality of workmanship being performed by the Franchisee does not meet the standards set by the City of Chino Hills as outlined in the specifications and/or for non-compliance of any provisions of street sweeping service, the City may terminate this Agreement upon thirty (30) days written notice to the Franchisee.

Franchisee shall have two business days, excluding Saturdays, Sundays and holidays included in Section 4.7.1, from the time it is given notification by City to cure any default arising under subsections E, F, G, H, K, L M, and S provided, however, that City shall not be obligated to provide Franchisee with a notice and cure opportunity if the Franchisee has committed the same or similar breach within a twenty-four (24) month period. It is expressly understood that Franchisee is not entitled to receive notice of default, or to cure such default, with respect to those matters listed in subsections A, B, C, D, I, J, N, P, Q and R above.

For other actions not listed above, or included in Section 11.2, City will provide Franchisee with a written notice setting forth the nature of the breach or failure and the actions, if any, required by Franchisee to cure such a breach or failure. Franchisee shall be deemed in default where breach or failure can be cured but Franchisee fails to cure within thirty (30) days.

11.2 Criminal Activity of Franchisee

Should the Franchisee or any of its officers, directors or employees be found guilty of felonious conduct related to the performance of this Agreement, or of felonious conduct related to anti-trust activities, illegal Transport or Disposal of hazardous or toxic materials, or bribery of public officials, the City reserves the right to unilaterally terminate this Agreement or impose other such sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it shall deem proper. Such action shall be taken after Franchisee has been given notice and opportunity to present evidence in mitigation. The term “found guilty” shall be deemed to include any judicial determination that Franchisee or any of Franchisee’s officers, directors or employees is guilty and any admission of guilt by

Franchisee or any of Franchisee's officers, directors or employees including, but not limited to, the plea of "guilty", "nolo contendere", "no contest", and "guilty to a lesser charge" entered as part of any plea bargain. If the Agreement is terminated pursuant to the above, such termination shall not occur if, within six months after City determines to terminate, the Franchisee completes a transfer of its contract rights and obligations to an individual or entity acceptable to the City pursuant to this Agreement.

11.3 Notice, Hearing and Appeal of Franchisee Breach.

Upon a default by Franchisee, City may, at its discretion, provide Franchisee with a written notice of intent to terminate this Agreement that includes the following:

- a. A description of the evidence upon which the decision to terminate is based
- b. That Franchisee has a right to a hearing prior to the City's termination of the Agreement

This hearing is to be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At this hearing Franchisee shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at this hearing, the Council may, by adopted resolution, act as follows:

1. Decide to terminate this Agreement; or,
2. Determine that Franchisee is innocent of a default and, accordingly, dismiss the Termination Notice of any charges of default; or,
3. Impose conditions on a finding of default and a time for cure, such that Franchisee's fulfillment of said conditions will waive or cure any default.

This right of termination is in addition to any other rights of City upon a failure of Franchisee to perform its obligations under this Agreement.

City's right to terminate this Agreement and to take possession of Franchisee's Facility are not exclusive, and City's termination of this Agreement shall not constitute an election of remedies. Instead, they shall be in addition to any and all other legal and

equitable rights and remedies which City may have, including without limitation the provision for Liquidated Damages in Section 11.4 below.

By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the time required to effect alternative service, and the rights granted by City to Franchisee, the remedy of damages for a breach hereof by Franchisee is inadequate and City shall be entitled to injunctive relief.

11.4 Liquidated Damages

A. General. City finds, and Franchisee agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Franchisee of certain specific obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that the services that are the subject of this Agreement might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such specific breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

B. Service Performance Standards; Liquidated Damages for Failure to Meet Standards. The Parties further acknowledge that consistent, reliable Solid Waste Handling Service is of utmost importance to City and that City has considered and relied on Franchisee's representations as to its quality of service commitment in entering this Agreement. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Franchisee fails to achieve the performance standards, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City will suffer.

Therefore, without prejudice to City's right to treat such breaches as an event of default under this Article 11, the Parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Franchisee
Initial Here _____

City
Initial Here _____

Franchisee agrees to pay (as liquidated damages and not as a penalty) the amounts set forth below:

1. Collection Reliability

- a) For each failure to commence service to a new Customer account within seven (7) days after order: \$100.00 per occurrence
- b) For each failure to Collect Solid Waste, which has been properly set out for Collection: \$100.00 per occurrence
- c) For each failure to correct and Collect a missed service within the timeframe set forth in Section 4.7.2: \$100.00 per occurrence;
each additional twenty-four (24) hour period: \$50.00 per occurrence.

2. Collection Quality

- a) For failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments or to place Containers upright which exceeds ten (10) Containers annually: \$50.00 per Container
- b) For each occurrence of excessive noise or discourteous behavior: \$100.00 per occurrence

- c) For each occurrence of Collecting Solid Waste during unauthorized hours:
\$100.00 per occurrence
- d) For each occurrence of damage to private property which exceeds five (5) such occurrences annually: \$100.00 per occurrence
- e) For each failure to clean up Solid Waste spilled from Collection Containers within ninety (90) minutes: \$100.00 per occurrence
- f) For each failure to clean up vehicle leaks or spills within the timeframe required by Section 4.7.3.D.6: \$500 per occurrence
- g) For each failure follow the cleanup procedures included in Section 4.7.3.D.6: \$500 per square foot of affected area

3. Customer Responsiveness

- a) For each failure to initially respond to a Customer complaint within one (1) business day (excluding Saturday, Sunday and holidays listed in Section 4.7.1), and for each additional day in which the complaint is not addressed, which exceed five (5) annually: \$50.00 per day
- b) For each failure to process Customer complaints as required by Article 5, which exceed five (5) annually: \$50.00 per occurrence
- c) For each failure to record a response to a Customer complaint or request within twenty-four (24) hours of resolution: \$100.00 per occurrence;
For each additional twenty-four (24) hour period: \$50.00 per occurrence
- d) For each failure to remove graffiti from Containers, or to replace with Containers bearing no graffiti, within two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of request from City or Customer: \$ 50.00 per day
For each additional day problem not resolved: \$25.00 per day.
- e) For each failure to repair or replace a damaged or missing Container within two (2) business days (excluding Saturday, Sunday and holidays listed in Section 4.7.1) of request from City or Customer: \$ 50.00 per day

- f) For each failure to process a claim for damages within thirty (30) days from the date submitted to Franchisee: \$100.00 per occurrence
- g) For each failure to issue a warning notice to a Container or materials not Collected due to improper set out which exceeds ten (10) such occurrences annually: \$100 per day per occurrence

4. Failure to Submit Reports or Allow Access to Records

For each failure to submit any individual report or provide access to records in compliance with and in the timeframe specified in this Agreement. Incomplete and/or inaccurate reports shall be considered a failure to submit until such time as all information in the report has been provided in a complete and accurate form. In the event City determines a report to be errant or incomplete more than ten (10) business days after submittal by Franchisee, Franchisee shall be given ten (10) business days to complete and correct and any pending Liquidated Damages shall be tolled during that period.

- a) Monthly Reports: \$50 per day
- b) Quarterly Reports: \$50 per day
- c) Annual Reports: \$100 per day

5. Accuracy of Billing

- a) Each Customer invoice that is not prepared in accordance with the City's approved rate schedule, in excess of ten (10) annually:
\$25 per invoice not to exceed \$2,500 per Billing run
- b) For each instance or invoice in which Franchisee imposes a special service fee not in accordance with the approved rate schedule and not approved in advance in writing by City, or not requested by the service recipient which exceeds ten (10) such occurrences annually:
\$50 per occurrence
- c) Failure to provide a Customer with a response, including an explanation and/or correction, to a Billing complaint within seven (7) business days from the complaint:

\$100.00 per occurrence;

Each additional day response not provided: \$50.00

6. Public Education and Outreach

- a) **Failure to Perform Public Education and Outreach.** For each failure to perform any individual education and outreach activity as required and in the timeframe specified by this Agreement.

1st violation - \$50 per occurrence

2nd violation - \$100 per occurrence

3rd and subsequent violations - \$250 per occurrence

7. Cooperation with Service Provider Transition

- a) For each day routing information requested by City in accordance with Section 12.9 is received after City-established due dates, both for preparation of a request for proposals and for new service provider's implementation of service : \$1,000/day
- b) For each day delivery of keys, access codes, remote controls, or other means of access to Solid Waste Containers is delayed beyond one (1) day prior to new service provider servicing Customers with access issues, as described in Section 12.9: \$1,000/day
- c) For delay in not meeting the requirements contained in Section 12.9 in a timely manner, in addition to the daily liquidated damages for breach under 8(a) and 8(b) above, liquidated damages of: \$20,000

8. Diversion Efforts

For each Rate Year (July 1, 2022 to June 30, 2023 considered the first Rate Year) in which Franchisee fails to provide support to the City within thirty (30) days of year-end, documenting that it Diverted at least % of the Solid Waste Franchisee Collected under this Agreement per Section 4.5:

\$25 for each ton below tonnage level necessary to meet % Diversion goal

9. SB 1383 Requirements

- a) **Use of Unauthorized Facilities.** For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement.

1st violation - \$50 per ton per offence

2nd violation - \$100 per ton per offence

3rd and subsequent violations - \$250 per ton per offence

- b) **Failure to Implement three- /three-plus Container System.** For each occurrence of failing to provide Customers with the three- /three-plus Container system required by and compliant with Exhibit 9 excluding Generators and Customers granted waivers pursuant to this Agreement, and excluding Generators and Customers that demonstrate compliance with Recycling and Organic Waste Self-Hauling requirements pursuant to Chapter 3.20.180 of the Chino Hills Municipal Code and 14 CCR Division 7, Article 12, Article 7. Minor, moderate and major violations have the same meaning as defined in 14 CCR Section 18997.3

Damages are per Generator or Customer per occurrence:

\$500 - Minor violation

\$4,000 – Moderate violation

\$7,500 – Major violation

- c) **Failure of the Approved High Diversion Organic Waste Processing Facility to Achieve Recovery Requirements. [Include only if Gray/Black Container Processing is required for the selected Collection system.]** For each Ton of Mixed Waste received at the Facility in a quarterly reporting period when the quarterly average Mixed Waste organic content recovery rate is lower than required by 14 CCR Section 18982(a)(33). Liquidated damages are assessed in the quarterly reporting period when the failure occurred.

1st violation - \$50 per ton per offence

2nd violation - \$100 per ton per offence

3rd and subsequent violations - \$250 per ton per offence

- d) **Failure of Approved Facility(ies) to Meet Limits on Incompatible**

Materials (if Applicable). For each Ton of Mixed Waste, Source Separated Recyclable Materials Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, or Organic Materials received at the Facility(ies) in a quarterly reporting period when Organic Waste recovered after Processing exceeds Incompatible Material thresholds defined in Exhibit 8 Section 8.2.F.4 if limits on Organic Waste in materials sent to Disposal apply. Liquidated damages are assessed in the quarterly reporting period when the failure occurred.

1st violation - \$50 per ton per offence

2nd violation - \$100 per ton per offence

3rd and subsequent violations - \$250 per ton per offence

- e) **Failure of Approved Facility(ies) to Meet Limits on Organic Waste in Materials Sent to Disposal.** For each Ton of Mixed Waste, Source Separate Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, or Organic Materials received at the Facility(ies) in a quarterly reporting period when Organic Waste in the materials sent to Disposal exceeds the thresholds defined in Exhibit 8 Section 8.2.F.2 if limits on Organic Waste in materials sent to Disposal apply. Liquidated damages are assessed in the quarterly reporting period when the failure occurred.

1st violation - \$50 per ton per offence

2nd violation - \$100 per ton per offence

3rd and subsequent violations - \$250 per ton per offence

- f) **Failure to Perform Contamination Monitoring Requirements.** For each failure to conduct contamination monitoring in accordance with Section 5.4 of this Agreement. [Amend depending on selected method.]

1st violation - \$50 per route per occurrence or per waste evaluation per occurrence

2nd violation - \$100 per route per occurrence or per waste evaluation per occurrence

3rd and subsequent violations - \$250 per route per occurrence or per waste evaluation per occurrence

- g) **Failure to Comply with Container Labeling and Colors.** For each occurrence of Franchisee's failure to comply with Container labeling and color requirements pursuant to Section 4.7.4.1 of this Agreement.

1st violation - \$50 per Container occurrence

2nd violation - \$100 per Container occurrence

3rd and subsequent violations - \$250 per Container occurrence

- h) **Failure to Conduct Compliance Tasks.** For each failure to conduct any compliance review, Discarded Materials evaluations pursuant to Section 8.6 of Exhibit 8, and/or other inspection required by this Agreement.

1st violation - \$50 per occurrence

2nd violation - \$100 per occurrence

3rd and subsequent violations - \$250 per occurrence

- i) **Failure to Issue Contamination Notices.** For each failure of Franchisee Collection personnel to issue contamination notices and contaminating processing fee notices and maintain documentation of issuance as required by Section 5.4 of this Agreement.

1st violation - \$50 per route per day

2nd violation - \$100 per route per day

3rd and subsequent violations - \$250 per route per day

- j) **Failure to Conduct Follow-Up Inspections.** For each failure to conduct a follow-up inspection as required by Section 5.5 of this Agreement.

1st violation - \$50 per occurrence

2nd violation - \$100 per occurrence

3rd and subsequent violations - \$250 per occurrence

10. General Contract Adherence

For each day that Franchisee fails to provide services required under the Agreement, or comply with terms of the Agreement, five (5) business days after receipt of written notification from City that such services are not being provided

or terms are not being met:

\$100.00/day

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

Prior to assessing liquidated damages, City shall give Franchisee notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Franchisee may review (and make copies at its own expense) all information in the possession of City relating to incident(s)/non-performance. Franchisee may, within ten (10) days after receiving the notice, request a meeting with the City Manager. Franchisee may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The City Manager, or designee, will provide Franchisee with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of the City Manager or designee shall be final.

- C. **Amount.** City may assess liquidated damages for each calendar day or event, as appropriate, that Franchisee is determined to be liable in accordance with this Agreement.
- D. **Timing of Payment.** Franchisee shall pay any liquidated damages assessed by City within ten (10) days after they are assessed. If they are not paid within the ten (10) day period, City may proceed against the performance bond required by the Agreement or find Franchisee in default and terminate this Agreement pursuant to Section 11.1, or both.

11.5 Excuse from Performance

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

Labor unrest, including, but not limited to, strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by Franchisee's employees or directed at Franchisee is excused from performance only to the extent that the following

requirements are met:

- Franchisee provides a contingency plan to the City prior to the execution of this Agreement demonstrating how services will be provided during the period of labor unrest. The contingency plan is subject to City approval and Franchisee shall amend the plan until it meets City requirements, including reasonably demonstrating how City's basic Collection and sanitary needs will be met to the City's satisfaction.
- Franchisee shall meet all requirements of this plan or City may revoke this excuse from performance offered under this Agreement and may choose to use enforcement provisions under this Agreement, including Sections 11.1, 11.2 and 11.3, in which case Franchisee is not excused from performance and Franchisee shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

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

The interruption or discontinuance of Franchisee's services caused by one or more of the events excused shall not constitute a default by Franchisee under this Agreement. Notwithstanding the foregoing, however, if Franchisee is excused from performing its full obligations under this Agreement for any of the causes listed in this section for a period of forty five (45) days or more, City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of Franchisee's land, equipment and other property and engaging Franchisee's personnel in Article 10 and this Article 11 will apply.

11.6 Notice, Hearing and Appeal of City Breach

Should Franchisee contend that City is in breach of this Agreement, it shall file with the City Manager a written request with City for an administrative hearing. Said request shall be made within ninety (90) days of the event or incident which allegedly gave rise to the breach. City shall notify Franchisee of the time and date said hearing shall be held within thirty (30) days of receipt of Franchisee's request. Franchisee shall present its position and all relevant facts after City staff has made its presentation. Franchisee shall be notified of City's ruling in writing within fourteen (14) days of the administrative hearing.

If Franchisee is not in agreement with the ruling issued by City at the administrative hearing, it shall have the right to appeal this ruling to the City Council. This appeal shall be made in writing to City no later than fourteen (14) days after receipt of the administrative hearing ruling. City shall notify Franchisee of the time and date the City Council will review Franchisee's allegation. Franchisee shall present its position and all relevant facts after staff has made its presentation. Franchisee shall be notified in writing within thirty (30) days of the City Council's ruling. Franchisee understands and agrees that if it fails to timely and properly exhaust the administrative remedies set forth in this Section, it has no right of action or other claim against the City for breach of this Agreement or otherwise.

11.7 Assurance of Performance

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

ARTICLE 12

OTHER AGREEMENTS OF THE PARTIES

12.1 Relationship of Parties

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

12.2 Compliance with Law

In providing the services required under this Agreement, Franchisee shall at all times, at its sole cost, comply with all Applicable Laws.

12.3 Governing Law

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

12.4 City

Except for those matters where Federal Courts have exclusive jurisdiction, any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits.

With respect to venue, the Parties agree that this Agreement is made in and will be performed in San Bernardino County.

12.5 Assignment

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

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

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

If Franchisee requests City's consideration of and consent to an assignment, City may deny or approve such request in its complete discretion. No request by Franchisee for

consent to an assignment need be considered by City unless and until Franchisee has met the following requirements:

- a) Franchisee shall undertake to pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment;
- b) Franchisee shall pay the City a transfer fee equal to 1% of the Gross Revenues times the number of years (pro-rated for partial years) remaining under this Agreement (based on actual rate revenues for the prior 12-months);
- c) Franchisee shall furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years;
- d) A proforma financial statement (income statement and balance sheet) for the proposed assignee with the projected results of operations assuming that the assignment is completed. Such proforma financial statement shall reflect any debt to be incurred by the assignee as part of the acquisition of Franchisee's operations; and,
- e) Franchisee shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the sale of operations conducted by Franchisee under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, State or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with State, federal or local Environmental Laws and that the assignee has provided City with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, State and local laws regulating the Collection and Disposal of Solid Waste including Hazardous Material; and, (v) of any other information required by City to ensure the proposed assignee can fulfill the Terms of this Agreement in a timely, safe and effective manner.

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

12.6 Affiliated Companies

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

If Franchisee enters into any financial transactions with a Related Party Entity for the provision of labor, equipment, supplies, services, capital, etc., related to the furnishing of service under this Agreement, that relationship shall be disclosed to City, and in the financial reports submitted to City. In such event, City's rights to inspect records, and obtain financial data shall extend to such Related Party Entity or entities.

12.7 Contracting or Subcontracting

This Agreement, or any portion thereof, shall not be subcontracted except with the prior written consent of the City, which consent shall not be unreasonably withheld. No such consent shall be construed as making the City a party to such subcontract, or subject the City to liability of any kind to any Subcontractor. Franchisee shall submit all subcontracts for review and approval by the City and any permitted subcontract shall terminate on or before the termination of this Agreement. All Subcontractors shall be licensed as required under State, Federal and local laws and regulations to perform their subcontracted work and obtain and maintain a City business license if required. Franchisee shall remain otherwise liable for the full and complete performance of its obligations hereunder.

12.8 Binding on Assigns

The provisions of this Agreement shall inure to the benefit to and be binding on the permitted assigns (if any) of the Parties.

12.9 Transition to Next Franchisee

Prior to, and at, the end of the Term or in the event this Agreement is terminated for cause prior to the end of the Term, Franchisee shall cooperate fully with City and any subsequent Solid Waste enterprise it designates to assure a smooth transition of Solid Waste Handling Services. Franchisee's cooperation shall include, but not be limited to, providing both the City and subsequent Solid Waste enterprise with route lists, Billing information, lists of gate or other access codes and information needed for entry to service areas, Container placement areas by address, levels of service including any special needs or services required by each location, and other operating records needed to service all Premises covered by this Agreement. In recognition of the difficulty inherent in Customer's difficulty or inability to store two sets of Containers, Franchisee shall remove its Containers in coordination with the distribution of Containers by the incoming service provider. Franchisee shall cooperate with the City and incoming service provider in agreeing to the timing of Container removal; if Parties cannot agree on a phase-out schedule and Franchisee does not remove Containers in a timely manner that requires Customers to store two Containers, City, incoming service provider, or another entity may remove Franchisee's Containers and seek cost reimbursement from Franchisee through its performance bond, letter of credit or other means. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Franchisee shall, to the maximum extent feasible provide a new service provider with all keys, security codes and remote controls used to access garages and Bin enclosures. Franchisee shall be responsible for coordinating transfer immediately after Franchisee's final pickups, so as not to disrupt service. Franchisee shall provide City with detailed route sheets containing service names and addresses, Billing names and addresses, monthly rate and service levels (quantity, material type, and size of Containers and pickup days) at least 90 days prior to the transition date, and provide an updated list two weeks before the transition and a final list of changes the day before the transition. Franchisee shall provide means of access to the new service provider at least one full calendar day (excluding Saturday, Sunday and holidays listed in Section 4.7.1) prior to the first day of Collection by another party, and always within sufficient time so as not to impede in any way the new service provider from easily servicing all Containers.

Franchisee to provide documentation of any Customer declining request to provide

keys, security codes, and/or remote controls used to access garages and Bin enclosures.

12.10 Parties in Interest

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

12.11 Waiver

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

12.12 Franchisee's Investigation

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

12.13 Condemnation

City fully reserves the rights to acquire Franchisee's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain. This provision is additive, and not intended to alter the rights of the Parties set forth in Article 10.

12.14 Notice

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

If to City: City Manager
 City of Chino Hills

14000 City Center Way
Chino Hills, CA 91709

If to Franchisee:

The address to which communications may be delivered may be changed from time to time by a written notice given in accordance with this section.

Notice shall be deemed given on the day it is personally delivered or, if mailed, three days from the date it is deposited in the mail.

12.15 Representatives of the Parties

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

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

12.16 City Free to Negotiate with Third Parties

City may investigate all options for the Collection, Transporting, Recycling, Processing and Disposal of Solid Waste for periods commencing after the expiration of the initial Term. Without limiting the generality of the foregoing, City may solicit proposals from

Franchisee and from third parties for the provision of Collection services, Refuse services, Recyclable Materials services, Organic Waste services and Processing, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination under Section 11.1 of this Agreement.

12.17 Compliance with Municipal Code

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

12.18 Privacy

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

12.19 Cooperation Following Termination

At the end of the Term or in the event this Agreement is terminated prior to the end of the Term, Franchisee shall cooperate fully with City and any subsequent Franchisee to assure a smooth transition of Solid Waste management services. Franchisee's cooperation shall include, but not be limited to, providing operating records needed to service all properties covered by this Agreement. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

12.20 Compliance with Immigration Laws.

Franchisee shall be knowledgeable of and comply with all local, State and federal laws which may apply to the performance of this Agreement. Franchisee warrants and represents that all of its employees, including any and all prospective employees hired to perform services for the City under this Agreement and the employees of any Subcontractor retained by the Franchisee to perform a portion of the services under this Agreement, are and will be authorized to perform the services contemplated by this Agreement in full compliance with all applicable State and federal laws, rules and regulations, including, but not limited to, the Immigration Nationality Act of 1952 (commencing with Section 1101 of Title 8 of the United States Code), and the Immigration Nationality and the Immigration Reform and Control Act of 1986 (commencing with Section 1324a of Title 8 of the United States Code), as amended. Franchisee agrees to verify the legal status of all of its employees and provide documentation of such verification whenever requested by the City. If Franchisee discovers that any employee it has retained is not in compliance with Immigration Laws, Franchisee agrees to terminate such employee.

12.21 Guarantee of Franchisee's Performance

Pursuant to a guarantee in substantially the form attached as Exhibit 4, _____ a corporation which owns all of the issued and outstanding common stock of Franchisee, has agreed to guarantee Franchisee's performance of this Agreement. The Guarantee is being provided no later than ten (10) days subsequent to the execution of this Agreement.

ARTICLE 13

MISCELLANEOUS AGREEMENTS

13.1 Entire Agreement

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

13.2 Section Headings

The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

13.3 References to Laws and Other Agreements

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

13.4 Interpretation

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

13.5 Agreement

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

13.6 Severability

If any non-material provision of this Agreement is for any reason deemed to be invalid

and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

13.7 Exhibits

Each of the Exhibits identified as Exhibit "1" through "9" is attached hereto and incorporated herein and made a part hereof by this reference.

13.8 Non-Waiver Provision

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

13.9 Attorneys' Fees

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal and, in addition, a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above.

CITY OF CHINO HILLS

Company

Benjamin Montgomery
City Manager

(Signature)

ATTEST:

(Printed name/Title)

Cheryl Balz
City Clerk

(Date)

(Date)

(Signature)

APPROVED AS TO FORM:

(Printed Name/Title)

Mark D. Hensley
City Attorney

(Date)

EXHIBIT 1

COMPANY'S PROPOSAL

EXHIBIT 2

INITIAL MAXIMUM CUSTOMER RATES

Following are the rates for July 1, 2022 through June 30, 2023:

[WILL BE INCLUDED IN FINAL NEGOTIATED AGREEMENT]

EXHIBIT 3A

EXAMPLE RATE ADJUSTMENT FORMULA - RESIDENTIAL, MULTI-FAMILY AND COMMERCIAL SERVICE RATES

Step One: Calculate Percentage Change in Indices

Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change In Index ((Column B/Column A) -1)
1	Service	(1)	259.083	264.935	2.3%
2	Fuel	(2)	165.500	81.300	-50.9%

Step Two: Determine Weighted Increase

Row	Adjustment Factor	Index	D	E	F
			Cost Component Weighted as a % of Component Total (3)	Percent Change In Index (from Column C)	Total Weighted Change (Column D x Column E)
3	Service	(1)	95.0%	2.3%	2.2%
4	Fuel	(2)	5.0%	-50.9%	-2.5%
5	Total		100.0%		-0.3%

Step Three: Apply Percentage Change to Rates

Row	Rate Category	G	H	I	J
		Existing Customer Rate	Total Weighted Percentage Change (Row 5, Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column I + Column G)
6	Residential Cart Service	\$ 23.18	-0.3%	\$ (0.07)	\$ 23.11
7	Additional Refuse Cart	\$ 7.37	-0.3%	\$ (0.02)	\$ 7.35
9	Additional Recycling Cart	\$ 6.24	-0.3%	\$ (0.02)	\$ 6.22
10	Additional Yard Waste Cart	\$ 6.24	-0.3%	\$ (0.02)	\$ 6.22
11	Additional Bulky Item Fee - Curbside	\$ 44.67	-0.3%	\$ (0.13)	\$ 44.54
13	Damaged Cart Penalty	\$ 66.29	-0.3%	\$ (0.20)	\$ 66.09
14	Curbside - Extra Collection	\$ 21.60	-0.3%	\$ (0.06)	\$ 21.54

Step Four: Re-weight Cost Components

Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component Weighting (Column D)	Percent Change in Index (Column C)	Change in Cost Component Weighting (Column K x Column L)	Adjusted Cost Component Weighting (Column K + Column M)	Cost Components Reweighted to Equal 100%
15	Service	(1)	95.0%	2.3%	2.2%	97.2%	97.5%
16	Fuel	(2)	5.0%	-50.9%	-2.5%	2.5%	2.5%
17	Total		100%			99.7%	100.0%

(1) Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index - average annual change.

(2) Producer Price Index WPU05522101, Fuels and related products and power - Commercial natural gas - average annual change.

(3) First year based on Section 6.4.2.1 of this Agreement. After the first adjustment, weightings come from Column O of the previous year's rate adjustment worksheet.

EXHIBIT 3A

EXAMPLE RATE ADJUSTMENT FORMULA – STREET SWEEPING SERVICES

Step One: Calculate percentage change in indices

		A	B	C
Row	Index	Old Index Value	New Index Value	Percent Change In Index, ((Column B/ Column A) -1)
1	CPI	259.083	264.935	2.3%

Step Two: Apply percentage change to rates

		D	E	F	G
Row	Example Rate Categories	Current Customer Rate (2)	Percentage Change in Index (from Column C)	Rate Increase or Decrease (Column D x Column E)	Adjusted Rate (Column D + Column F)
2	Cost Per Curb Mile	\$ 21.61	2.3%	\$ 0.49	\$ 22.10

(1) Consumer Price Index for All Urban Consumers (CUUR0000SA0L1E), all items less food and energy index - average annual change.

(2) Example rate listed.

EXHIBIT 3B
EXAMPLE CALCULATION FOR
AVERAGE ANNUAL CHANGE IN PUBLISHED INDICES

Consumer Price Index

The CPI rate adjustment index is calculated using the “average annual change” as demonstrated in the example below, measured for the twelve (12) months ending December prior to the Rate Year anniversary date compared to the twelve (12) months ending December in the previous year. The Bureau of Labor Statistics publishes the Consumer Price Index for All Urban Consumers for All Items Less Food and Energy – US City Average.

In the example below, the average annual index for the twelve (12) months ended December 2019 of 264.935 is entered in Column B, Row 1, “New Index Value,” of the example rate adjustment formula in Exhibit 3A, and the average annual index for the twelve (12) months ended December 2018 of 259.083 is entered in Column A, Row 1, “Old Index Value” in Exhibit 3A. This would have resulted in a 2.3% increase to the service component of the rates as calculated in Column C, Row 1 of Exhibit 3A.

Consumer Price Index – All Urban Consumers, U.S. City Average
All Items Less Food and Energy, CUUR0000SA0L1E

CPI for All Urban Consumers (CPI-U)
Original Data Value

Series Id: CUUR0000SA0L1E
Not Seasonally Adjusted
Series Title: All items less food and energy in U.S. city average,
Area: U.S. city average
Item: All items less food and energy
Base Period: 1982-84=100
Years: 2010 to 2020

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	220.086	220.602	221.059	221.166	221.193	221.265	221.258	221.551	221.907	222.079	222.077	221.795
2011	222.177	223.011	223.690	224.118	224.534	224.891	225.164	225.874	226.289	226.743	226.859	226.740
2012	227.237	227.865	228.735	229.303	229.602	229.879	229.893	230.196	230.780	231.276	231.263	231.033
2013	231.612	232.432	233.052	233.236	233.462	233.640	233.792	234.258	234.782	235.162	235.243	235.000
2014	235.367	236.075	236.913	237.509	238.029	238.157	238.138	238.296	238.841	239.413	239.248	238.775
2015	239.248	240.083	241.067	241.802	242.119	242.354	242.436	242.651	243.359	243.985	244.075	243.779
2016	244.528	245.680	246.358	246.992	247.544	247.794	247.744	248.278	248.731	249.218	249.227	249.134
2017	250.083	251.143	251.290	251.642	251.835	252.014	251.936	252.460	252.941	253.638	253.492	253.558
2018	254.638	255.783	256.610	257.025	257.469	257.697	257.867	258.012	258.429	259.063	259.105	259.083
2019	260.122	261.114	261.836	262.332	262.590	263.177	263.566	264.169	264.522	265.059	265.108	264.935
2020	266.004	267.268	267.312	266.089	265.799	266.302	267.703	268.756				

Fuel Index

The fuel rate adjustment index is calculated using the “average annual change” as demonstrated in the example below, measured for the twelve (12) months ending December prior to the Rate Year anniversary date compared to the twelve (12) months ending December in the previous year. The Bureau of Labor Statistics publishes the Producer Price Index for Fuels and Related Products and Power – Natural Gas.

In the example below, the average annual index for the twelve (12) months ended December 2019 of 81.3 is entered in Column B, Row 2, “New Index Value,” of the example rate adjustment formula in Exhibit 3A, and the average annual index for the twelve (12) months ended December 2018 of 165.5 is entered in Column A, Row 2, “Old Index Value” in Exhibit 3A. This would have resulted in a 50.9% decrease to the fuel component of rates as calculated in Column C, Row 2 of Exhibit 3A.

Producer Price Index – Fuels and Related Products and Power – Natural Gas, WPU0531

PPI Commodity Data

Original Data Value

Series Id: WPU0531
Not Seasonally Adjusted
Series Title: PPI Commodity data for Fuels and related products
Group: Fuels and related products and power
Item: Natural gas
Base Date: 198200
Years: 2010 to 2019

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2010	244.4	231.2	204.3	168.8	175.8	178.0	195.4	194.3	157.7	159.6	143.9	176.7
2011	179.6	183.0	165.0	178.6	182.4	183.9	184.0	182.5	167.1	158.4	148.3	144.4
2012	132.4	115.3	104.7	92.3	89.4	102.1	115.6	125.9	115.4	126.2	143.5	152.3
2013	143.1	138.2	144.2	163.9	172.2	170.1	155.6	146.8	149.8	149.5	150.0	163.2
2014	180.7	235.1	210.3	194.7	193.4	186.7	179.6	159.5	162.8	160.4	155.1	170.5
2015	127.6	114.7	115.8	101.1	101.0	108.8	109.4	112.1	104.5	99.6	84.6	85.4
2016	93.6	84.0	64.4	70.2	75.0	82.3	113.5	105.9	113.0	114.4	106.0	132.5
2017	156.2	133.0	103.8	120.4	119.8	120.3	115.1	111.8	111.6	108.8	106.6	116.7
2018	112.6	125.5	94.1	96.0	100.1	103.1	105.4	104.0	104.9	108.3	126.0	165.5
2019	126.9	102.4	96.6	84.3	80.2	76.6	74.2	70.6	75.1	72.6	85.4	81.3

EXHIBIT 4

CORPORATE GUARANTY

THIS GUARANTY (the "Guaranty") is given as of the [] day of [], 2022.

THIS GUARANTY is made with reference to the following facts and circumstances:

- A. [] Insert Franchisee Name and Relationship as Guarantor
- B. Franchisee and the City have negotiated an Agreement for Collection, Processing, and Disposal of Solid Waste dated as of [], (hereinafter "Agreement"). A copy of this Agreement is attached hereto.
- C. It is a requirement of the Agreement, and a condition to the City entering into the Agreement, that Guarantor guaranty Franchisee's performance of the Agreement.
- D. Guarantor is providing this Guaranty to induce the City to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. **Guaranty of the Agreement.** Guarantor hereby irrevocably and unconditionally guarantees to the City the complete and timely performance, satisfaction and observation by Franchisee of each and every term and condition of the Agreement which Franchisee is required to perform, satisfy or observe. In the event that Franchisee fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, satisfy or observe them in the place of the Franchisee or cause them to be performed, satisfied or observed. Guarantor hereby guarantees payment to the City of any damages, costs or expenses which might become recoverable by the City from Franchisee due to its breach of the Agreement.
2. **Guarantor's Obligations Are Absolute.** The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Franchisee under the Agreement, shall constitute a guarantee of payment and not of collection, and are not conditional upon the genuineness, validity, regularity or enforceability of the Agreement. In any action brought against the Guarantor to enforce, or for damages for breach of, its obligations

hereunder, the Guarantor shall be entitled to all defenses, if any, that would be available to the Franchisee in an action to enforce, or for damages for breach of, the Agreement (other than discharge of, or stay of proceedings to enforce, obligations under the Agreement under bankruptcy law).

3. **Waivers.** Except as provided herein the Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (1) the insolvency, bankruptcy, reorganization or cessation of existence of the Franchisee; (2) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (3) any waiver with respect to any of the obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the City's rights or remedies against the Franchisee; or (4) any merger or consolidation of the Franchisee with any other corporation, or any sale, lease or transfer of any or all the assets of the Franchisee. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code Section 2846, 2849, and 2850, including without limitation, the right to require the City to (a) proceed against Franchisee, (b) proceed against or exhaust any security or collateral the City may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the City may proceed against Guarantor for the obligations guaranteed herein without taking any action against Franchisee or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the City may hold now or hereafter hold. City may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Franchisee or any other guarantor or pledgor without impairing the City's rights and remedies in enforcing this Guaranty.

The Guarantor hereby waives and agrees to waive at any future time at the request of the City to the extent now or then permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its obligations under, or to terminate, cancel, quit or surrender this Guaranty. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time,

without notice the Guarantor, performance or compliance herewith is waived; (b) any other of any provision of its Agreement indemnification with respect to Franchisee's obligations under the Agreement or any security therefore is released or exchanged in whole or in part or otherwise dealt with; or (c) any assignment of the Agreement is effected which does not require the City's approval.

The Guarantor hereby expressly waives diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the City as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Franchisee prior to such avoidance or recovery, and (b) payment in full of any obligations then outstanding.

4. **Term.** This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed or otherwise discharged and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by the City of any performance bond or other collateral to assure the performance of Franchisee's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by the City against Franchisee arising out of the Agreement based on Franchisee's failure to perform which has not been settled or discharged.

5. **No Waivers.** No delay on the part of the City in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligation of Guarantor or right of the City to take other or further action without notice or demand. No modification or waiver of any of the provisions of this Guaranty shall be effective unless it is in writing and signed by the City and by Guarantor, nor shall any waiver be effective except in the specific instance or matter for which it is given.

6. **Attorney's Fees.** In addition to the amounts guaranteed under this Guaranty, Guarantor agrees in the event of Guaranty's breach of its obligations to pay reasonable attorney's fees and all other reasonable costs and expenses incurred by the City in

enforcing this Guaranty, or in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the Parties hereunder.

7. **Governing Law: Jurisdiction.** This Guaranty is and shall be deemed to be a contract entered into in and pursuant to the laws of the State of California and shall be governed and construed in accordance with the laws of California without regard to its conflicts of laws, rules for all purposes including, but not limited to, matters of construction, validity and performance. Guarantor agrees that any action brought by the City to enforce this Guaranty may be brought in any court of the State of California and Guarantor consents to personal jurisdiction over it by such courts. Guarantor appoints the following Person as its agents for service of process in California:

With a copy by certified mail to:

8. **Severability.** If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity will have not have an effect upon the remaining portions of this Guaranty, which shall be severable and continue in full force and effect.

9. **Binding On Successors.** This Guaranty shall inure to the benefit of the City and its successors and shall be binding upon Guarantor and its successors, including transferee(s) of substantially all of its assets and its shareholder(s) in the event of its

dissolution or insolvency.

10. Authority. Guarantor represents and warrants that it has the corporate power and authority to give this Guaranty, that its execution of this Guaranty has been authorized by all necessary action under its Articles of Incorporation and By-Laws, and that the person signing this Guaranty on its behalf has the authority to do so.

11. Notices. Notice shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To the City: City Manager
City of Chino Hills
14000 City Center Way
Chino Hills, CA 91709

with a copy to the City Attorney at the same address.

To the Guarantor: _____

By: _____
(title)

By: _____
(title)

EXHIBIT 5

FRANCHISEE'S FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____, a California _____, as PRINCIPAL, and _____, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to the City of Chino Hills ("City"), hereinafter called OBLIGEE, in the penal sum of six hundred and fifty thousand dollars (\$650,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "INTEGRATED SOLID WASTE MANAGEMENT SERVICES" with City, to do and perform the following work, to wit: Collect, Process and Dispose of Solid Waste generated within City, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void after receipt of written release from the City as described in Section 9.10 of this Agreement; otherwise it will remain in full force and effect.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

In the event suit is brought by OBLIGEE to enforce the provisions of this bond, said Surety will pay to OBLIGEE reasonable attorneys' fees, plus costs of suit, in an amount to be fixed by the court.

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this _____DAY OF _____, 20__.

a California Corporation

SURETY

By: _____
(PRINCIPAL)

By: _____
(ATTORNEY IN FACT)

(SEAL)

(SEAL)

EXHIBIT 6

NOTARY CERTIFICATION

STATE OF CALIFORNIA

COUNTY OF _____) ss:

On _____, _____, before me, the undersigned, a Notary Public in and for the State of California, personally appeared _____, known to me to be the _____ of Franchisee that executed the within instrument on behalf of the Franchisee therein named, and acknowledged to me that such Franchisee executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of _____ this _____ day of _____, _____.

Notary Public

My Commission Expires:

EXHIBIT 7

AB 341, AB 827, AB 1826, AND SB 1383 IMPLEMENTATION PLAN

[TO BE INCLUDED IN COMPANY'S PROPOSAL]

EXHIBIT 8

PROCESSING, TRANSFER, AND DISPOSAL SERVICES AND FACILITY STANDARDS

[EXHIBIT WILL BE AMENDED TO REFLECT THE TYPES OF DISCARDED MATERIALS COLLECTED AND FACILITIES USED BY THE SUCCESSFUL PROPOSER]

Franchisee has selected and arranged for Discarded Materials to be Transported to Approved Facilities for Transfer, Source Separated Recyclable Materials Processing, Source Separated Blue Container Organic Material Processing, Source Separated Green Container Organic Material Processing, Organic Waste Processing, High Diversion Organic Waste Processing, C&D Processing, and Disposal. The Approved Facilities shall comply with the standards specified in this Exhibit. Pursuant to Section 4.11 of the Agreement, if the Franchisee does not own or operate one or more of the Approved Facilities, Franchisee shall enter into a subcontract agreement with the owner or Facility operator of such Approved Facility(ies) and the requirements of Section 4.11 of the Agreement and this Exhibit shall pertain to the Subcontractor(s).

Note that Franchisee, by definition in Article 1 of the Agreement, includes Affiliates, DBAs, and Subcontractors. As a result, requirements of Section 4.11 of the Agreement and this Exhibit shall pertain to Affiliate(s) and Subcontractors providing Facility-related services.

8.1 General Requirements

- A. Overview. Franchisee agrees to Transport and deliver Discarded Materials it Collects in the City to an appropriate Approved Facility(ies) for Transfer, Processing, or Disposal, as applicable for each type of Discarded Material. As of the commencement date of this Agreement, the Approved Facilities, which were selected by Franchisee and reviewed and approved by the City, are listed in the table on the following page and in the definitions in Article 1 of this Agreement. Franchisee will perform all Transfer, Processing, and Disposal services at Approved Facilities in accordance with Applicable Law, standard industry practice, and specifications and other requirements of this Agreement.

Approved Facilities

Material Type	Approved Transfer Facility (if applicable)	Approved Facility (Processing or Disposal Facility)	Description of Processing Methodology (Material recovery Facility, Composting Facility, anaerobic digestion, etc.)
Source Separated Recyclable Materials	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved Source Separated Recyclable Materials Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	
Yard Waste	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved Organic Waste Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	
Food Waste	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved Organic Waste Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	

Source Separated Green Container Waste	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved Organic Waste Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	
Mixed Waste	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved High Diversion Organic Waste Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	
Gray/Black Container Waste	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved Disposal Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	
C&D	Insert Transfer Facility name, SWIS number, Owner/Facility operator, and address	Approved C&D Processing Facility: Insert Facility name, SWIS number, Owner/Facility operator, and address	

- B. Facility Capacity Guarantee. Franchisee shall guarantee sufficient capacity over the Term of this Agreement to Transfer (if applicable), Transport, and Process all Source Separated Recyclable Materials, Yard Waste, Food Waste, Source Separated Green Container Organic Materials, Mixed Waste, and C&D Collected under this Agreement and to Transfer (if applicable), Transport, and Dispose all Gray/Black Container Waste Collected under this Agreement. Franchisee shall cause the Approved Facility(ies) to Recycle or Process the Discarded Materials as appropriate; market the Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, Mixed Waste, and C&D recovered from such operations; and Dispose of residue. Franchisee shall provide the City, upon request, with documentation demonstrating the availability of such Transfer (if applicable), Transport, Processing, and Disposal capacity as described below.
1. Franchisee or Affiliate is Owner of Approved Facilities: City may request that Franchisee report aggregate Facility capacity committed to other entities through Franchisee's contracts. City, or its agent, will have the right to seek verification of Franchisee's reported aggregate capacity through inspection of pertinent sections of Franchisee's contracts with such entities to determine the duration of Franchisee's commitment to accept materials from such entities and the type and volume of materials Franchisee is obligated to accept through the contracts. In addition, City, or its agent, will have the right to review Tonnage reports documenting the past three (3) years of Tonnage accepted at the Approved Facility(ies) by such entities. To the extent allowed by law, City, or its agent(s), agree to maintain the confidentiality of the information reviewed related to the individual contracts with other contracting entities and agree to review all related material at the Franchisee's office and will not retain any copies of reviewed material. Franchisee will fully cooperate with the City's request and provide City and its agent(s) access to Franchisee's records.
 2. Franchisee's Subcontractor is the Owner and/or Operator of Approved Facilities: Upon request, Franchisee shall demonstrate that such capacity is available and allocated to the City by provision of its agreement with the Approved Facility(ies) owner(s)/operator(s) (Subcontractor(s)) documenting the Subcontractor's guarantee to accept the Discarded Materials Franchisee delivers

over the Term of this Agreement and any extensions to the Agreement.

- C. Equipment and Supplies. Franchisee shall equip and operate the Approved Facilities in a manner to fulfill Franchisee's obligations under this Agreement, including achieving all applicable standards for landfill Disposal reduction, Recycling, Diversion, residue volume and content, and final product quality standards. Franchisee is solely responsible for the adequacy, safety, and suitability of the Approved Facilities. Franchisee shall modify, enhance, and/or improve the Approved Facilities as needed to fulfill service obligations under this Agreement at no additional compensation from the City or rates charged to Customers.

Franchisee shall provide all rolling stock, stationary equipment, material storage Containers, spare parts, maintenance supplies, Transfer, Transport, and Processing equipment, and other consumables as appropriate and necessary to operate the Approved Facilities and provide all services required by this Agreement. Franchisee shall place the equipment in the charge of competent equipment operators. Franchisee shall repair and maintain all equipment at its own cost and expense.

- D. Facility Permits. Franchisee or Facility operator shall keep all existing permits and approvals necessary for use of the Approved Facility(ies), in full regulatory compliance. Franchisee, or Facility operator, shall, upon request, provide copies of permits and/or permit violation notices to the City.

- E. Transfer Facility. At Franchisee's option, Franchisee may rely on a Transfer Facility and, in such case, shall Transport and deliver some or all Discarded Materials to the Approved Transfer Facility for pre-Processing (if applicable) and Transfer. At the Transfer Facility, Discarded Materials shall be unloaded from Collection vehicles and loaded into large-capacity vehicles and Transported to the Approved Facility(ies) for Processing or Disposal, in a timely manner and in accordance with Applicable Law.

If Franchisee delivers some or all Discarded Materials to a Transfer Facility, it shall receive assurances from Facility operator that Facility operator will Transport or arrange for Transport of the Discarded Materials to appropriate Approved Facility(ies) for Processing or Disposal, as applicable for each type of Discarded Material. In such case, Franchisee shall receive written documentation from the Facility operator(s) of the Facilities used for Processing and Disposal of Discarded Materials. Franchisee shall pay all costs associated with Transport, Transfer, Processing, and/or Disposal of all

Discarded Materials Collected in accordance with this Agreement, including marketing of recovered materials and Disposal of all residue.

Franchisee shall comply with separate handling requirements Section 8.2 in this Exhibit 8.

- F. Franchisee-Initiated Change in Facility(ies). Franchisee may change its selection of one or more of the Approved Facility(ies) following the City's written approval, which may be conditioned on various factors including, but not limited to: the performance of the current versus proposed Facility, the permitting status of and LEA inspection records related to the proposed Facility, the distance of the Facility from the City, and any other factor that may reasonably degrade the value received by the City. If Franchisee elects to use a Facility(ies) that is(are) not listed on the then-current list of Approved Facility(ies) in this Exhibit, it shall submit a written request for approval to the City thirty (30) business days prior to the desired date to use the Facility and shall obtain the City's written approval prior to use of the Facility. Franchisee's compensation and rates shall not be adjusted for a Franchisee-initiated change in Facilities.
- G. Notification of Emergency Conditions. Each Approved Facility shall notify the City of any unforeseen operational restrictions that have been imposed upon the Facility by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the Facility from Processing the Discarded Materials Collected under this Agreement. Franchisee shall notify the City in accordance with Section 4.11 of the Agreement.
- H. Approved Facility Unavailable/Use of Alternative Facility. If Franchisee is unable to use the Approved Facility due to a sudden unforeseen closure of the Facility or other emergency condition described Section 8.1.G in this Exhibit 8, Franchisee may use an Alternative Facility provided that the Franchisee provides verbal and written notice to the City and receives written approval from the City at least twenty-four (24) hours prior to the use of an Alternative Facility to the extent reasonably practical given the nature of the emergency or sudden closure. The Franchisee's written notice shall include a description of the reasons the Approved Facility is not feasible and the period of time Franchisee proposes to use the Alternative Facility. As appropriate for the type of Discarded Materials to be delivered to the Alternative Facility, the Alternative Facility shall meet the applicable Facility standards in this Agreement and shall be sent to: (i) an allowable Facility, operation, or used for an activity specified by pursuant to 14

CCR Section 18983.1(b) and not subsequently sent to landfill Disposal; (ii) a High Diversion Organic Waste Processing Facility (for three-Container systems in which Organics Waste, such as Food Waste, is allowed for Collection in the Gray/Black Containers); (iii) a “Approved Source Separated Organic Waste Processing Facility” pursuant to 14 CCR Section 18982(a)(14.5) for Source Separated Recyclable Materials Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Materials; (iv) a Transfer Facility; or, (v) a Disposal Facility. If Franchisee is interested in using a Facility for Source Separated Green Container Organic Waste or Mixed Waste technology that is not listed above and not currently approved by CalRecycle, Franchisee shall be responsible for securing the approvals necessary from CalRecycle prior to the City’s final approval of such Facility or activity, and shall do so in accordance with the procedures specified in 14 CCR Section 18983.2.

If any Approved Facility specified in this Exhibit becomes unavailable for use by Franchisee for Discarded Materials Collected in the City for a period of more than two (2) days, City may designate an Alternative Facility. The Parties agree that the Approved Facility shall only be deemed to be “unavailable” if one or more of the following has occurred: (i) a Force Majeure event as described in Section 11.5 of this Agreement has occurred; (ii) a Facility has lost one or more permits to operate; (iii) a Facility has exhibited a pattern of violation through the receipt of repeated notices of violation from one or more regulatory agencies. Further, the Parties agree that a Facility shall only be deemed to be “unavailable” if the lack of availability of the Facility is not due to Franchisee’s negligence, illegal activity, neglect, or willful misconduct. At City’s request, Franchisee shall research and propose Alternate Facility(ies) for the impacted Discarded Material(s), and shall submit a written analysis and recommendation to the City within thirty (30) days concerning the cost for use of Alternative Facility(ies) and any logistical changes that would be required to utilize such Alternative Facility(ies). City and Franchisee will discuss the advantages and disadvantages of use of the potential Alternative Facility(ies) and City will designate the approved Alternative Facility(ies). The decision of the City shall be final. The change in Facility shall be treated as City-directed change in scope.

In the event an Approved Facility becomes unavailable due to the negligence, illegal activity, neglect, or willful misconduct of Franchisee, Franchisee shall bear all additional costs for use of an Alternative Facility including increased Processing costs, Disposal

Costs, Transportation costs, Transfer costs, and all other costs.

The table listing Approved Facilities in this Exhibit shall be modified accordingly to reflect the new City-Approved Facility(ies).

If Franchisee is not the owner of the new Approved Facility, Franchisee shall enter into a Subcontract agreement with the Facility operator of the Alternative Facility to require compliance with the requirements of Section 4.11 of this Agreement and this Exhibit unless City waives one or more requirements.

- I. Discarded Materials Monitoring/Waste Evaluation Requirements. Franchisee shall conduct material sampling, sorting, and waste evaluations of various material streams as further described Section 8.6 in this Exhibit 8 to meet or exceed SB 1383 requirements.
- J. Compliance with Applicable Law. Franchisee (including its Affiliates and Subcontractors) warrants throughout the Term of this Agreement and any extensions that the Approved Facilities are respectively authorized and permitted to accept Discarded Materials in accordance with Applicable Law and are in full compliance with Applicable Law.
- K. Records and Investigations. Franchisee shall maintain accurate records of the quantities of Discarded Materials Transported to and Accepted at the Approved Facility(ies) and shall cooperate with City and any regulatory authority in any audits or investigations of such quantities.
- L. Inspection and Investigations. An authorized City employee or agent shall be allowed to enter each Facility during normal working hours in order to conduct inspections and investigations in order to examine Facility operations; Processing activities; contamination monitoring; material sampling and sorting activities, including inspection of end-of-line materials after sorting; and records pertaining to the Facility in order to determine compliance with Applicable Law, including SB 1383, to understand protocols and results, and conduct investigations, if needed. Franchisee shall permit City or its agent to review or copy, or both, any paper, electronic, or other records required by City.

8.2 Processing Standards

- A. Recovery Required. Franchisee agrees to Transport and deliver all Source Separated

Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Waste, Mixed Waste, and C&D Collected under this Agreement to an Approved Facility for Processing as applicable for each material type. Franchisee shall conduct Processing activities for all Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Waste, Mixed Waste, and C&D to recover Recyclable Materials and Organic Waste to reduce Disposal. The Processing shall be performed in a manner that minimizes Disposal to the greatest extent practicable and complies with Applicable Law, including SB 1383. Franchisee may Dispose of Organic Waste from homeless encampments and illegal Disposal Sites and quarantined Organic Waste, which meet the requirements described in 14 CCR Section 18984.13(d), rather than Process such materials.

B. Separate Handling Requirements

1. Franchisee shall keep Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Waste, Mixed Waste, and C&D separate from each other and separate from other Solid Waste streams and shall Process the materials separately from each other and separately from other Solid Waste streams.
2. Pursuant to 14 CCR Section 17409.5.6(a)(1), Remnant Organic Waste separated from the Gray/Black Container Waste for recovery can be combined with Organic Waste removed from the Source Separated Green Container Organic Waste for recovery once the material from the Source Separated Green Container Organic Waste has gone through the Organic Waste recovered measurement protocol described in 14 CCR Section 17409.5.4.
3. Pursuant to 14 CCR Section 17409.5.6(b), Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, and Organic Waste removed from Mixed Waste for recovery shall be:
 - a. Stored away from other activity areas in specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report (which are defined in 14 CCR); and,
 - b. Removed from the Facility consistent with 14 CCR Section 17410.1 and

either:

- i. Transported only to another Facility or operation for additional Processing, Composting, in-vessel digestion, or other recovery as specified in Section 8.2.E of this Exhibit 8; or,
- ii. Used in a manner approved by local, State, and federal agencies having appropriate jurisdiction.

C. Residue Disposal. Franchisee shall be responsible for Disposal of residue from Processing activities at its own expense and may select the Disposal Facility(ies) to be used for such purpose.

D. Processing Facility Residue Guarantees. Upon request of the City, Franchisee shall provide a certified statement from the Facility operator documenting its residue level. The residue level shall be calculated separately for each material type and for each Approved Facility used for Recycling and Processing. The residue level calculation method shall be reviewed and approved by the City.

E. Source Separated Recyclable Materials Processing Standards

1. Franchisee shall arrange for Processing of all Source Separated Recyclable Materials at a Facility that recovers materials designated for Collection in the Blue Container and in a manner deemed not to constitute landfill Disposal pursuant to 14 CCR Section 18983.1(a) which states that landfill Disposal includes final deposition of Organic Waste at a landfill or use of Organic Waste as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC).

F. Source Separated Green Container Organic Waste Processing Standards

1. Franchisee shall arrange for Processing of all Source Separated Green Container Organic Waste at a Facility that recovers Organic Waste and in a manner deemed not to constitute landfill Disposal pursuant to 14 CCR Section 18983.1(a) which states that landfill Disposal includes final deposition of Organic Waste at a landfill or use of Organic Waste as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC).
2. Franchisee shall arrange for Source Separated Green Container Organic Waste Processing at the Approved Organic Waste Processing Facility that meets one or

more of the following criteria, and such Facility or operation is capable of and permitted to accept and recover the types of Organic Wastes included in the Source Separated Green Container Organic Waste:

- a. A “Compostable Material Handling Operation or Facility” as defined in 14 CCR Section 17852(a)(12); small Composting Facilities that are otherwise excluded from that definition; or Community Composting as defined within 14 CCR Section 18982(a)(8). The compostable materials handling operation or Facility shall, pursuant to 14 CCR Section 17867(16), demonstrate that the percentage of Organic Waste in the materials sent to Disposal is:
 - i. On and after January 1, 2022, less than 20 percent (20%); and,
 - ii. On and after January 1, 2024, less than 10 percent (10%).
- b. An “In-vessel Digestion Operation or Facility” as defined in 14 CCR 17896.5. The in-vessel digestion Facility or operation shall, pursuant to 14 CCR Section 17896.44.1, demonstrate that the percentage of Organic Waste in the materials sent to Disposal is:
 - i. On and after January 1, 2022, less than 20 percent (20%); and,
 - ii. On and after January 1, 2024, less than 10 percent (10%).
- c. A “Biomass Conversion Operation” as defined in Section 40106 of the California Public Resources Code.
- d. Soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill, that is defined as a reduction in landfill Disposal in accordance with 14 CCR Section 18983.1(b).
- e. Land application of compostable materials consistent with 14 CCR Section 17852(a)(24.5) and subject to the conditions in 14 CCR Section 18983.1(b)(6).
- f. Lawful use as animal feed, as set forth in California Food and Agricultural Code Section 14901 et seq. and Title 3, Division 4, Chapter 2, Subchapter 2

commencing with 14 CCR Article 1, Section 2675.

- g. Other operations or Facilities with Processes that reduce short-lived climate pollutants that are approved by the State in accordance with 14 CCR Section 18983.2.

If Franchisee is interested in using an operation, Facility, or activity not expressly identified above for Source Separated Green Container Organic Waste Processing, Franchisee shall be responsible for securing the approvals necessary from CalRecycle prior to the City's final approval of such operation, Facility, or activity, and shall do so in accordance with the procedures specified in 14 CCR Section 18983.2.

- 3. Preparation of Materials for Processing. The Franchisee shall be responsible for preparing materials for Processing at the Approved Organic Waste Processing Facility, which shall include, but is not limited to, removal of visible physical contaminants such as plastic, glass, metal, and chemicals prior to size reduction.
- 4. Limits on Incompatible Materials in Recovered Organic Waste
 - a. Limits. Except as described in Section 8.2.F.4.c. of this Exhibit 8, Franchisee's Transfer/Processing Facility or operation shall only send offsite that Organic Waste recovered after Processing the Source Separated Green Container Organic Waste that meets the following requirements or as otherwise specified in 14 CCR Section 17409.5.8(a):
 - i. On and after January 1, 2022 with no more than 20 percent (20%) of Incompatible Material by weight; and,
 - ii. On and after January 1, 2024 with no more than 10 percent (10%) of Incompatible Material by weight.
 - b. Measurement. Franchisee shall measure the actual levels of Incompatible Materials in accordance with procedures described in 14 CCR Section 17409.5.8(b).
 - c. Exceptions. The limits in Section 8.2.F.4.a. of this Exhibit 8, shall not apply to the recovered Organic Waste sent offsite from the Transfer/Processing Facility or operation, if the Franchisee sends the recovered Organic Waste

from the Transfer/Processing Facility or operation to one or more of the following types of Facilities that will further Process the Organic Waste, or as otherwise specified in 14 CCR Section 17409.5.8(c):

- i. A Transfer/Processing Facility or operation that complies with Section 8.2.F.4.a. of this Exhibit 8;
- ii. A compostable materials handling Facility or operation that, pursuant to 14 CCR Section 17867(a)(16), demonstrates that the percentage of Organic Waste in the materials sent to Disposal is:
 - (A) On and after January 1, 2022, less than 20 percent (20%); and,
 - (B) On and after January 1, 2024, less than 10 percent (10%).
- iii. An in-vessel digestion Facility or operation that, pursuant to 14 CCR Section 17896.44.1, demonstrates that the percentage of Organic Waste in the materials sent to Disposal is:
 - (A) On and after January 1, 2022, less than 20 percent (20%); and,
 - (B) On and after January 1, 2024, less than 10 percent (10%).
- iv. An activity that meets the definition of a Recycling center as described in 14 CCR Section 17402.5(d).

G. High Diversion Organic Waste Processing Facility Requirements (Three-Container Systems in which Organics Waste, such as Food Waste, is allowed for Collection in the Gray/Black Containers)

1. Franchisee guarantees that the Approved High Diversion Organic Waste Processing Facility shall meet or exceed an annual average Mixed Waste organic content recovery rate of fifty (50) percent between January 1, 2022 and December 31, 2024, and seventy-five (75) percent after January 1, 2025, or as otherwise defined in 14 CCR Section 18982(a)(33), as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the Mixed Waste.
2. Franchisee guarantees that it will comply with the limits on Incompatible Materials in the recovered Organic Waste, which are described in Section 8.2.F.4

of this Exhibit.

3. Franchisee shall conduct measurements on a quarterly basis to determine the Mixed Waste organic content recovery efficiency in accordance with 14 CCR Section 17049.5.1(b). Franchisee shall report the Organic Waste recovery efficiency measurement results to the City in accordance with Article 8 of the Agreement, and shall notify the City within two (2) business days of conducting the quarterly measurement if the results are not in compliance with the Mixed Waste organic content recovery rate standards. If the quarterly average Mixed Waste organic content recovery rate is not in compliance with the standards, the City may assess Liquidated Damages in accordance with Section 11.4 of this Agreement.
4. If the Approved High Diversion Organic Waste Processing Facility has an annual average Mixed Waste organic content recovery rate that is lower than required in 14 CCR Section 18982(a)(33) for two (2) consecutive quarterly reporting periods or three (3) quarterly reporting periods within three (3) years, the Facility shall not qualify as a High Diversion Organic Waste Processing Facility pursuant to 14 CCR Section 18984.3(b). Franchisee shall be required to submit a corrective action plan to the City within five (5) business days of determining such non-compliance identifying the steps to improve the Mixed Waste organic content recovery rate and the duration of time anticipated for the Facility to achieve compliance. Franchisee shall immediately commence with corrective actions subject to approval by the City and CalRecycle.
5. If City is not satisfied that the Franchisee can achieve and sustain the minimum required annual average Mixed Waste organic content recovery rate, or if the Franchisee has implemented its corrective action plan and failed to achieve the minimum required annual average Mixed Waste organic content recovery rate, the City shall have the right to direct use of an Alternative Facility, and Franchisee shall incur all costs associated with use of the Alternative Facility including Transportation, Transfer, Processing, and Disposal. The City may assess Liquidated Damages in accordance with Section 11.4 of this Agreement and/or may deem this failure an event of default under Section 11.1 of this Agreement. If an Alternative Facility is not available within a commercially reasonable distance, Franchisee shall be required to implement, at no cost to the City and with no increase to rates, an Organic Waste Collection system that will

provide programmatic compliance with 14 CCR Division 7, Chapter 12, Article 3.

H. C&D Program Standards

1. Franchisee shall comply with the CALGreen Construction and Demolition materials Recycling requirements.
2. Franchisee shall deliver mixed C&D loads to the Approved C&D Processing Facility for Recycling.
3. Franchisee shall deliver Source Separated C&D such as, but not limited to, dirt, concrete, wood waste, cardboard, or other recyclable C&D Materials to the Approved C&D Processing Facility or other Facility authorized for Recycling C&D, and shall deliver Salvageable Materials to a party for Reuse or salvage.
4. Franchisee shall arrange for Processing of Organic Waste in the C&D at a Facility that recovers Organic Waste from C&D and in a manner deemed not to constitute landfill Disposal pursuant to 14 CCR Section 18983.1(a), which states that landfill Disposal includes final deposition of Organic Waste at a landfill or use of Organic Waste as Alternative Daily Cover (ADC) or Alternative Intermediate Cover (AIC).

I. Plastic Bags. Franchisee shall annually submit to City written notice from the Approved Organic Waste Processing Facility confirming said Facility can remove plastic bags when Processing Source Separated Green Container Organic Waste.

J. Compostable Plastics. Franchisee may accept Compostable Plastics at the Approved Organic Waste Processing Facility. Pursuant to Article 5 of this Agreement, Franchisee shall annually submit to City written notice from the Approved Organic Waste Processing Facility confirming said Facility can Process and recover these Compostable Plastics.

K. Marketing. Franchisee operating the Approved Facility(ies), shall be responsible for marketing materials recovered from Discarded Materials Collected under this Agreement. Franchisee's marketing methods for materials shall be performed in a manner that supports achievement of Disposal reductions and in such a manner that complies with State statutes, including, but not limited to, AB 901, AB 939, SB 1016, AB 341, AB 1594, AB 1826, and SB 1383, and corresponding regulations. Franchisee shall

retain revenues resulting from the sale and marketing of said materials with the exception of the curbside supplemental payments and City/County payments under the California Beverage Container Recycling and Litter Reduction Act, which shall be retained by the City.

Upon request, Franchisee shall provide proof to the City that all Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, Mixed Waste, and C&D Collected by Franchisee were Processed and recovered materials were marketed for recovery, salvage, or Reuse or as organics products in such a manner that materials are not deemed Landfill Disposal pursuant to 14 CCR Section 18983.1(a) and in a manner that materials are deemed Diversion pursuant to AB 939. All Residue from the Recycling and Processing activities that is not marketed shall be reported to the City as Residue and accounted for as Disposal Tonnage at the Approved Disposal Facility. No Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, Mixed Waste, or C&D shall be Transported to a domestic or foreign location if Landfill Disposal, as defined in 14 CCR Section 18983.1(a) of such material is its intended use. If Franchisee becomes aware that a broker or buyer has illegally handled, Disposed of, or used material generated in the City that is not consistent with Applicable Law, Franchisee shall immediately inform the City and terminate its contract or working relationship with such party. In such case, Franchisee shall find an alternative market for the material(s) recovered from the Source Separated Recyclable Materials, Source Separated Green Container Organic Waste, and/or C&D that is compliant with Applicable Law.

The performance of commodity markets for materials recovered from Source Separated Recyclable Materials shall not be considered a reason for deeming a Facility “unavailable” in this Exhibit 8, Section 8.1.H, nor shall it be considered an acceptable basis for the need to use an Alternative Facility, nor shall it serve as the basis for any adjustment in Franchisee’s compensation under this Agreement, other than as specifically contemplated in Article 10 of this Agreement.

- L. Disposal of Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, Mixed Waste, and C&D is Prohibited. With the exception of Processing residue, which shall not exceed the limits established under Applicable Law, Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials Mixed Waste, and C&D

Collected under this Agreement may not be Disposed of in lieu of Recycling, Processing, or marketing the material, without the expressed written approval of the City.

If for reasons beyond its reasonable control, Franchisee believes that it cannot avoid Disposal of the Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, Mixed Waste, or C&D Collected in the City, then it shall prepare a written request for City approval to Dispose of such material. Such request shall contain the basis for Franchisee's belief (including, but not limited to, supporting documentation), describe the Franchisee's efforts to arrange for the Processing of such material, the period required for such Disposal, and any additional information supporting the Franchisee's request.

In addition, the request shall describe the Franchisee's proposed interim plans for implementation while the City is evaluating its request. If the City objects to the interim plans, the City shall provide written notice to the Franchisee and request an alternative arrangement. The City shall consider the Franchisee's request and inform Franchisee in writing of its decision within thirty (30) business days. Depending on the nature of the Franchisee's request, City may extend the thirty (30) business day period, at its own discretion, to provide more time for evaluation of the request and negotiation of an acceptable arrangement with the Franchisee.

- 8.3 Gray/Black Container waste Disposal Standards** (Three- and Three-plus Container Systems that do not allow Organic Waste, such as Food Waste in Gray/Black Containers)
- A. Disposal of Gray/Black Container Waste Collected. Franchisee shall Transport all Gray/Black Container Waste Collected under this Agreement to the Approved Disposal Facility.
 - B. Disposal at Approved Facility. Franchisee shall not Dispose of Gray/Black Container Waste or residue by depositing it on any public or private land, in any river, stream, or other waterway, or in any sanitary sewer or storm drainage system or in any other manner which violates Applicable Laws.
 - C. Disposal Services. Franchisee shall provide Disposal services at the Approved Disposal

Facility that include, but are not limited to:

1. Operating, managing, and maintaining the Solid Waste fill areas, including the placement, burying, and compaction of Solid Waste in the Refuse fill areas; stockpiling, placement, and compaction (if necessary) of Alternative Intermediate Cover, and final cover; management of fill operations with regard to fill sequencing, side slopes configuration, and working face location and configuration;
2. Providing, operating, and maintaining all equipment, rolling stock, and supplies necessary for operations, closure, post-closure, and environmental monitoring; and,
3. Operating, maintaining, and managing leachate and landfill gas management systems, groundwater monitoring and management systems, storm water drainage and control systems, treatment Facilities, buildings, on-site roadways, utilities, and any other required Facility elements.

8.4 Weighing of Discarded Materials

- A. Maintenance and Operation. This Section 8.4 of this Exhibit 8 applies to motor vehicle scales used at the Approved Facilities. Approved Facilities shall be equipped with one or more State-certified motor vehicle scales in accordance with Applicable Law. Upon request, Franchisee shall arrange for Facility operator to provide documentary evidence of such scale certification within ten (10) days of City's request during the Term. Licensed weigh master(s) shall operate those scales to weigh all inbound and outbound Collection vehicles Transporting Discarded Materials and all Transfer vehicles Transporting materials to another site. Franchisee shall arrange for Facility operator to provide City with access to weighing information at all times and copies thereof within three (3) Business Days following the City's request. Exceptions to weighing requirements are specified in Section 8.4.G. of this Exhibit 8.
- B. Vehicle Tare Weights for Approved Facility(ies). Within thirty (30) days prior to the Commencement Date, Franchisee shall coordinate with the Facility operator(s) to ensure that all Collection vehicles used by Franchisee to Transport Discarded Materials to Approved Facilities are weighed to determine unloaded ("tare") weights. Franchisee shall work with Facility operator(s) to electronically record the tare weight, identify vehicle as Franchisee's, and provide a distinct vehicle identification number for each

vehicle. Franchisee shall provide the City with a report listing the vehicle tare weight information upon request. Franchisee shall promptly coordinate with Facility operator to weigh additional or replacement Collection vehicles prior to Franchisee placing them into service. Franchisee shall check tare weights at least annually, or within fourteen (14) days of a City request, and shall re-tare vehicles immediately after any major maintenance service that could impact the weight of the vehicle by more than fifty (50) pounds.

- C. Substitute Scales. If any scale at the Approved Facility is inoperable, being tested, or otherwise unavailable, Facility operator shall use reasonable business efforts to weigh vehicles on the remaining operating scale(s). To the extent that all the scales are inoperable, being tested, or otherwise unavailable, Facility operator shall substitute portable scales until the permanent scales are replaced or repaired. Facility operator shall arrange for any inoperable scale to be repaired as soon as possible.
- D. Estimates. Pending substitution of portable scales or during power outages, Facility operator shall estimate the Tonnage of the Discarded Materials Transported to and accepted at the Approved Facilities by utilizing the arithmetic average of each vehicle's recorded Tons of Discarded Materials delivered on its preceding three (3) deliveries.

During any period of time the scales are out of service, Facility operator shall continue to record all information required by this Section 8.4 for each delivery of Discarded Materials to the Approved Facilities and each load of material Transferred to another Approved Facility(ies).

- E. Weighing Standards and Procedures. At the Approved Facilities, Facility operator shall weigh and record inbound weights of all vehicles delivering Discarded Materials when the vehicles arrive at the Facility. In addition, Facility operator shall weigh and record outbound weights of vehicles for which Facility operator does not maintain tare weight information. Furthermore, Facility operator shall weigh and record outbound weights of all Transfer vehicles Transporting Discarded Materials from a Transfer Facility to another Approved Facility(ies) for Processing or Disposal.
- F. Records. Facility operator shall maintain scale records and reports that provide information including date of receipt, inbound time, inbound and outbound weights (or tare weights) of vehicles, vehicle identification number, jurisdiction of origin of materials delivered, type of material, company/hauler identification, and classification,

type, weight, and final destination of Discarded Material if the Discarded Materials are Transferred to another Approved Facility(ies).

- G. Exceptions to Weighing Requirements. If the Approved Facility does not have motor vehicle scales to weigh Franchisee's vehicles and Discarded Materials delivered to the Facility, Franchisee shall obtain a receipt for delivery of the Discarded Materials that identifies the date and time of delivery, the type of material delivered, and the vehicle number. Franchisee or Facility operator shall estimate the Tonnage of material delivered for each load based on the volumetric capacity of the vehicle and material density factors (e.g., pounds per cubic yard) approved by or designated by the City.
- H. Upon-Request Reporting. If vehicle receiving and unloading operations are recorded on video cameras at the Approved Facilities, Franchisee shall make those videos available for City review during the Approved Facilities' operating hours, upon request of the City, and shall provide the name of the driver of any particular load if available.

8.5 Rejection of Excluded Waste

- A. Inspection. Franchisee will use standard industry practices to detect and reject Excluded Waste in a uniform and non-discriminatory manner and will not knowingly accept Excluded Waste at the Approved Facility(ies). Franchisee will comply with the inspection procedure contained in its permit requirements. Franchisee will promptly modify that procedure to reflect any changes in permits or Applicable Law.
- B. Excluded Waste Handling and Costs. Franchisee will arrange for or provide handling, Transportation, and delivery to a Recycling, incineration, or a Disposal Facility permitted in accordance with Applicable Law of all Excluded Waste detected at the Approved Facility(ies). Franchisee is solely responsible for making those arrangements or provisions and all costs thereof. Nothing in this Agreement will excuse the Franchisee from the responsibility of handling Excluded Wastes that Franchisee inadvertently accepts in a lawful manner and of arranging for the disposition of that Excluded Waste in accordance with Applicable Law.

8.6 Discarded Materials Evaluations at Approved Facilities

- A. General. Franchisee shall conduct the following "evaluations" at Approved Facilities:
 - 1. Gray/Black Container Waste Evaluations. Waste evaluations of Gray/Black

Container Waste at the Approved Transfer Facility (if applicable) in accordance with 14 CCR Sections 18998.1(a)(3)(A) and 17409.5.7.

2. Organic Waste Recovery Efficiency Evaluations. Waste evaluations at Approved Transfer Facility (if applicable) or Approved Processing Facility(ies) in accordance with 14 CCR Sections 17409.5.1 to 17409.5.5.
3. Evaluation of Organic Waste in Residuals. Compliance evaluations of Organic Waste to determine the level of Organic Waste in materials sent for Disposal in accordance with 14 CCR Sections 17409.5.3, 17409.5.5, 17867 (Compost operations and Facilities), and 17896.44.1 (In-vessel digestion operations and Facilities).

- B. Record Keeping and Reporting. For the evaluations described above, Franchisee shall maintain all records and submit reports to CalRecycle as described in 14 CCR Division 7, Chapter 3, Article 6.3, as applicable. Franchisee shall report this information to the City on a monthly basis in accordance with Article 8.
- C. Scheduling of Evaluations. Franchisee shall schedule evaluations during normal working hours. Franchisee shall provide City notice of its intent to conduct evaluations at the Approved Facility(ies) at least ten (10) working days in advance of the evaluations.
- D. Observance of Study by City and/or CalRecycle. Franchisee acknowledges that, upon request, a representative of the City and/or CalRecycle may oversee its next scheduled quarterly sampling and evaluation of any of the evaluations described in Section 8.6.A of this Exhibit 8 conducted at the Approved Facility(ies).

EXHIBIT 9

COLLECTION SYSTEM OPTIONS

Three- or Four-Container System (Blue, Green and/or Green and Brown, and Gray/Black Containers)

- 1A. General.** Upon initiation of services under this Agreement, Franchisee shall provide a three-Container Collection program for the separate Collection of Source Separated Recyclable Materials, Source Separated Blue Container Organic Waste, Source Separated Green Container Organic Waste, Organic Materials, and Gray/Black Container Waste as specified in this Section, using Containers that comply with the requirements of Section 4.7.4.1.
- 1B. Source Separated Recyclable Materials Collection (Blue Container).** Franchisee shall provide Blue Containers to Customers for Collection of Source Separated Recyclable Materials. Franchisee shall Transport the Source Separated Recyclable Materials to (i) the Approved Source Separated Recyclable Materials Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Source Separated Recyclable Materials Processing Facility, as specified in Exhibit 8.

Source Separated Recyclable Materials that are to be accepted for Collection in the Source Separated Recyclable Materials Collection program include the following: [to be provided by successful bidder; such materials shall include Paper Products and Printing and Writing Papers as defined by SB 1383, 14 CCR Section 18982(a)]. The Parties agree that the list of accepted types of Source Separated Recyclable Materials may be added to or removed from this list from time to time at the sole discretion of the City provided that in all cases Source Separated Blue Container Organic Waste (including Paper Products and Printing and Writing Papers as defined by SB 1383, 14 CCR Section 18982(a)) is included for Collection. Franchisee shall not add or remove materials to or from this list without written approval from the City or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be Collected in the Blue Containers.

- 1C. Source Separated Green Container Organic Waste Collection (Green Container)**

Option 1C.1: Collection Program for Source Separated Green Container Organic

Waste (including Yard Waste and Food Waste) (Green Container)

Upon initiation of services under this Agreement, Franchisee shall provide Green Containers to Customers for Source Separated Green Container Organic Waste Collection. Franchisee shall Transport the Source Separated Green Container Organic Waste to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Exhibit 8.

Source Separated Green Container Organic Waste that are to be accepted for Collection in the Source Separated Green Container Organic Waste Collection program include the following: Food Scraps, Food-Soiled Paper, Compostable Plastics, and Source Separated Green Container Organic Waste. The Parties agree that types of Source Separated Green Container Organic Waste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Franchisee shall not add or remove materials to or from this list without written approval from the City or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Yard Waste that are to be accepted for Collection in the Source Separated Green Container Organic Waste Collection program include the following: [to be provided by successful bidder]. The Parties agree that accepted types of Yard Waste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Franchisee shall not add or remove materials to or from this list without written approval from the City or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Franchisee may Collect Compostable Plastics in the Green Containers for Processing at the Approved Organic Waste Processing Facility. At least three (3) months prior to the commencement of the Collection of Compostable Plastics in the Source Separated Green Container Organic Waste program, Franchisee shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Franchisee shall provide written notification to the City annually that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics.

Franchisee shall notify the City within five (5) business days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Franchisee's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope pursuant to Section 2.10.

Option 1C.2: Yard Waste Collection Program; Plan for Food Waste to be Separately Collected (Green Container and Brown Container)

Upon initiation of services under this Agreement, Franchisee shall provide Green Containers for Customers for Collection of Yard Waste. Franchisee shall Transport the Yard Waste to (i) the Approved Organic Waste Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Exhibit 8.

Yard Waste that are to be accepted for Collection in the Source Separated Green Container Organic Waste Collection program include the following: [to be provided by successful bidder]. The Parties agree that accepted types of Yard Waste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Franchisee shall not add or remove materials to or from this list without written approval from the City or signed amendment to the Agreement, and such approval shall not be unreasonably withheld. Carpets, Non-Compostable Paper, textiles, and Prohibited Container Contaminants shall not be Collected in the Green Containers.

Upon initiation of services under this Agreement, Franchisee shall implement a Food Waste Collection program for all Customers. Franchisee shall provide Brown Containers to Customers for Collection of Source Separated Food Waste. Franchisee shall Transport the Food Waste to (i) the Approved Organic Waste Processing Facility, or (ii) Approved Transfer Facility for Transfer and Transport to the Approved Organic Waste Processing Facility, as specified in Exhibit 8.

Franchisee may Collect Compostable Plastics in the Brown Containers for Processing at the Approved Organic Waste Processing Facility. At least three (3) months prior to the commencement of the Collection of Compostable Plastics in the Source Separated Green

Container Organic Waste program, Franchisee shall provide written notification to the City that the Facility can Process and recover these Compostable Plastics. Franchisee shall provide written notification to the City annually that the Facility has and will continue to have the capabilities to Process and recover the Compostable Plastics. Franchisee shall notify the City within five (5) business days of the Facility's inability to accept Compostable Plastics. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover Compostable Plastics; the period of time the Facility will not Process and recover Compostable Plastics; and, the Franchisee's proposed plan to assist in education and outreach of Customers in the event that Compostable Plastics are no longer accepted for Collection. Such changes shall be handled as a change in scope pursuant to Section 2.10.

1D. Gray/Black Container Waste Collection (Gray/Black Container).

Franchisee shall provide Gray/Black Containers to Customers for Collection of Gray/Black Container Waste. Franchisee shall Transport the Gray/Black Container Waste to (i) the Approved Disposal Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to the Approved Disposal Facility, as specified in Exhibit 8. Franchisee may allow carpets and textiles to be placed in the Gray/Black Containers. Prohibited Container Contaminants shall not be Collected in the Gray/Black Containers.

2. USE OF PLASTIC BAGS FOR SOURCE SEPARATED GREEN CONTAINER ORGANIC WASTE COLLECTION (APPLICABLE TO OPTION 1 OR 2 ABOVE)

2A. Option 1: Food Waste in Plastic Bags in the Green Containers

Franchisee shall allow Customers and Generators to place Food Waste in plastic bags and put the bagged Food Waste in the Green Container. At least three (3) months prior to the commencement of the use of plastic bags for the Food Waste program, Franchisee shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383, and that the Approved Organic Waste Processing Facility can Process and remove plastic bags when it recovers Source Separated Green Container Organic Waste. Annually, in accordance with Article 8, Franchisee shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and remove plastic bags when it recovers Source Separated Green Container Organic Waste. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept

plastic bags, City may assess Liquidated Damages or deem such failure an event of default under Section 11.1. Franchisee shall notify the City within five (5) business days of the Facility's inability to accept plastic bags. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover plastic bags; the period of time the Approved Facility will not Process and recover plastic bags; and, the Franchisee's proposed plan to assist in education and outreach of Customers in the event that plastic bags are no longer accepted for Collection. Such changes shall be handled as a change in scope pursuant to Section 2.10.

2B. Option 2: Source Separated Green Container Organic Waste in Plastic Bags in the Green Containers

Franchisee shall allow Customers and Generators to place Source Separated Green Container Organic Waste in plastic bags and put the bagged Source Separated Green Container Organic Waste in the Green Container. At least three (3) months prior to the commencement of the use of plastic bags for the Source Separated Green Container Organic Waste program, Franchisee shall provide written notification to the City that allowing the use of bags does not inhibit the ability of the City to comply with SB 1383, and that the Approved Organic Waste Processing Facility can Process and remove plastic bags when it recovers Source Separated Green Container Organic Waste. Annually, in accordance with Article 8, Franchisee shall provide written notification to the City that the Facility has and will continue to have the capabilities to Process and remove the plastic bags when it recovers Source Separated Green Container Organic Waste. If, at any time during the Term of the Agreement, the Approved Organic Waste Processing Facility can no longer accept plastic bags, City may assess Liquidated Damages or deem such failure an event of default under Section 11.1. Franchisee shall notify the City within five (5) business days of the Facility's inability to accept plastic bags. The notification shall include: a description of the reasons the Facility is no longer able to Process and recover plastic bags; the period of time the Approved Facility will not Process and recover plastic bags; and, the Franchisee's proposed plan to assist in education and outreach of Customers in the event that plastic bags are no longer accepted for Collection. Such changes shall be handled as a change in scope pursuant to Section 2.10.

3. C&D Collection

Franchisee shall Collect C&D Materials from all Customers that subscribe to its C&D

Collection services and Transport the C&D to (i) the Approved C&D Processing Facility, or (ii) the Approved Transfer Facility for Transfer and Transport to an Approved C&D Processing Facility. Franchisee shall provide C&D Collection and Processing services in accordance with this Agreement. Franchisee shall charge Customers for C&D Collection services at City-approved Rates.

ATTACHMENT 7
CURRENT RATE SCHEDULE

CITY OF CHINO HILLS - EFFECTIVE JULY 1, 2020
SUMMARY OF RESIDENTIAL RATE STRUCTURE
EXHIBIT "C"

	Revised Rate
Standard Service is three (3) fully-automated containers	\$23.18
1 - 110 gallon container for "Trash"	
1 - 110 gallon container for "Yard Waste"	
1 - 110 gallon container for "Co-Mingled Recyclables"	
Additional Residential automated containers	
Each - 110 gallon container for "Trash"	\$7.37
Each - 110 gallon container for "Yard Waste"	\$6.24
Each - 110 gallon container for "Co-Mingled Recyclables"	No Charge
Residential Special Services	
Temporary 3 Yard Bin 3 Days (Del-Service-Pick-up)	\$101.13
Additional Cost per Day for Bin	\$7.21
Additional Service (Tip) of Bin	\$40.59
Bulky Item Collection (3 Pick-ups per year)	No Charge
Additional Bulky Item Collections in Excess of 3	\$44.67
Additional Charge for Items in Excess of 10 (each)	\$4.31
Additional Gas Recovery Fee	\$46.18
Exchange of All Residential Automated Containers	\$37.47
Container Replacement Due to Misuse (each)	\$66.29
Residential Container Pull-Out Service - Monthly Charge	\$11.23
Special Non-Scheduled Trash Collection	\$21.60

CITY OF CHINO HILLS - EFFECTIVE JULY 1, 2020
SUMMARY OF COMMERCIAL RATE STRUCTURE
EXHIBIT "A" - BY COMPONENT

Type of Service	TOTAL RATE
COMMERCIAL BIN COLLECTION	
Two Cubic Yard Bin Rates	
1x per week	\$72.71
2x per week	\$126.72
3x per week	\$180.77
4x per week	\$234.77
5x per week	\$288.78
6x per week	\$357.80
Three Cubic Yard Bin Rates	
1x per week	\$106.16
2x per week	\$168.20
3x per week	\$230.39
4x per week	\$292.51
5x per week	\$354.60
6x per week	\$439.07
Four Cubic Yard Bin Rates	
1x per week	\$126.17
2x per week	\$199.37
3x per week	\$272.54
4x per week	\$345.77
5x per week	\$418.96
6x per week	\$521.97
Six Cubic Yard Bin Rates	
1x per week	\$164.71
2x per week	\$258.58
3x per week	\$352.43
4x per week	\$446.26
5x per week	\$540.11
6x per week	\$678.72
Pull Out Service - Monthly Rate	\$58.75
Each Additional Tip Frequency	\$58.75
Three Cubic Yard OCC Bin Rates	
1x per week	\$50.40
Additional Charge p/Tip Freq.	\$50.40
Contaminated Bin (Trash)	\$72.81

CITY OF CHINO HILLS - EFFECTIVE JULY 1, 2020
MISCELLANEOUS COMMERCIAL SOLID WASTE RATES

Type of Service	TOTAL RATE
<u>Three Yard Mini-Packer</u>	
Mini-Packers (commercial rates adjusted by 3x disposal & 1.25x service component in rate frequency)	
1x per week	\$176.03
2x per week	\$296.93
3x per week	\$418.01
4x per week	\$539.02
5x per week	\$660.00
6x per week	\$808.82
Extra Pick-up	\$65.68
<u>Three Yard Temp Construction</u>	
Temporary Construction Bins (commercial rates adjusted by 1.5x service component in rate frequency)	
1x per week	\$146.86
2x per week	\$227.53
3x per week	\$308.43
4x per week	\$389.23
5x per week	\$469.98
6x per week	\$584.32
Extra Pick-up	\$59.03
<u>Manure Bins</u>	
Manure Bins (commercial rates plus \$2.50 per cubic yard times the tip frequency)	
Two Cubic Yard Bin Rates	
1x per week	\$75.49
2x per week	\$132.28
3x per week	\$189.10
4x per week	\$245.88
5x per week	\$302.67
6x per week	\$374.47
Extra Pick-up	\$44.67
Three Cubic Yard Bin Rates	
1x per week	\$108.93
2x per week	\$173.76
3x per week	\$238.72
4x per week	\$303.62
5x per week	\$368.49
6x per week	\$455.73
Extra Pick-up	\$44.67
Four Cubic Yard Bin Rates	
1x per week	\$128.94
2x per week	\$204.92
3x per week	\$280.88
4x per week	\$356.88
5x per week	\$432.84
6x per week	\$538.63
Extra Pick-up	\$44.67
Six Cubic Yard Bin Rates	
1x per week	\$167.49
2x per week	\$264.13
3x per week	\$360.77
4x per week	\$457.37
5x per week	\$554.00
6x per week	\$695.39
Extra Pick-up	\$44.67

ATTACHMENT 8
CURRENT STREET SWEEPING SPECIFICATIONS



COUNCIL AGENDA STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS DATE: JUNE 9, 2020
FROM: CITY MANAGER ITEM NO: 15
SUBJECT: AMENDMENT NO. 3 TO AGREEMENT NO. A2015-149 WITH ARAKELIAN ENTERPRISES, INC., DBA ATHENS SERVICES

RECOMMENDATION:

Authorize the execution of Amendment No. 3 to Agreement No. A2015-149 with Arakelian Enterprises, Inc. (Athens Services), increasing the total annual not-to-exceed amount from \$168,400 to \$173,452 and extending the agreement term to June 30, 2021.

BACKGROUND/ANALYSIS:

On April 17, 2015, staff issued a Request for Proposal (RFP) for contractors to provide street sweeping services and four southern California firms responded. On June 9, 2015, the City Council approved a three-year agreement with Athens Services in an annual not-to-exceed amount of \$239,900. The agreement included options for two, one-year extensions that have since been exercised. The current agreement is set to expire on June 30, 2020.

On June 13, 2017, the City Council authorized Amendment No. 1 to reduce the sweeping frequency in arterial areas from four times per month to two times per month. Examples of these locations include Grand Avenue, Chino Hills Parkway, Chino Avenue, Peyton Drive, Soquel Canyon Parkway, Butterfield Ranch Road, and other streets that are high capacity usage. The purpose of Amendment No. 1 was to reduce the cost to the Street Sweeping Special Assessment District. This resulted in a reduction of \$58,000, bringing the total annual not-to-exceed amount to \$181,900.

On September 11, 2018, the City Council authorized Amendment No. 2 which included a 3.624 cost escalation in accordance with the Consumer Price Index. This Amendment also provided for an additional reduction of street sweeping frequency on arterial streets to one time per month. However, the arterials continue to be swept bi-monthly from October through January, as this is when deciduous trees and plants lose the majority of their leaves. These changes resulted in a net annual reduction of \$13,500 for a total amount of \$168,400 per year.

Staff is requesting that the City Council authorize Amendment No. 3 to extend the agreement term an additional year to expire June 30, 2021, with a 3% cost increase in FY 2020-21. This extension will provide staff the opportunity to reevaluate street sweeping operations and develop a new RFP.

ENVIRONMENTAL (CEQA) REVIEW:

This action is not a project within the meaning of the California Environmental Quality Act California Public Resources Code §§ 21000, et seq.; "(CEQA)" and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.) Section 15378 and is therefore exempt from CEQA. Additionally, it is categorically exempt from the requirements of CEQA pursuant to Title 14 California Code of Regulations § 15301 (c) as a Class 1 categorical exemption (Existing Facilities) as it involves the maintenance of existing highways and streets.

FISCAL IMPACT:

There is sufficient funding in Street Sweeping proposed budget to cover the Fiscal Year 2020-21 cost of the Arakelian Enterprises, Inc. (Athens Services) contract. There is no impact on the General Fund with this item.

REVIEWED BY OTHERS:

This agenda item has been reviewed by the Finance Director.

Respectfully Submitted,

Recommended By:


Benjamin Montgomery
City Manager


Daniel Bobadilla
Director of Public Works/City Engineer

Attachments Amendment No.3 - Athens A2015-149

CITY OF CHINO HILLS

**AMENDMENT NO. 3 TO AGREEMENT NO. A2015-149
BETWEEN THE CITY OF CHINO HILLS AND
ARAKELIAN ENTERPRISES, INC. dba ATHENS SERVICES**

THIS AMENDMENT NO. 3 to Agreement No. A2015-149 dated June 9, 2015, is entered into in the State of California by and between the CITY OF CHINO HILLS, a California general law municipal corporation, hereinafter called "City", and ARAKELIAN ENTERPRISES, INC. dba ATHENS SERVICES hereinafter called "Contractor."

Amend Agreement No. A2015-149 as follows:

1. Extend contract term to June 30, 2021.
2. Replace Exhibit "B" Fee Schedule and replace with a revised Exhibit "B" Fee Schedule dated July 1, 2020. The change in pricing level "A" currently in effect, will increase from \$20.98 to 21.61 per curb mile.
3. Increase the annual not-to-exceed amount from \$168,400 to \$173,452.

All other provisions of the agreement remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 3 to Agreement No. A2015-149 to be executed on the day and year last written below:

CITY OF CHINO HILLS

**ARAKELIAN ENTERPRISES, INC. dba
ATHENS SERVICES**

Art Bennett
Mayor

(Signature)

ATTEST:

Ron Arakelian Jr., President & CEO
(Printed name/Title)

Cheryl Balz
City Clerk

06/02/2020
(Date)

(Date)

(Signature)

APPROVED AS TO FORM:

GARY M. CLIFFORD II
(Printed Name/Title)

Mark D. Hensley
City Attorney

06/02/2020
(Date)

Exhibit B – Athens Services

**Fee Schedule Revised July 1, 2020
Agreement No. 2015-149**

Street Sweeping	Original Cost per Curb Mile	Amend No. 1 Cost per Curb Mile	Amend No. 2 Cost per Curb Mile	Amend No. 3 Cost per Curb Mile
A. All labor, equipment and materials, with total debris disposal costs borne by Contractor	\$20.25	\$20.25	\$20.98	\$21.61
B. All labor, equipment and materials, with debris disposal costs borne by Contractor and City provides local space for transfer of debris.	\$23.48	\$23.48	\$24.33	\$25.06
C. All labor, equipment and materials, with debris disposal costs borne by the City	\$16.78	\$16.78	\$17.39	\$17.91

**MAINTENANCE AGREEMENT
BETWEEN
THE CITY OF CHINO HILLS AND
ARAKELIAN ENTERPRISES, INC., dba ATHENS SERVICES**

THIS MAINTENANCE AGREEMENT ("Agreement") is made and entered into this 9th day of June, 2015, by and between the CITY OF CHINO HILLS, a general law city and municipal corporation ("CITY") and ARAKELIAN ENTERPRISES, INC., dba ATHENS SERVICES ("CONTRACTOR").

The Parties agree as follows:

1. CONSIDERATION

- A. As partial consideration, CONTRACTOR agrees to perform the work listed in the SCOPE OF SERVICES, below;
- B. As additional consideration, CONTRACTOR and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay CONTRACTOR an annual amount not to exceed \$239,900 on the terms set forth in the attached "Exhibit A," which is incorporated by reference, for CONTRACTOR's services. Payments shall be made within thirty (30) days after receipt of each invoice as to all undisputed fees. If the City disputes any of CONTRACTOR's fees it shall give written notice to Consultant within 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

2. TERM

The term of this Agreement will be from July 1, 2015 to June 30, 2018. The Agreement may be renewed in advance and in writing by the City Manager for two additional one-year terms.

3. SCOPE OF SERVICES

- A. CONTRACTOR will perform services listed in the attached Exhibit A.
- B. CONTRACTOR will, in a workmanlike manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the professional services required of CONTRACTOR by this Agreement.

4. FAMILIARITY WITH WORK

- A. By executing this Agreement, CONTRACTOR represents that CONTRACTOR has
- i. Thoroughly investigated and considered the scope of services to be performed;
 - ii. Carefully considered how the services should be performed; and
 - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
- B. If services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should CONTRACTOR discover any latent or unknown conditions that may materially affect the performance of the services, CONTRACTOR will immediately inform CITY of such fact and will not proceed except at CONTRACTOR's own risk until written instructions are received from CITY.

5. INSURANCE

- A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, CONTRACTOR will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial general liability:	\$2,000,000
Business automobile liability	\$2,000,000
Workers compensation	Statutory requirement.

- B. Commercial general liability insurance will meet or exceed the requirements of ISO-CGL Form No. CG 00 01 11 85 or 88. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name City, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by City will be excess thereto. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to City.
- C. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).

D. CONTRACTOR will furnish to City duly authenticated Certificates of Insurance evidencing maintenance of the Insurance required under this Agreement, endorsements as required herein, and such other evidence of insurance or copies of policies as may be reasonably required by City from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Certificate(s) must reflect that the insurer will provide thirty (30) day notice of any cancellation of coverage. CONTRACTOR will require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

E. Should CONTRACTOR, for any reason, fail to obtain and maintain the insurance required by this Agreement, City may obtain such coverage at CONTRACTOR's expense and deduct the cost of such insurance from payments due to CONTRACTOR under this Agreement or terminate.

6. TIME FOR PERFORMANCE

CONTRACTOR will not perform any work under this Agreement until:

- A. CONTRACTOR furnishes proof of insurance as required under Section 5 of this Agreement; and
- B. CITY gives CONTRACTOR a written Notice to Proceed.
- C. Should CONTRACTOR begin work in advance of receiving written authorization to proceed, any such professional services are at CONTRACTOR's own risk.

7. INDEMNIFICATION

CONTRACTOR indemnifies, and holds CITY harmless from and against any claims, actions, damages, costs, (including, without limitation, reasonable attorney's fees and penalties), injuries, or liability, arising out of this Agreement or its performance including, without limitation, CONTRACTOR's use of CITY property for overnight storage of vehicles or as a transfer site where debris is dumped and collected and any claims alleging pollution or contamination resulting from the activities of the CONTRACTOR, except to the extent such loss or damage results from the CITY's active negligence or willful misconduct. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, CONTRACTOR will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.

- A. For purposes of this section "CITY" includes CITY's elected and appointed officials, officers, employees, agents, representatives, and volunteers.

- B. CONTRACTOR expressly agrees that this release, waiver, and indemnity agreement is intended to be as broad and inclusive as is permitted by the law of the State of California and that if any portion is held invalid, it is agreed that the balance will, notwithstanding, continue in full legal force and effect.
- C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.
- D. The requirements as to the types and limits of insurance coverage to be maintained by CONTRACTOR as required by this Agreement, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONTRACTOR pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

8. INDEPENDENT CONTRACTOR

CITY and CONTRACTOR agree that CONTRACTOR will act as an independent contractor and will have control of all work and the manner in which is it performed. CONTRACTOR will be free to contract for similar service to be performed for other employers while under contract with CITY. CONTRACTOR is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONTRACTOR as to the details of doing the work or to exercise a measure of control over the work means that CONTRACTOR will follow the direction of the CITY as to end results of the work only.

9. CONTRACTORS KNOWLEDGE OF APPLICABLE LAWS

CONTRACTOR shall keep itself informed of applicable local, state and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. CONTRACTOR shall observe and comply with all such laws and regulations. CITY and its elected officials, officers, employees, agents, representatives, and volunteers shall not be liable at law or in equity as a result of any failure of Consultant to comply with this section.

10. NOTICES

- A. All notices given or required to be given pursuant to this Agreement will be in writing and may be given by personal delivery or by mail. Notice sent by mail will be addressed as follows:

To CITY: City of Chino Hills
Attn: City Clerk
14000 City Center Drive
Chino Hills, CA 91709

To CONTRACTOR: Athens Services
Attn: Gary Clifford II
15045 Salt Lake Avenue
City of Industry, CA 91746

B. When addressed in accordance with this paragraph, notices will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices will be deemed given at the time of actual delivery.

C. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

11. TAXPAYER IDENTIFICATION NUMBER

CONTRACTOR will provide CITY with a Taxpayer Identification Number.

12. WAIVER

A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

13. SEVERABLE

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

14. CAPTIONS

The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.

15. INTERPRETATION

This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in San Bernardino County. The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party.

16. AUTHORITY/MODIFICATION

The terms of this Agreement can only be modified in writing approved by the CITY AND THE CONTRACTOR. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

17. EFFECT OF CONFLICT

In the event of any conflict, inconsistency, or incongruity between any provision of this Agreement, its attachments, the purchase order, or notice to proceed, the provisions of this Agreement will govern and control. In the event of any conflict, inconsistency, or incongruity between any provision of Exhibit A and Exhibit B, the provisions of Exhibit A will govern and control.

18. FORCE MAJEURE

Should performance of this Agreement be prevented due to fire, flood, explosion, war, terrorist act, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

19. ENTIRE AGREEMENT

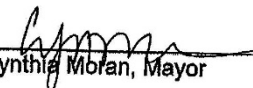
This Agreement and its one attachment constitutes the sole agreement between CONTRACTOR and CITY respecting lead based stabilization. To the extent that there are additional terms and conditions contained in Exhibit "A" that are not in conflict with this Agreement, those terms are incorporated as if fully set forth above. There are no other understandings, terms or other agreements expressed or implied, oral or written.

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

ARAKELIAN ENTERPRISES, INC.,
dba ATHENS SERVICES

CITY OF CHINO HILLS

By 

By 
Cynthia Moran, Mayor

Title EXECUTIVE VICE PRESIDENT

ATTEST:

By 


Cheryl Balz
City Clerk

Title CHIEF FINANCIAL OFFICER

APPROVED AS TO FORM:


Mark D. Hensley
City Attorney



CITY OF CHINO HILLS
Scope of Services Exhibit "A"
Street Sweeping Services

1. As part of the scope of work, the vendor will sweep approximately 978 curb miles as follows:

- A. Sweep 253 miles of residential streets two times (2x) per month
- B. Sweep 12 miles of commercial areas and 106 miles of arterial streets four times (4x) per month

The Scope of Work and sweeping frequencies may be varied by the City.

2. The terms of the contract are for three years from the date of award, with two (2) one-year renewal options, subject to the written consent of both parties.

3. Street sweeping shall be performed in accordance with accepted standards for routine and emergency Municipal Street cleaning. This is intended to be a "Clean Sweep" program and not a "Single Pass" program. When necessary for proper cleaning, the Contractor shall make more than one pass on a street without extra charge. Such extra passes may include, but shall not be limited to, cleaning of dirt, sand and debris from street centerlines and pavement markings. The Contractor shall immediately respond when notified by the City to re-sweep unsatisfactory areas at no additional charge.

The momentum or speed of the sweeper, while performing street sweeping operations, shall not exceed eighty percent (80%) of the manufacturer's recommendation. **A real time GPS device shall be installed on each sweeper** to measure and document the location, speed, and curb miles swept. Records produced by this device shall be available to the City upon request and retained during the duration of the contract.

4. Equipment Maintenance:

A. The Contractor shall submit a quarterly report detailing the following for each piece of equipment:

- List each type of equipment that is to be used at the City by the Vendor with make, year, model and mileage
- Maintenance Records and repairs
- Servicing intervals for each piece of equipment

- Replacement criteria of equipment
- Number of "back-up" sweepers available for immediate use if a piece of equipment fails to operate

B. The City shall have the right to perform periodic inspections of the equipment. If primary equipment is faulty, designated repairs or "back-up" equipment must be available within one hour to prevent delay to the sweeping operation.

C. The City will provide overnight storage for the sweepers that are used in this contract.

5. Alternative fuel vehicles: The City requires that the Contractor use Compressed Natural Gas (CNG) fuel vehicles for street sweeping. The contractor shall provide newer equipment in good working order. Contractor's equipment must comply with applicable AQMD rules and regulations. The City maintains a CNG Station at the Corporate Yard at 15091 La Palma Avenue. The City will provide the CNG fuel to the Contractor at a cost equivalent to the AQMD pricing at the Diamond Bar location.

6. Disposal of Sweeping Debris and Refuse. Contractor pricing form provided includes the following three pricing options:

- A. The Contractor will be responsible for disposal of debris during daily street sweeping operations. The contractor shall dispose of all debris collected by hauling it to a legally established disposal area.
- B. Public Works will provide a transfer site at the City Yard, located in the City of Chino, where the debris will be dumped during daily street sweeping operations. This debris will then be collected by the contractor on a weekly basis and disposed of at a legally established disposal area.
- C. Public Works will provide a transfer site in the City of Chino Hills where the contractor will dispose of debris at no cost during daily street sweeping operations.

7. Water: The Contractor shall make arrangements with the City for use of fire hydrants and hydrant meter(s) to obtain water necessary for the execution of the contract. The Contractor shall be solely responsible for all water-related costs.

8. Timing Requirements:

- A. The vendor will be required to complete street sweeping routes as scheduled. At no time shall a vendor, for more than five (5) consecutive days, fail to perform their contractual duties. Failure to perform for more than five (5) consecutive

days will constitute a breach of contract and the contract will be terminated in thirty (30) days with an issuance of Notice to Terminate.

B. Street sweeping hours for residential streets to commence at 8:00 a.m. and cease at 4:00 p.m., Monday through Friday unless otherwise directed by City staff.

C. Contractor shall sweep commercial and arterial streets between the hours of mid-night and 8 a.m.

9. Payment Withheld/Deducted:

A. Work required in the specifications which is defective, incomplete, or not performed.

B. Claims filed and/or reasonable evidence indicating probable filing of claims for damages caused by the contractor to private or public property.

C. Failure of the Contractor to make payments properly to employees, subcontractors, or vendors for materials or services provided.

D. Expenses incurred by the City to perform work required in the specifications that is defective, incomplete, or not performed.

E. Costs incurred by the City due to extra administration costs for additional inspections and subsequent correspondence/notifications.

10. Termination

Upon determination of the Public Works Director that the quality of workmanship being performed by the contractor does not meet the standards set by the City of Chino Hills as outlined in the specifications and/or for non-compliance of any provisions of the agreement entered into, the City may terminate this agreement upon thirty (30) days written notice to the Contractor.

11. Performance Bond:

The successful contractor will be required to furnish, for the City Attorney's approval, a performance bond as surety for the faithful performance of this contract within ten days of a Notice of Award of contract. Said performance bond must be in the amount of \$25,000 and must remain in effect for the duration of the contract. The surety company shall be required to notify the City in writing no less than thirty days prior to cancellation of the performance bond. Premium for the bond described above shall be paid by the contractor. The surety of the bond shall be a duly authorized corporate surety, authorized to do bond business in the State of California.

City Responsibilities

The City will provide the vendor with appropriate direction to carry out the vendor's efforts. The City will also provide the vendor with current street sweeping routes and schedules.

Administrative Elements

1. The Contractor shall assign a responsible representative and an alternate to coordinate with City staff. Any other changes in responsible representative must be approved, in advance, by the City. The City will have the right to reject other proposed changes in personnel and may consider any other changes in responsible personnel a breach of contract.
2. The Contractor shall provide all necessary personnel, instruments, equipment, and materials to perform the described services.
 - a. The contractor shall assign a permanent driver to perform sweeping duties. A permanent back up driver shall be assigned to perform sweeping duties when the regular driver is scheduled off.

Insurance:

1. Insurance Requirements. Proposer shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Proposer, its agents, representatives, or employees. Insurance is to be placed with a current A.M. Best's rating of no less than A:VII. Proposer shall provide the following scope and limits of insurance:

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).
- (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the written approval by the City.
- (3) Workers' Compensation Insurance as required by the Labor Code of the State of California and Employer's Liability Insurance and covering all persons providing service on behalf of the Proposer and all risks to such persons under this Agreement.

B. Minimum Limits of Insurance. Consultant shall maintain limits of insurance no less than:

(1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation and Employer's Liability: Worker's Compensation as required by the Labor Code of the State of California and Employer's Liability limits of \$1,000,000 per accident.

2. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

A. All Policies: Each insurance policy required by this paragraph shall be endorsed and state the coverage shall not be suspended, voided, canceled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

B. General Liability and Automobile Liability Coverages:

(1) City, its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities Proposer performs, products and completed operations of Proposer; premises owned, leased or hired or borrowed by Proposer. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, employees or volunteers.

(2) Proposer's insurance coverage shall be primary insurance as respects to City, its officers, officials, employees or volunteers and shall apply in excess of, and not contribute with, Proposer's insurance.

(3) Proposer's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Any failure to comply with the reporting or other provisions of the policies including the breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

C. Worker's Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and agents for losses arising from work performed by Consultant for City.

3. Other Requirements. Consultant agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this Agreement have been complied with. The City Attorney may require the Proposer furnish the City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required copies of all required insurance policies, at any time.

A. Proposer shall furnish certificates and endorsements from each subcontractor identical to those Proposer provides.

B. Any deductibles or self-insured retention must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or the Proposer shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

C. The procuring of such required policy or policies of insurance shall not be construed to limit Proposer's liability hereunder to fulfill the indemnification provisions and requirements of this Agreement.

CNG Purchase

Subject to availability, Consultant shall be authorized to purchase, at a cost equivalent to the AQMD pricing, compressed natural gas (CNG) for Consultant's street sweeping vehicles at City's CNG station located at 15091 La Palma Avenue, Chino, CA 91710. Market price shall be determined on the first of each month for the term of this Agreement. City shall deduct the amount of Contractor's CNG fuel purchases on a monthly basis from the payment for invoices submitted by Contractor for compensation.

Exhibit B

Fee Schedule – Athens Services

Street Sweeping	Cost per Curb Mile
A. All labor, equipment and materials, with total debris disposal costs borne by Contractor	\$20.25
B. All labor, equipment and materials, with debris disposal costs borne by Contractor and City provides local space for transfer of debris.	\$23.48
C. All labor, equipment and materials, with debris disposal costs borne by the City	\$16.78

A-1

ATTACHMENT 9

2020 HAULER TONNAGE REPORT



CITY OF CHINO HILLS

Annual YTD Tonnage Summary

Line of Business	Tons Collected	Tons Recovered	Tons Disposed
RES	40,804.98	12,769.49	28,035.49
COM	12,881.73	42.78	12,838.95
IND	5,499.38	1,998.50	3,500.88
Grand Total	59,186.09	14,810.77	44,375.32

Reporting Year	2020
Reporting Month	12

Per Capita Tracker	
Annual Disposal Rate Target	3.7
Calculated Disposal Rate YTD	2.9
* Calculation represents Republic-hauled volume only. Does not include self-haul volume sent directly to the landfill.	

Line of Business	Overall Commodity	Disposal Facility	Tons Collected	Tons Recovered	Tons Disposed
RES	Recycle	CVT Transfer	17.78	2.27	15.51
	Trash	CVT Transfer	19,939.55	-	19,939.55
	Single Stream	CVT Transfer	6,847.31	1,443.61	5,403.70
	Greenwaste - Compost	Agromin	5,309.01	5,043.56	265.45
	Greenwaste - MSW	CVT Transfer	6,610.59	6,280.06	330.53
		CVT Transfer	2,080.75	-	2,080.75
RES Total			40,804.98	12,769.49	28,035.49
COM	Recycle	CVT Transfer	313.24	42.56	270.67
	Trash	CVT Transfer	12,568.14	-	12,568.14
	Organics	CVT Transfer	0.36	0.22	0.14
COM Total			12,881.73	42.78	12,838.95
IND	C&D	CVT Transfer	1,680.79	1,092.51	588.28
	Recycle	CVT Transfer	18.20	2.13	16.07
	Trash	CVT Transfer	2,836.05	-	2,836.05
	Greenwaste - Compost	Agromin	607.47	577.10	30.37
	Greenwaste - MSW	CVT Transfer	343.96	326.76	17.20
		CVT Transfer	12.91	-	12.91
IND Total			5,499.38	1,998.50	3,500.88
Grand Total			59,186.09	14,810.77	44,375.32

Line of Business		Values									Total Tons Collected			Total Tons Recovered		Total Tons Disposed		
RES		COM			IND													
Mth/Yr	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed
Jan-20	3,403.50	1,217.44	2,186.06	1,243.75	-	1,243.75	482.98	173.74	309.24	5,130.23	1,391.18	3,739.06						
Feb-20	2,699.61	1,032.58	1,667.04	1,143.94	4.63	1,139.32	411.58	139.82	271.76	4,255.14	1,177.02	3,078.11						
Mar-20	3,368.52	1,404.23	1,964.29	1,121.51	4.67	1,116.84	473.89	206.19	267.70	4,963.93	1,615.10	3,348.83						
Apr-20	3,846.90	1,634.21	2,212.70	923.45	5.03	918.42	600.94	217.97	382.97	5,371.29	1,857.20	3,514.09						
May-20	3,971.22	1,617.73	2,353.50	914.86	4.70	910.16	529.56	216.11	313.45	5,415.65	1,838.53	3,577.11						
Jun-20	3,692.18	1,454.33	2,237.85	1,055.18	4.64	1,050.54	433.21	154.11	279.10	5,180.57	1,613.08	3,567.49						
Jul-20	3,813.08	1,462.33	2,350.74	1,095.77	-	1,095.77	417.99	132.07	285.92	5,326.84	1,594.41	3,732.43						
Aug-20	3,058.16	852.87	2,205.29	1,047.11	0.02	1,047.10	428.64	151.98	276.66	4,533.91	1,004.87	3,529.04						
Sep-20	3,194.58	442.42	2,752.17	1,050.33	-	1,050.33	443.27	143.95	299.32	4,688.19	586.36	4,101.83						
Oct-20	3,266.30	427.61	2,838.69	1,127.18	5.67	1,121.51	448.92	155.25	293.67	4,842.40	588.53	4,253.87						
Nov-20	3,343.45	548.27	2,795.17	1,079.57	5.99	1,073.58	483.16	188.49	294.67	4,906.18	742.75	4,163.43						
Dec-20	3,147.49	675.48	2,472.00	1,079.05	7.43	1,071.62	345.24	118.83	226.41	4,571.78	801.75	3,770.03						

CITY OF CHINO HILLS

Reporting Year 2020

Tonnage Detail by Month

			Line of Busine		Values							Total Tons Collected	Total Tons Recovered	Total Tons Disposed
			RES	Tons	COM		Tons	Tons	IND		Tons			
Mth/Yr	Overall Commodity	Disposal Facility	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed			
Jan-20	C&D	CVT Transfer Station	-	-	-	-	-	-	129.64	84.27	45.37	129.64	84.27	45.37
	Recycle	CVT Transfer Station	6.67	-	6.67	29.82	-	29.82	0.80	-	0.80	37.29	-	37.29
	Trash	CVT Transfer Station	1,647.14	-	1,647.14	1,213.93	-	1,213.93	258.36	-	258.36	3,119.43	-	3,119.43
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	589.29	115.06	474.23	-	-	-	-	-	-	589.29	115.06	474.23
	Greenwaste - Compost	Agromin	646.93	614.58	32.35	-	-	-	89.64	85.16	4.48	736.57	699.74	36.83
		CVT Transfer Station	513.47	487.80	25.67	-	-	-	4.54	4.31	0.23	518.01	492.11	25.90
Jan-20 Total			3,403.50	1,217.44	2,186.06	1,243.75	-	1,243.75	482.98	173.74	309.24	5,130.23	1,391.18	3,739.06
Feb-20	C&D	CVT Transfer Station	-	-	-	-	-	-	118.08	76.75	41.33	118.08	76.75	41.33
	Recycle	CVT Transfer Station	6.63	1.33	5.30	23.14	4.63	18.51	0.78	0.16	0.62	30.54	6.11	24.43
	Trash	CVT Transfer Station	1,259.31	-	1,259.31	1,120.81	-	1,120.81	226.50	-	226.50	2,606.61	-	2,606.61
	Single Stream	CVT Transfer Station	440.99	88.20	352.79	-	-	-	-	-	-	440.99	88.20	352.79
	Greenwaste - Compost	Agromin	580.31	551.29	29.02	-	-	-	66.22	62.91	3.31	646.53	614.20	32.33
		CVT Transfer Station	412.38	391.76	20.62	-	-	-	-	-	-	412.38	391.76	20.62
Feb-20 Total			2,699.61	1,032.58	1,667.04	1,143.94	4.63	1,139.32	411.58	139.82	271.76	4,255.14	1,177.02	3,078.11
Mar-20	C&D	CVT Transfer Station	-	-	-	-	-	-	178.04	115.73	62.31	178.04	115.73	62.31
	Recycle	CVT Transfer Station	4.49	0.94	3.54	22.24	4.67	17.57	0.25	0.05	0.20	26.98	5.67	21.31
	Trash	CVT Transfer Station	1,460.57	-	1,460.57	1,099.27	-	1,099.27	200.43	-	200.43	2,760.27	-	2,760.27
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	547.29	114.93	432.36	-	-	-	-	-	-	547.29	114.93	432.36
	Greenwaste - Compost	Agromin	782.98	743.83	39.15	-	-	-	95.17	90.41	4.76	878.15	834.24	43.91
		CVT Transfer Station	573.19	544.53	28.66	-	-	-	-	-	-	573.19	544.53	28.66
Mar-20 Total			3,368.52	1,404.23	1,964.29	1,121.51	4.67	1,116.84	473.89	206.19	267.70	4,963.93	1,615.10	3,348.83
Apr-20	C&D	CVT Transfer Station	-	-	-	-	-	-	234.84	152.65	82.19	234.84	152.65	82.19
	Recycle	CVT Transfer Station	-	-	-	23.40	5.03	18.37	1.05	0.23	0.82	24.45	5.26	19.19
	Trash	CVT Transfer Station	1,680.15	-	1,680.15	900.05	-	900.05	296.53	-	296.53	2,876.73	-	2,876.73
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	577.15	124.09	453.06	-	-	-	-	-	-	577.15	124.09	453.06
	Greenwaste - Compost	Agromin	824.73	783.49	41.24	-	-	-	68.52	65.09	3.43	893.25	848.59	44.66
		CVT Transfer Station	764.87	726.63	38.24	-	-	-	-	-	-	764.87	726.63	38.24
Apr-20 Total			3,846.90	1,634.21	2,212.70	923.45	5.03	918.42	600.94	217.97	382.97	5,371.29	1,857.20	3,514.09
May-20	C&D	CVT Transfer Station	-	-	-	-	-	-	250.07	162.55	87.52	250.07	162.55	87.52
	Recycle	CVT Transfer Station	-	-	-	23.32	4.66	18.65	1.52	0.30	1.22	24.84	4.97	19.87
	Trash	CVT Transfer Station	1,792.06	-	1,792.06	891.47	-	891.47	221.91	-	221.91	2,905.44	-	2,905.44
	Organics	CVT Transfer Station	-	-	-	0.07	0.04	0.04	-	-	-	0.07	0.04	0.04
	Single Stream	CVT Transfer Station	603.30	120.66	482.64	-	-	-	-	-	-	603.30	120.66	482.64
	Greenwaste - Compost	Agromin	774.34	735.62	38.72	-	-	-	56.06	53.26	2.80	830.40	788.88	41.52
		CVT Transfer Station	801.52	761.44	40.08	-	-	-	-	-	-	801.52	761.44	40.08
May-20 Total			3,971.22	1,617.73	2,353.50	914.86	4.70	910.16	529.56	216.11	313.45	5,415.65	1,838.53	3,577.11
Jun-20	C&D	CVT Transfer Station	-	-	-	-	-	-	141.69	92.10	49.59	141.69	92.10	49.59
	Recycle	CVT Transfer Station	-	-	-	22.52	4.61	17.91	2.35	0.48	1.87	24.87	5.09	19.77
	Trash	CVT Transfer Station	1,720.97	-	1,720.97	1,032.61	-	1,032.61	224.40	-	224.40	2,977.98	-	2,977.98
	Organics	CVT Transfer Station	-	-	-	0.05	0.03	0.02	-	-	-	0.05	0.03	0.02
	Single Stream	CVT Transfer Station	561.35	114.96	446.39	-	-	-	-	-	-	561.35	114.96	446.39
	Greenwaste - Compost	Agromin	624.55	593.32	31.23	-	-	-	64.77	61.53	3.24	689.32	654.85	34.47
		CVT Transfer Station	785.31	746.04	39.27	-	-	-	-	-	-	785.31	746.04	39.27
Jun-20 Total			3,692.18	1,454.33	2,237.85	1,055.18	4.64	1,050.54	433.21	154.11	279.10	5,180.57	1,613.08	3,567.49
Jul-20	C&D	CVT Transfer Station	-	-	-	-	-	-	84.83	55.14	29.69	84.83	55.14	29.69
	Recycle	CVT Transfer Station	-	-	-	33.03	-	33.03	1.10	-	1.10	34.13	-	34.13
	Trash	CVT Transfer Station	1,806.27	-	1,806.27	1,062.74	-	1,062.74	251.08	-	251.08	3,120.09	-	3,120.09
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	592.18	118.44	473.74	-	-	-	-	-	-	592.18	118.44	473.74
	Greenwaste - Compost	Agromin	716.00	680.20	35.80	-	-	-	80.98	76.93	4.05	796.98	757.13	39.85
		CVT Transfer Station	698.63	663.70	34.93	-	-	-	-	-	-	698.63	663.70	34.93
Jul-20 Total			3,813.08	1,462.33	2,350.74	1,095.77	-	1,095.77	417.99	132.07	285.92	5,326.84	1,594.41	3,732.43
Aug-20	C&D	CVT Transfer Station	-	-	-	-	-	-	101.07	65.70	35.37	101.07	65.70	35.37
	Recycle	CVT Transfer Station	-	-	-	20.91	-	20.91	4.08	-	4.08	24.99	-	24.99
	Trash	CVT Transfer Station	1,646.56	-	1,646.56	1,026.18	-	1,026.18	232.66	-	232.66	2,905.40	-	2,905.40
	Organics	CVT Transfer Station	-	-	-	0.02	0.02	0.01	-	-	-	0.02	0.02	0.01
	Single Stream	CVT Transfer Station	540.14	109.92	430.22	-	-	-	-	-	-	540.14	109.92	430.22
	Greenwaste - Compost	Agromin	359.17	341.21	17.96	-	-	-	86.11	81.80	4.31	445.28	423.02	22.26
		CVT Transfer Station	422.88	401.74	21.14	-	-	-	4.72	4.48	0.24	427.60	406.22	21.38
	Greenwaste - MSW	CVT Transfer Station	89.41	-	89.41	-	-	-	-	-	-	89.41	-	89.41
Aug-20 Total			3,058.16	852.87	2,205.29	1,047.11	0.02	1,047.10	428.64	151.98	276.66	4,533.91	1,004.87	3,529.04
Sep-20	C&D	CVT Transfer Station	-	-	-	-	-	-	106.90	69.49	37.42	106.90	69.49	37.42
	Recycle	CVT Transfer Station	-	-	-	28.88	-	28.88	2.15	-	2.15	31.03	-	31.03
	Trash	CVT Transfer Station	1,665.60	-	1,665.60	1,021.45	-	1,021.45	253.28	-	253.28	2,940.33	-	2,940.33
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	559.41	132.47	426.94	-	-	-	-	-	-	559.41	132.47	426.94
	Greenwaste - Compost	Agromin	-	-	-	-	-	-	-	-	-	-	-	-
		CVT Transfer Station	326.26	309.95	16.31	-	-	-	78.38	74.46	3.92	404.64	384.41	20.23
	Greenwaste - MSW	CVT Transfer Station	643.31	-	643.31	-	-	-	2.56	-	2.56	645.87	-	645.87
Sep-20 Total			3,194.58	442.42	2,752.17	1,050.33	-	1,050.33	443.27	143.95	299.32	4,688.19	586.36	4,101.83
Oct-20	C&D	CVT Transfer Station	-	-	-	-	-	-	126.38	82.15	44.23	126.38	82.15	44.23
	Recycle	CVT Transfer Station	-	-	-	25.70	5.67	20.03	1.30	0.29	1.01	27.00	5.95	21.05
	Trash	CVT Transfer Station	1,755.45	-	1,755.45	1,101.48	-	1,101.48	242.56	-	242.56	3,099.49	-	3,099.49
	Organics	CVT Transfer Station	-	-	-	-	-	-	-	-	-	-	-	-
	Single Stream	CVT Transfer Station	618.31	136.34	481.97	-	-	-	-	-	-	618.31	136.34	481.97
	Greenwaste - Compost	Agromin	-	-	-	-	-	-	-	-	-	-	-	-
		CVT Transfer Station	306.60	291.27	15.33	-	-	-	76.65	72.82	3.83	383.25	364.09	19.16

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City of Chino Hills

Line of Business			Values									Total Tons	Total Tons	Total Tons
Mth/Yr	Overall Commodity	Disposal Facility	RES			COM			IND			Collected	Recovered	Disposed
			Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed	Tons Collected	Tons Recovered	Tons Disposed			
441 05	Greenwaste - MSW	CVT Transfer Station	585.94	-	585.94	-	-	-	2.03	-	2.03	587.97	-	587.97
Oct-20 Total			3,266.30	427.61	2,838.69	1,127.18	5.67	1,121.51	448.92	155.25	293.67	4,842.40	588.53	4,253.87
Nov-20	C&D	CVT Transfer Station	-	-	-	-	-	-	119.74	77.83	41.91	119.74	77.83	41.91
	Recycle	CVT Transfer Station	-	-	-	26.95	5.94	21.01	1.29	0.28	1.01	28.24	6.23	22.01
	Trash	CVT Transfer Station	1,755.53	-	1,755.53	1,052.55	-	1,052.55	242.42	-	242.42	3,050.50	-	3,050.50
	Organics	CVT Transfer Station	-	-	-	0.07	0.05	0.02	-	-	-	0.07	0.05	0.02
	Single Stream	CVT Transfer Station	577.32	127.30	450.02	-	-	-	-	-	-	577.32	127.30	450.02
	Greenwaste - Compost	Agromin	-	-	-	-	-	-	-	-	-	-	-	-
		CVT Transfer Station	443.13	420.97	22.16	-	-	-	116.18	110.37	5.81	559.31	531.34	27.97
	Greenwaste - MSW	CVT Transfer Station	567.47	-	567.47	-	-	-	3.53	-	3.53	571.00	-	571.00
Nov-20 Total			3,343.45	548.27	2,795.17	1,079.57	5.99	1,073.58	483.16	188.49	294.67	4,906.18	742.75	4,163.43
Dec-20	C&D	CVT Transfer Station	-	-	-	-	-	-	89.51	58.18	31.33	89.51	58.18	31.33
	Recycle	CVT Transfer Station	-	-	-	33.32	7.35	25.97	1.53	0.34	1.19	34.85	7.68	27.17
	Trash	CVT Transfer Station	1,749.94	-	1,749.94	1,045.60	-	1,045.60	185.92	-	185.92	2,981.46	-	2,981.46
	Organics	CVT Transfer Station	-	-	-	0.13	0.09	0.05	-	-	-	0.13	0.09	0.05
	Single Stream	CVT Transfer Station	640.58	141.25	499.33	-	-	-	-	-	-	640.58	141.25	499.33
	Greenwaste - Compost	Agromin	-	-	-	-	-	-	-	-	-	-	-	-
		CVT Transfer Station	562.35	534.23	28.12	-	-	-	63.49	60.32	3.17	625.84	594.55	31.29
	Greenwaste - MSW	CVT Transfer Station	194.62	-	194.62	-	-	-	4.79	-	4.79	199.41	-	199.41
Dec-20 Total			3,147.49	675.48	2,472.00	1,079.05	7.43	1,071.62	345.24	118.83	226.41	4,571.78	801.75	3,770.03
Grand Total			40,804.98	12,769.49	28,035.49	12,881.73	42.78	12,838.95	5,499.38	1,998.50	3,500.88	59,186.09	14,810.77	44,375.32