

**FRANCHISE AGREEMENT
BETWEEN
THE CITY OF MILPITAS
AND
MILPITAS SANITATION, INC.
FOR
COLLECTION OF SOLID WASTE
AND
COLLECTION AND PROCESSING OF
RECYCLABLE MATERIALS AND ORGANIC MATERIALS**

The Council is considering 4 service package options:

Option 1 - Exclusive Debris Box without 20 Gallon Garbage Carts.

Option 2 - Exclusive Debris Box with 20 Gallon Garbage Carts

Option 3 – Non-Exclusive Debris Box without 20 Gallon Garbage Carts

Option 4 – Non-Exclusive Debris Box with 20 Gallon Garbage Carts

The Agreement in this final draft form provides for Option 1. The final agreement with the selected contractor will be modified as needed should the City Council select Option 2, 3 or 4. In each case, the necessary changes will be relatively minor - see yellow highlighted areas of the agreement for discussion of necessary changes.

NOVEMBER 14, 2016 CITY COUNCIL MEETING FINAL DRAFT

{This page intentionally left blank}

TABLE OF CONTENTS

ARTICLE 1. GRANT AND ACCEPTANCE OF FRANCHISE.....	2
1.1 Grant and Acceptance of Franchise	2
1.2 Limitations to the Franchise	2
1.3 Obligations of Parties	4
ARTICLE 2. TERM OF AGREEMENT.....	4
2.1 Term and Option to Extend	4
2.2 Conditions to Effectiveness of Agreement.....	5
ARTICLE 3. SCOPE OF AGREEMENT	6
3.1 Summary Scope of Services.....	6
3.2 Use of Approved Facilities.....	7
3.3 Capacity Assurance.....	8
3.4 No Limitation on City Diversion Programs	9
3.5 Subcontracting	9
3.6 Responsibility for Materials	9
3.7 Cooperation with City or County.....	10
3.8 Carbon Offset Credits	10
3.9 City-Directed Changes to Scope	10
ARTICLE 4. SCOPE OF SERVICES.....	10
Residential/Mixed Use Solid Waste Service.....	11
Residential/Mixed Use Recycling Service	12
4.1 Single-Family Residential Services.....	14
4.2 Multi-Family Residential Services	19
4.3 Commercial Services	23
4.4 Construction and Demolition Debris (C&D).....	25
4.5 Services for City Facilities	26
4.6 Special Events.....	27
4.7 Transportation of Collected Materials.....	28
4.8 Delivery and Processing of Collected Materials	28
4.9 Public Outreach Efforts	39
4.10 Multi-Family/Commercial Technical Assistance	40
4.11 Billing	41
4.12 Customer Service Program.....	42
4.13 City Web-Based Access to Information.....	44
4.14 Diversion Requirements; AB 939, AB 341, AB 1826, SB 1383.....	44
4.15 Street Sweeping.....	45
4.16 Performance Reviews and Financial Audits.....	50
ARTICLE 5. STANDARD OF PERFORMANCE.....	51

5.1	General.....	51
5.2	Operating Hours and Schedules	51
5.3	Collection Standards	52
5.4	Vehicle Requirements.....	53
5.5	Container Requirements.....	53
5.6	Personnel.....	56
5.7	Hazardous Waste Inspection and Handling	57
5.8	City Contract Manager	57
5.9	Cooperation with City, County	58
ARTICLE 6. RECORD KEEPING AND REPORTING.....		58
6.1	Record Keeping and Audit of Records.....	58
6.2	Report Submittal Requirements	59
6.3	Performance Monitoring Meetings	60
ARTICLE 7. FRANCHISE FEES AND OTHER FEES		60
7.1	Franchise Fee.....	60
7.2	Adjustment to Fees.....	60
7.3	Payment Schedule and Late Fees.....	61
7.4	Procurement Reimbursement Payment.....	61
ARTICLE 8. CONTRACTOR'S COMPENSATION AND RATE SETTING		61
8.1	General.....	61
8.2	Rates and Annual Adjustments	62
8.3	Reserved.....	63
8.4	Extraordinary Rate Adjustments.....	63
ARTICLE 9. INDEMNITY, INSURANCE, PERFORMANCE BOND, AND RIGHT TO PERFORM SERVICE.....		64
9.1	Indemnification	64
9.2	Insurance.....	66
9.3	Performance Bond.....	68
9.4	Reserved.....	69
9.5	Emergency Conditions.....	69
9.6	Disaster Operations.....	71
ARTICLE 10. DEFAULT AND REMEDIES		72
10.1	Events of Default.....	72
10.2	Right to Terminate Upon Event of Default.....	73
10.3	City's Remedies in the Event of Default.....	73
10.4	Possession of Records Upon Termination	74
10.5	City's Remedies Cumulative; Specific Performance	74
10.6	Performance Standards and Liquidated Damages	75
10.7	Excuse from Performance.....	76

10.8 Right to Demand Assurances of Performance..... 77

ARTICLE 11. REPRESENTATIONS AND WARRANTIES OF THE PARTIES..... 77

11.1 Contractor’s Corporate Status 78
11.2 Contractor’s Corporate Authorization 78
11.3 Agreement Will Not Cause Breach 78
11.4 No Litigation 78
11.5 No Adverse Judicial Decisions 78
11.6 No Legal Prohibition 78
11.7 Contractor’s Ability to Perform 79
11.8 Contractor’s Rights and Obligations Regarding City’s Disposal Contractor. 79
11.9 Contractor’s Diligence in Coordinating with City of Sunnyvale 79

ARTICLE 12. OTHER AGREEMENTS OF THE PARTIES..... 79

12.1 Relationship of Parties 79
12.2 Compliance with Law 79
12.3 Governing Law 80
12.4 Jurisdiction 80
12.5 Binding on Successors 80
12.6 Assignment 80
12.7 No Third Party Beneficiaries 81
12.8 Waiver..... 82
12.9 Notice Procedures 82
12.10 Representatives of the Parties..... 82

ARTICLE 13. MISCELLANEOUS AGREEMENTS 83

13.1 Entire Agreement..... 83
13.2 Section Headings..... 83
13.3 References to Laws..... 83
13.4 Amendments..... 83
13.5 Severability 83
13.6 Counterparts..... 83
13.7 Exhibits 83

LIST OF EXHIBITS

- A. Definitions
- B. Public Outreach Requirements
- C. Reporting Requirements
- D. Rate Adjustment Methodology
 - D-1. Multiple Index-Based Rate Adjustment Methodology
 - D-2. Cost-Based Rate Adjustment Methodology
- E. Performance Standards and Liquidated Damages
- F. List of City Facilities and City Containers
- G. Reserved
- H. Cart Specifications
- I. Contractor's Proposal HFH to add
 - I-1. Contractor's Proposal
 - I-2. Contractor's Responses During Clarification
- J. Performance Bond
- K. Labor Agreement(s)
- L. Maximum Rates Approved by City for Rate Period One
- M. Approved Subcontractors
- N. Operating Assumptions and Cost Basis for Rate Period One Rates
- O. Street Sweeping
 - O-1. Monthly Record Keeping Form
 - O-2. Abandoned Car Program Form
 - O-3. Tree Control Maintenance Activity
 - O-4. Daily Report of Motor Street Sweeper
 - O-5. Street Sweeping Map

36 Organic Materials, and C&D; and,

37 **WHEREAS;** the City has determined that Contractor, by demonstrated experience, reputation and
38 capacity is qualified to provide for both the Collection of Solid Waste, Recyclables Materials, and Organic
39 Materials within the corporate limits of the City and the Transportation of such material to appropriate
40 places of Processing, Recycling, Composting, and/or Disposal; and, therefore, desires that Contractor be
41 engaged to perform such services on the basis set forth in this Agreement.

42 **WHEREAS;** the City and Contractor have attempted to address conditions affecting their performance of
43 services under this Agreement but recognize that reasonably unanticipated conditions may occur during
44 the Term of this Agreement that will require the Parties to meet and confer to reasonably respond to such
45 changed conditions;

46 **NOW, THEREFORE,** in consideration of the mutual promises, covenants, and conditions contained in this
47 Agreement and for other good and valuable consideration, the Parties agree as follows:

48 ARTICLE 1. GRANT AND ACCEPTANCE OF FRANCHISE

49 **1.1 Grant and Acceptance of Franchise**

50 By the signing of this Agreement, City grants to Contractor and Contractor accepts an exclusive franchise
51 within the corporate limits of the City. The franchise granted to Contractor shall be for the scope of
52 services described in Section 3.1 and Article 4 of this Agreement, subject to the limitations described in
53 Section 1.2 and except where otherwise precluded by Federal, State, and local laws and regulations.

54 This Agreement and scope of this franchise shall be interpreted to be consistent with Applicable Law, now
55 and during the Term of the Agreement. If future judicial interpretations of current law or new laws,
56 regulations, or judicial interpretations limit the ability of the City to lawfully contract for the scope of
57 services in the manner and consistent with all provisions as specifically set forth herein, Contractor agrees
58 that the scope of the Agreement will be limited to those services and materials which may be lawfully
59 included herein and that the City shall not be responsible for any lost profits or losses claimed by
60 Contractor to arise out of limitations to the scope or provisions of the Agreement set forth herein. In such
61 an event, it shall be the responsibility of Contractor to minimize the financial impact of such future judicial
62 interpretations or new laws and the Contractor may meet and confer with City and may petition for a Rate
63 adjustment pursuant to Section 8.4.

64 **1.2 Limitations to the Franchise**

65 Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section
66 1.2 will be modified to remove "C&D" from the exclusive services provided by Contractor. See highlights
67 in rest of agreement regarding other key sections for modification. Incidental references to the term
68 "C&D" will also be removed throughout the agreement and exhibits.

69 The award of this Agreement shall not preclude the categories of Solid Waste, Recyclable Materials,
70 Organic Materials, and C&D listed below from being delivered to and Collected and Transported by others
71 provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from
72 obtaining any authorization from City which is otherwise required by law.

- 73 A. **Recyclable and Organic Materials.** Other Persons shall maintain the right to: (1) accept Source
74 Separated Recyclable Materials and Source Separated Organic Materials donated from the service
75 recipient, or (2) to pay the service recipient for Source Separated Recyclable Materials and Source
76 Separated Organic Materials so long as there is no net payment made by the service recipient to
77 such other Person;
- 78 B. **Specialty Recyclables.** Other Persons shall maintain the right to collect Specialty Recyclable
79 Materials;
- 80 C. **Self-Hauled Materials.** A Commercial business Owner, Occupant or Resident may Dispose of Solid
81 Waste, Recyclable Materials, Organic Materials, and C&D generated in or on their own Premises
82 with their own vehicle;
- 83 D. **Donated Materials.** Any items which are Source Separated at any Premises by the Generator and
84 donated to youth, civic, or charitable organizations;
- 85 E. **Beverage Containers.** Containers delivered for Recycling under the California Beverage Container
86 Recycling and Litter Reduction Act, Section 14500, et seq. California Public Resources Code;
- 87 F. **Materials Removed by Owner’s or Occupant’s Contractor as Incidental Part of Services.** To the
88 extent allowed by law, Organic Materials, and/or C&D removed from a Premises by a contractor
89 (e.g., gardener, landscaper, tree-trimming service, demolition contractor, construction
90 contractor, Residential clean-out service) as an incidental part of the service being performed and
91 such contractor is providing a service which is not included in the scope of this Agreement;
- 92 G. **Animal, Grease Waste, and Used Cooking Oil.** Animal waste and remains from slaughterhouse
93 or butcher shops, grease, or used cooking oil;
- 94 H. **Sewage Treatment By-Product.** By-products of sewage treatment, including sludge, sludge ash,
95 grit, and screenings;
- 96 I. **Excluded Waste.** Excluded Waste regardless of its source; and,
- 97 J. **Materials Generated by State, County, and Federal Facilities.** Materials generated by State
98 (including its political subdivisions, excepting City and County), County, and Federal facilities
99 located in the City provided that the Generator has arranged services with other Persons or has
100 arranged services with the Contractor through a separate agreement.

101 Contractor acknowledges and agrees that the City may permit other Persons besides the Contractor to
102 Collect any and all types of materials excluded from the scope of this Franchise, as set forth above, without
103 seeking or obtaining approval of Contractor. If Contractor can produce evidence that other Persons are
104 servicing Collection Containers or are Collecting and Transporting Solid Waste, Recyclable Materials,
105 Organic Materials, and/or C&D (collectively “Franchised Materials”) in a manner that is not consistent
106 with this Agreement or the City’s Municipal Code, it shall report the location, the name and phone number
107 of the Person or company to the City’s Contract Manager along with Contractor’s evidence. In such case,
108 City may notify the Customer, Generator and Person providing service of Contractor’s rights under this
109 Agreement.

110 This Agreement and scope of this franchise shall be interpreted to be consistent with Applicable Law, now
111 and during the Term of the Agreement. If future judicial interpretations of current law or new laws,
112 regulations, or judicial interpretations limit the ability of the City to lawfully contract for the scope of
113 services in the manner and consistent with all provisions as specifically set forth herein, Contractor agrees
114 that the scope of the Agreement will be limited to those services and materials which may be lawfully

115 included herein and that the City shall not be responsible for any lost profits or losses claimed by
116 Contractor to arise out of limitations to the scope or provisions of the Agreement set forth herein. In such
117 an event, it shall be the responsibility of Contractor to minimize the financial impact of such future judicial
118 interpretations or new laws and the Contractor may meet and confer with City and may petition for a Rate
119 adjustment pursuant to Section 8.4.

120 **1.3 Obligations of Parties**

121 In addition to the specific performance required under the Agreement:

- 122 A. Contractor shall use its reasonable commercial efforts to enforce its rights under this Agreement
123 by the Contractor’s identification and documentation of violations of the Agreement by third
124 parties.
- 125 B. Contractor and City shall each provide timely notice to the other Party of a failure or perceived
126 failure to perform any obligations under this Agreement, and each shall have access to
127 information demonstrating the Party’s failure or perceived failure to perform.
- 128 C. Contractor and City shall provide timely access to the City Contract Manager and the Contractor’s
129 designated representative as applicable and complete and timely responses to requests of the
130 other Party.
- 131 D. Contractor and City shall provide timely notice of matters which may affect either Party’s ability
132 to perform under the Agreement.

133 **ARTICLE 2. TERM OF AGREEMENT**

134 **2.1 Term and Option to Extend**

135 The Term of this Agreement shall commence September 6, 2017 and continue in full force for a period of
136 approximately fifteen (15) years, through and including August 31, 2032, unless this Agreement is
137 extended in accordance with this Section or terminated pursuant to Section 10.2. Notwithstanding the
138 foregoing, in the event that the commencement of services hereunder is delayed beyond September 6,
139 2017 as the result of any Legal Challenge described in Section 2.2E below, the Term of this Agreement
140 shall commence on the earliest feasible date after such Legal Challenge has been resolved (but not sooner
141 than nine (9) months after Contractor orders the equipment necessary to provide the services hereunder)
142 and continue in full force for a period of fifteen (15) years, unless this Agreement is extended in
143 accordance with this Section or terminated pursuant to Section 10.2. The date that the Term of this
144 Agreement commences in accordance with this Section 2.1 is referred to as the “Commencement Date.”

145 The Term of this Agreement shall only be extended with the prior consent of both Parties. Should the
146 Parties choose to extend this Agreement, both Parties shall meet and confer no later than one (1) year
147 prior to the expiration of this Agreement to determine and specify the duration and terms of such
148 extension. Between the Effective Date and Commencement Date, Contractor shall perform all activities
149 necessary to prepare itself to start providing services required by this Agreement on the Commencement
150 Date.

151 Notwithstanding the above, City may at its sole discretion and with a six (6) month notice, require

152 Contractor to enter into a one (1) year extension of the Agreement without changes to its material
153 provisions.

154 **2.2 Conditions to Effectiveness of Agreement**

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

158 A. **Accuracy of Representations.** The Contractor's representations and warranties made in
159 Contractor's Proposal and Article 11 of this Agreement are true and correct on and as of the
160 Effective Date.

161 B. **Furnishings of Insurance and Performance Bond.** Contractor has furnished evidence of the
162 insurance and performance bond required by Article 9 that is satisfactory to the City.

163 C. **Absence of Litigation.** To the best of Contractor's knowledge, after reasonable investigation,
164 there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or
165 governmental authority, commission, board, agency or instrumentality decided, pending or
166 threatened against Contractor wherein an unfavorable decision, ruling or finding, in any single
167 case or in the aggregate, would:

- 168 1. Materially adversely affect the performance by Contractor of its obligations hereunder;
- 169 2. Adversely affect the validity or enforceability of this Agreement; or,
- 170 3. Have a material adverse effect on the financial condition of Contractor, or any surety or
171 entity guaranteeing Contractor's performance under this Agreement.

172 D. **Permits Furnished.** Contractor has provided City with copies of all permits necessary for operation
173 of all Approved Facilities owned or operated by Contractor or Subcontractor for use under the
174 terms of this Agreement.

175 E. **Legal Challenge.** Contractor understands and acknowledges that the award of this Agreement and
176 related decisions may be subject to review and repeal by the City's citizens through a referendum
177 or similar petition, and to various types of legal and environmental challenges (such referenda,
178 similar petition and legal and environmental challenges being referred to collectively as "Legal
179 Challenges"). Accordingly, this Agreement shall not become effective until the City reasonably
180 determines that (1) any Legal Challenges that had been initiated as of the time of such
181 determination have been resolved in favor of the City's award of this Agreement to Contractor;
182 and (2) the deadline to initiate any additional Legal Challenges has expired; provided, however,
183 that Contractor shall be entitled to rescind this Agreement upon thirty (30) days' prior written
184 notice to the City if such determination is not made by March 31, 2017. In the event that the City
185 becomes subject to any Legal Challenge, it shall notify Contractor and the City may: (1) rescind
186 the action awarding the Agreement; (2) submit the action to the voters (if applicable); or (3) take
187 any other action permitted by law in its sole discretion. If the City opts to submit the action to
188 the voters or to oppose any Legal Challenge, it shall immediately so inform Contractor by written
189 notice describing the City's decision. Unless Contractor elects to terminate the Agreement within
190 five (5) days of its receipt of such notice, Contractor shall pay up to \$100,000 in the aggregate of
191 City's election costs and/or attorneys' fees and costs incurred in submitting the action to the
192 voters or in opposing such Legal Challenges ("Contractor's Contribution"); provided, however,
193 that the City shall indemnify, defend and hold Contractor harmless from and against any and all

194 costs, losses and expenses incurred by Contractor in connection with such Legal Challenges (other
195 than Contractor’s Contribution). Contractor’s Contribution will be reimbursed to Contractor
196 within sixty (60) days after the City determines that the Legal Challenges have been resolved in
197 the City’s favor; otherwise such Contribution will not be reimbursed.

198 The City acknowledges that Contractor must order trucks necessary to perform the services
199 hereunder at least nine (9) months prior to the Commencement Date, that the projected
200 September 6, 2017 Commencement Date cannot be satisfied unless such trucks are ordered by
201 December 1, 2016, and that such orders require nonrefundable deposits of approximately
202 \$4,200,000. Contractor will not order such trucks until the City has determined that all Legal
203 Challenges have been resolved in the City’s favor and given Contractor written notice to such
204 effect, whereupon the Commencement Date will be revised to be the date that is nine (9) months
205 after the date Contractor receives such notice. In the event that the City later takes any action,
206 or is forced by Legal Challenge, to rescind the award of this Agreement to Contractor, the City will
207 immediately reimburse Contractor for the nonrefundable deposits and take title to the trucks.

208 **ARTICLE 3. SCOPE OF AGREEMENT**

209 **3.1 Summary Scope of Services**

210 Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section
211 3.1, A., B. and C. will be modified to remove “C&D” from the exclusive services provided by Contractor.

212 The Contractor or its Subcontractor(s) shall be responsible for the following:

- 213 A. Collecting Solid Waste, Recyclable Materials, Organic Materials, and C&D generated by and placed
214 for Collection by Customers that are subscribers of Contractor’s services pursuant to
215 requirements of Article 4;
- 216 B. Transporting Collected Solid Waste, C&D Waste, Organic Materials, and materials collected
217 through the on-call Bulky Item lean-up program (other than Reusable Materials collected at no
218 cost by a third party) to the Approved Facility pursuant to requirements of Article 4;
- 219 C. Transporting to and Processing Recyclable Materials, Organic Materials, and Source Separated
220 Recyclable C&D at the appropriate Approved Facilities;
- 221 D. Performing all other services required by this Agreement including, but not limited to, Customer
222 billing, public education, Customer service, record keeping, and reporting pursuant to Articles 4
223 and 6 and Exhibits B (Public Education & Outreach) and C (Reporting);
- 224 E. Furnishing all labor, supervision, vehicles, Containers, other equipment, materials, supplies, and
225 all other items and services necessary to perform its obligations under this Agreement;
- 226 F. Paying all expenses related to provision of services required by this Agreement including, but not
227 limited to, taxes, regulatory fees, City fees, and utilities;
- 228 G. Performing or providing all services necessary to fulfill its obligations in full accordance with this
229 Agreement at all times using best industry practice for comparable operations; and,
- 230 H. Complying with all Applicable Laws.

231 The enumeration and specification of particular aspects of service, labor, or equipment requirements shall

232 not relieve Contractor of the duty to perform all other tasks and activities necessary to fulfill its obligations
233 under this Agreement, regardless of whether such requirements are enumerated elsewhere in the
234 Agreement, unless excused in accordance with Section 10.7.

235 **3.2 Use of Approved Facilities**

236 Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section
237 3.2 A., will be modified to remove "C&D" from the exclusive services provided by contractor.

238 **A. Approved Facilities**

239 The Contractor, without constraint and as a free-market business decision in accepting this Agreement,
240 agrees to use the Approved Facilities for the purposes of Processing and/or Disposing by Disposal
241 Contractor of all Solid Waste, Recyclable Materials, Organic Materials, C&D, and other materials Collected
242 in the City. Such decision by Contractor in no way constitutes a restraint of trade notwithstanding any
243 Change in Law regarding flow control limitations or any definition thereof.

244 Contractor shall maintain accurate records of the quantities of Solid Waste, Recyclable Materials, Organic
245 Materials, and C&D Transported to the Disposal, Processing, or Composting Facilities and will cooperate
246 with City and any regulatory authority in any audits or investigations of such quantities.

247 Contractor shall pay all tipping fees and other costs associated with Transporting to and Processing and/or
248 Disposing Solid Waste, Recyclable Materials, Organic Materials, C&D, and other materials Collected in the
249 City at the Approved Facilities.

250 Contractor shall observe and comply with all regulations in effect at the Approved Facilities, and shall
251 cooperate with and take direction from the operators thereof with respect to delivery of Solid Waste,
252 Recyclable Materials, Organic Materials, C&D, and other materials Collected in the City. Contractor shall
253 actively work with the Approved Facilities operators throughout the Term of this Agreement to minimize
254 contamination of the Recyclable Materials, Organic Materials, and C&D Collected under this Agreement
255 and delivered to the Approved Facilities.

256 To the extent an Approved Facility(ies) or other Facility-related services are provided by an Affiliate or
257 Subcontractor, Contractor shall ensure compliance of that party with the provisions of Section 4.8.
258 However, this requirement is in no way intended to limit Subcontractor compliance with all applicable
259 provisions of this Agreement.

260 **B. Alternative Facilities**

261 1. **Purpose.** Contractor shall identify, and enter into arrangements with Alternative Transfer and
262 Processing Facilities, whether an Affiliate or owned by a third-party prior to the Effective Date,
263 and subject to review by the City upon City request in order to ensure uninterrupted service
264 should Contractor for any reason be unable to provide or obtain services at one or more of
265 the Approved Facilities.

266 2. **Alternative Facility Arrangements.** Alternative Transfer and Processing Facility arrangements
267 must ensure that Contractor can Deliver Discarded Materials or street sweepings to an
268 Alternative Facility within two (2) Business Days of Contractor or City notice of need to use

269 such Alternative Facility. Contractor shall ensure that Alternative Facilities are able to accept
270 Discarded Materials or street sweepings on a continuous basis for no less than thirty (30)
271 Days. Should Contractor use of the Alternative Facility exceed thirty (30) Days, City may
272 require Contractor provide additional reasonable assurances of the Alternative Facility's
273 ability to accept Discarded Materials or street sweepings on an ongoing basis under the terms
274 of this Agreement. Contractor may request, and City may at its discretion grant a change in
275 an Alternative Facility owned and operated by Contractor or an Affiliate, or owned and/or
276 operated by a third party but then only with the third party's prior written consent.

277 3. **Contractor Responsibility for Additional Cost.** If Contractor is unable to, or chooses not to
278 provide for Delivery of Discarded Materials or street sweepings to an Approved Facility for
279 reasons other than those specified in Section 10.7, Contractor shall provide immediate notice
280 to City of its need to use an Alternative Facility, and shall be solely responsible for incremental
281 differences in cost due to per-ton fees charged at the Alternative Facility and any additional
282 transportation costs incurred in Transport and Delivery of Discarded Materials or street
283 sweepings to the Approved Facility as provided in Article 8.

284 4. **City Responsibility for Additional Cost.** If Contractor is unable to provide for Delivery of
285 Discarded Materials or street sweepings, or Transport of Discarded Materials or street
286 sweepings to an Approved Facility for a reason specified in Section 10.7, Contractor shall
287 provide immediate notice to City of its need to use an Alternative Facility. City shall be
288 responsible for incremental differences in cost due to per-ton fees charged at the Alternative
289 Facility and any additional transportation costs incurred in Delivering or Transport of Solid
290 Waste to the Alternative Facility as provided in Article 8.

291 5. **City Right to Terminate.** If, for any reason, the Contractor is unable to use an Approved Facility
292 for a period greater than 30 days, the City may, at its sole discretion, terminate this
293 Agreement as provided in accordance with Section 10.2. In the event that Contractor has
294 reason to believe that an Alternative Facility(ies) may be needed for a period greater than 30
295 days, including as a permanent replacement for an Approved Facility, Contractor shall
296 immediately notify the City Contract Manager to request consideration of a new or
297 replacement Approved Facility.

298 C. Delivery to Non-Approved Facilities Prohibited

299 Should Contractor Transport Discarded Materials or street sweepings to a facility other than an Approved
300 Facility or an Alternative Facility as provided in Section 3.2.B without prior City approval, Contractor shall
301 be subject to the penalty identified in Exhibit E for "Delivery to a Non-Approved Facility".

302 3.3 Capacity Assurance

303 Contractor warrants that as of the Commencement Date it has sufficient Transfer capacity at the
304 Approved Transfer Facility to receive, Transfer and transport all materials intended for Processing
305 throughout the Term, and that it shall maintain that Transfer capacity through the Term.

306 Contractor warrants that as of the Commencement Date it has sufficient capacity at the Approved
307 Processing Facilities to Process all materials throughout the Term, and that it shall maintain that capacity
308 through the Term.

309 If at any time during the Term or an extension Contractor fails to provide the capacity needed to fulfill its
310 obligations under this Agreement, the City may assess Liquidated Damages for each Ton of material that
311 the Contractor is unable to Transfer or Process in accordance with the provisions of Exhibit B.

312 **3.4 No Limitation on City Diversion Programs**

313 The City maintains programs to reduce the amount of waste intended for Disposal. It is the City's intent
314 to continue to improve, develop, and enhance existing programs as well as to implement new programs
315 and services throughout the Term as it deems necessary to meet or exceed mandated Diversion program
316 requirements and goals established by AB 939 and subsequent federal, State, County or local legislation
317 including, but not limited to the State 75 percent recycling goal established in AB 341 and the
318 programmatic requirements of AB 1826. Contractor acknowledges that the characterization and quantity
319 of materials Delivered to the Approved Facilities will change over the Term and may over time be
320 significantly different than that as of the Commencement Date of the Agreement.

321 Nothing in this Agreement shall prevent, penalize, or impede, in any manner, the City from continuing
322 programs, altering programs, or developing new programs that have the effect of reducing or increasing
323 the amount of Solid Waste Collected and Delivered to the Approved Facilities or to the Disposal Contractor
324 including Processing of Collected Solid Waste in lieu of Delivery for Disposal.

325 **3.5 Subcontracting**

326 Contractor shall not engage any Subcontractors for Collection, Transportation, or Processing of Solid
327 Waste, Recyclable Materials, Organic Materials, C&D services, or street sweeping without the prior
328 written consent of City Contract Manager. As of the Effective Date of this Agreement, City has approved
329 Contractor's use of those subcontractors identified in Contractor's Proposal, included herein as Exhibit I.
330 If the Contractor plans to engage other Affiliate or related party entities in the provision of services,
331 Contractor shall obtain written approval from City Contract Manager thirty (30) days prior to its plans to
332 use party. Contractor shall submit written request to the City seeking approval of other Affiliate or related
333 party entities. Such request shall include a description of its plans, name and qualifications of party, and
334 an explanation of any potential impacts related to the quality, timeliness, or cost of providing services
335 under this Agreement.

336 **3.6 Responsibility for Materials**

337 **Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section**
338 **3.6 will be modified to remove "C&D" from the exclusive services provided by Contractor.**

339 Once Solid Waste, Recyclable Materials, Organic Materials, and C&D are placed in the Contractor's
340 Containers and at the Collection location, the responsibility for their proper handling shall transfer directly
341 from the Generator to Contractor, with the exception of Excluded Waste if the Contractor can identify the
342 Generator pursuant to Section 5.7.B. Once Solid Waste, Recyclable Materials, Organic Materials, C&D and
343 street sweepings are deposited by Contractor at the appropriate Approved Facility, such materials shall
344 become the responsibility of the Owner or operator of the Approved Facility including the Disposal
345 Contractor in the case of Disposal, with the exception of Excluded Waste pursuant to Section 5.7.C.

346 Responsibility for Excluded Waste that has been inadvertently Collected by the Contractor shall remain

347 with the Contractor if it cannot identify the Generator, and Contractor shall assume all responsibility for
348 its proper Disposal.

349 **3.7 Cooperation with City or County**

350 The Contractor shall with no added compensation cooperate with the City, its agent, and/or Santa Clara
351 County and/or its agent, or any State regulatory authority and/or its agent if the City or County or State
352 regulatory authority seek to collect data, perform field work, and/or evaluate and monitor Diversion
353 program results through characterization of Solid Waste, including providing reasonably requested data,
354 allowing visits to Approved Facilities, and allowing use of Contractor-designated areas of Approved
355 Facilities as needed to perform Solid Waste characterizations.

356 Contractor shall also cooperate with City and/or County or State regulatory authority by providing
357 requested data and review and otherwise assisting with any Disposal Reporting System Investigations or
358 Origin Report Studies by providing documentation deemed reasonably necessary by the City Contract
359 Manager, the County or State regulatory authority.

360 **3.8 Carbon Offset Credits**

361 The City reserves the right to revenues or other benefits from carbon offset credits obtained by Contractor
362 related to services performed under this Agreement.

363 **3.9 City-Directed Changes to Scope**

364 City and Contractor shall meet and confer to establish the scope of any additional services or modification
365 to existing services (which may include use of Approved Facilities) to be provided under this Agreement.
366 In such case, Contractor shall present, within thirty (30) calendar days of City's request, a written proposal
367 to provide such modified or additional services, including changes in Contractor's compensation.

368 City shall review the Contractor's proposal for the change in scope of services. City and Contractor shall
369 meet and confer to negotiate Contractor's proposed revisions and costs and shall amend this Agreement,
370 as appropriate, to reflect the mutually agreed-upon changes in scope.

371 **ARTICLE 4. SCOPE OF SERVICES**

372 Contractor shall perform the services described in this Article 4, and shall bill all Customers as provided at
373 the Rates approved under this Agreement as provided in Section 8.1 and as specified in Exhibit L. Failure
374 to specifically require an act necessary to perform the service does not relieve Contractor of its obligation
375 to perform such act.

376 Contractor acknowledges that City is committed to Diverting materials from Disposal through the
377 implementation of source reduction, reuse, Recycling, Composting, and other programs, and that City
378 may implement new programs in accordance with Section 3.9 that may impact the overall quantity or
379 composition of materials to be Collected by Contractor, subject to Contractor's right to petition for a
380 change in City-approved Maximum Rates pursuant to Section 8.4.

381 **Residential/Mixed Use Solid Waste Service**

382 Solid Waste service shall be provided in carts or bins as follows:

383 **1. Single-Family**

384 Premises with individual units that are billed directly for service. Single-Family includes 1-4 residential
 385 units that are provided carts (single-family, mobile homes, duplex through four-plex developments, and
 386 townhomes and row houses with accessible individual street frontage).

387 **2. Medium Multi-Family**

388 Premises may include single-family attached and semi-attached houses and duplexes and shall be
 389 provided with carts or bins, as determined by the Contractor and approved by the City.

390 **3. High-Density Multi-Family**

391 Attached row houses to triplexes and four-plexes, stacked townhomes, and walkup garden apartments
 392 and shall be provided with carts, bins or compactors, as determined by the Contractor and approved by
 393 the City.

394 **4. Very High-Density Multi-Family**

395 Row houses to townhouses to lofts and stacked flats with structured parking. Very high-density multi-
 396 family shall be provided with carts, bins or compactors, as determined by the Contractor and approved
 397 by the City.

398 **5. Mixed Use**

399 Commercial offices, retail and services, high-density residential, and public/quasi-public uses and shall be
 400 provided with carts, bins or compactors, as determined by the Contractor and approved by the City.

401 **6. Valet Service**

402 Specialized consolidation services, provided by third parties of solid waste, recyclables and/or food scraps
 403 for medium to very-high density dwellings and complexes that cannot be serviced via traditional collection
 404 vehicles. Typically, materials are collected and deposited into a centralized location in bins or compactors
 405 for collection and processing by the Contractor and approved by the City.

406 Figure 4-1 summarizes Contractor provision of Residential/mixed use Solid Waste and Food Scraps
 407 Collection Services.

408 Should Council act to add a 20 Gallon solid waste cart, Section 4.1.A will be modified to add a 38 gallon
 409 split cart for garage and food scraps (equivalent of a 20 gallon garbage cart) to the list of cart sizes.

410 **Figure 4-1: Overview of Residential/Mixed Use Solid Waste and Food Scraps Services**

Solid Waste and Food Scraps Collection	Carts	Bins
Single-Family Premises with 1-4 units	Split-Carts: {Solid Waste / Food Scraps}/ unit TOTAL CAPACITY: 45-gal (64-gal cart with 26-gal insert solid waste), 64-gal, 96-gal	None

	Food Scraps Capacities: 19-gal (64-gal cart with or without solid waste insert) and 29-gal (96-gal cart)	
Medium Multi-Family Premises	Split-Cart: {Solid Waste / Food Scraps}/ unit (with no Bin service) Food Scraps Cart per enclosure (with Solid Waste Bin service)	Solid Waste Bin
High-Density Multi-Family Premises	Food Scraps Cart per enclosure	Solid Waste Bin / Compactor Food Scraps Bin per enclosure
Very High-Density Multi-Family Premises	Food Scraps Cart per enclosure	Solid Waste Bin / Compactor Food Scraps Bin per enclosure
Valet Service (as provided by 3 rd parties)	None, may vary depending upon complex arrangements with the Contractor and approved by City.	Solid Waste Bin / Compactor

411
412
413

Figure 4-2: Split-Cart Solid Waste & Food Scraps Capacities Graphic:



414

415 **Residential/Mixed Use Recycling Service**

416 Recycling service shall be provided in carts or bins as follows:

417 **1. Single-Family**

418 Premises with individual units that are billed directly for service. Single-Family includes 1-4 residential
419 units that are provided carts (single-family, mobile homes, duplex through four-plex developments, and
420 townhomes and row houses with accessible individual street frontage).

421 **2. Medium Multi-Family**

422 Premises may include single-family attached and semi-attached houses and duplexes and shall be
423 provided with carts or bins, as determined by the Contractor and approved by the City.

424 **3. High-Density Multi-Family**

425 Attached row houses to triplexes and four-plexes, stacked townhomes, and walkup garden apartments
 426 and shall be provided with carts, bins or compactors, as determined by the Contractor and approved by
 427 the City.

428 **4. Very High-Density Multi-Family**

429 Row houses to townhouses to lofts and stacked flats with structured parking. Very high-density multi-
 430 family shall be provided with carts, bins or compactors, as determined by the Contractor and approved
 431 by the City.

432 **5. Mixed Use**

433 Commercial offices, retail and services, high-density residential, and public/quasi-public uses and shall be
 434 provided with carts, bins or compactors, as determined by the Contractor and approved by the City.

435 **6. Valet Service**

436 Specialized consolidation services, provided by third parties of solid waste, recyclables and/or food scraps
 437 for medium to very-high density dwellings and complexes that cannot be serviced via traditional collection
 438 vehicles. Typically, materials are collected and deposited into a centralized location in bins or compactors
 439 for collection and processing by the Contractor and approved by the City.

440 Figure 4-3 summarizes Contractor provision of Residential/mixed use Recycling Collection Services.

441 **Figure 4-3: Overview of Residential/Mixed Use Recycling Services**

Recycling Collection	Carts	Bins
Single-Family Premises	Split-Cart: {Fibers / Containers}/ unit	None
Medium Multi-Family	Split-Cart: {Fibers / Containers}/ unit (with no Bin service) 2 Single Carts / unit (with Solid Waste Bin service) for fibers and containers	Recyclables Bin
High-Density Multi-Family	None, may vary depending upon space constraints.	Recyclables Bin / Compactor
Very High-Density Multi-Family	None, may vary depending upon space constraints.	Recyclables Bin / Compactor
Valet Service (as provided by 3 rd parties)	None, may vary depending upon complex arrangements with the Contractor and approved by City.	Recyclables Bin / Compactor

442
 443 Figure 4-4 summarizes Yard Waste Collection Services in general, and variation in provision of Solid Waste,
 444 Food Scraps and Recyclables Collection Services for Residential and Commercial Customers.

445
 446 **Figure 4-4: Variations in Service**

Service Grid			
	Solid Waste / Food Scraps	Recyclables	Yard Waste
Residential	Split Cart {MSW / FS}	Split Cart {Fibers /	Cart

Service Grid			
		Containers}	
	Split Cart {MSW / FS}	Split Cart {Fibers / Containers}	None
	Solid Waste / Food Scraps	Recyclables	Yard Waste
Valet / MFD	Compactor	Compactor	Compactor
	Front-Load Bin	Front-Load Bin	Front-Load Bin
	Front-Load Bin	Split Cart {Fibers / Containers}	Cart
	Solid Waste / Food Scraps	Recyclables	Yard Waste
Commercial	Front-Load Bin	Front-Load Bin	Front-Load Bin
	Split Cart {MSW / FS}	Split Cart {Fibers / Containers}	Cart
	MSW Cart and/or FS Cart	Container Cart & Fibers Cart	Cart

447

448 **4.1 Single-Family Residential Services**

449 Should Council act to add a 20 Gallon solid waste cart, Section 4.1.A will be modified to add a 38 gallon
 450 split cart for garage and food scraps (equivalent of a 20 gallon garbage cart) to the list of cart sizes.

451 See Figures 4-1 through 4-4 for summary of Single-Family Collection Services by location type.

452 **A. Solid Waste Collection**

453 Contractor shall Collect Solid Waste in Contractor-provided split-Carts one (1) time per week from Single-
 454 Family Customers and Transport all Solid Waste to the Approved Facilities.

- 455 **Containers:** Contractor-Provided split-Carts {Solid Waste/Food Scraps}
- 456 **Container Sizes:** 45-gallon Capacity (64-gallon split-Cart body with 26-gallon insert for Solid
 457 Waste), 64-gallon or 96-gallon split-Cart {Solid Waste/Food Scraps (described in
 458 Section 4.1C.2)}, (as requested by Customer). The 64-gallon split-Cart will have 45
 459 gallons of solid waste capacity and the 96-gallon split-Cart will have 67 gallons of
 460 solid waste capacity. The default Solid Waste split-Cart shall be 64-gallons.
- 461 **Service Frequency:** One (1) time per week
- 462 **Service Location:** Curbside standard; side- or back-yard upon Customer request at additional
 463 charge with the exception that side- or back-yard service shall be provided at no
 464 additional charge to disabled Customers in accordance with Section 4.1.I
- 465 **Acceptable Materials:** Separated Solid Waste
- 466 **Prohibited Materials:** Recyclable Materials, Organic Materials, Excluded Waste
- 467 **Additional Service:** Additional Carts provided by contractor for a fee.
- 468 **Overages:** Overages will be collected from customers who purchase additional garbage
 469 "tags". Customer-purchased tags will be affixed to extra garbage (placed at the

470 curb in a bag). Customers will be able to purchase these bag tags from local
471 stores.
472 **Other Requirements:** None

473 **B. Recyclable Materials Collection**

474 Contractor shall Collect Recyclable Materials in Contractor-provided split-Carts one (1) time per week
475 from Single-Family Customers and Transport all Recyclable Materials to the Approved Recyclable
476 Materials Processing Facility for Processing.

477 **Containers:** Carts
478 **Container Sizes:** 64-, or 96-gallon split-Carts, available upon Customer request.
479 **Service Frequency:** One (1) time per week
480 **Service Location:** Curbside standard; side- or back-yard upon Customer request at additional
481 charge with the exception that side- or back-yard service provided at no charge
482 to disabled Customers in accordance with Section 4.1.1.)
483 **Acceptable Materials:** Dual-Stream Recyclable Materials (collected utilizing split-Carts separating fibers
484 from containers)
485 **Prohibited Materials:** Solid Waste, Organic Materials, C&D, Excluded Waste
486 **Additional Service:** None.
487 **Other Requirements:** Contractor shall accept household batteries in the Recyclable Materials program.
488 Batteries to be collected in a bag placed on the cart.

489 **C. Organic Materials Collection**

490 **C. 1 Yard Trimmings Collection**

491 Contractor shall Collect Yard Trimmings in Contractor-provided Carts one (1) time per week from Single-
492 Family Customers and Transport all Yard Trimmings to the Approved Yard Trimmings Processing Facility
493 for Processing.

494 **Containers:** Carts
495 **Container Sizes:** 96-gallon Contractor-provided cart
496 **Service Frequency:** One (1) time per week
497 **Service Location:** Curbside standard; side- or back-yard upon Customer request at additional
498 charge with the exception that side- or back-yard service provided at no charge
499 to disabled Customers in accordance with Section 4.1.1.)
500 **Acceptable Materials:** Yard Trimmings
501 **Prohibited Materials:** Solid Waste, Recyclable Materials, Food Scraps, C&D, Excluded Waste
502 **Additional Service:** Contractor will provide additional carts as requested by Customer
503 **Other Requirements:** Contractor shall offer to each Single-Family Customer Curbside Collection of
504 holiday trees for the two weeks beginning on the Monday following Christmas. In
505 the event Christmas is a Monday, holiday tree Collection shall commence on the
506 second Tuesday following Christmas and continue for ten (10) Business Days.
507 Holiday trees shall be Collected on the Customer's regular Collection day during
508 the designated week(s). Customer notification requirements are specified in the
509 public education plan, Exhibit B.

510 **C. 2 Food Scraps Collection**

511 Contractor shall Collect Food Scraps in Contractor-provided split-Carts one (1) time per week from Single-
512 Family Customers and Transport all Food Scraps to the Approved Food Scraps Processing Facility for
513 Processing.

- 514 **Containers:** Split-Carts {Solid Waste (described in Section 4.1A)/ Food Scraps} and 2-gallon
515 kitchen pails.
- 516 **Container Sizes:** 64-gallon or 96-gallon split-Cart {Solid Waste/Food Scraps}, (as requested by
517 Customer). The default Food Scraps split-Cart shall be 64-gallons. 64-gallon Cart
518 provides 19 gallons of Food Scraps capacity and the 96-gallon Cart provides 29
519 gallons of Food Scraps capacity.
- 520 **Service Frequency:** One (1) time per week
- 521 **Service Location:** Curbside standard; side- or back-yard upon Customer request at additional
522 charge with the exception that side- or back-yard service provided at no
523 additional charge to disabled Customers in accordance with Section 4.1.1
- 524 **Acceptable Materials:** Separated Food Scraps
- 525 **Prohibited Materials:** Solid Waste, Recyclable Materials, C&D, Yard Trimmings, Excluded Waste
- 526 **Additional Service:** Additional Carts provided by Contractor for a fee.
- 527 **Other Requirements:** None.

528 **D. Used Motor Oil and Filter Collection**

529 Contractor shall Collect Used Motor Oil and Filters in a Contractor-provided Used Motor Oil Recovery Kit
530 from Single-Family Customers and properly Dispose of or Recycle the Used Motor Oil and Filter.

- 531 **Containers:** Used Motor Oil Recovery Kit
- 532 **Container Sizes:** Various (as provided by Contractor)
- 533 **Service Frequency:** Up to one (1) time per week (as requested by Customer)
- 534 **Service Location:** Curbside (adjacent to Recyclable Materials Cart)
- 535 **Acceptable Materials:** Used Motor Oil and Filter
- 536 **Prohibited Materials:** Solid Waste, Recyclable Materials, Organic Materials, C&D, Excluded Waste
- 537 **Additional Service:** Not applicable
- 538 **Other Requirements:** Contractor shall provide a Used Motor Oil Recovery Kit to a Customer on the next
539 scheduled service day after such request is made by Customer at no additional
540 cost to Customer. Upon Collection of Used Motor Oil and Filter from a Customer,
541 Contractor shall leave a Used Oil Recovery Kit adjacent to the Recyclables Cart.
542 Contractor shall not be required to Collect more than one (1) Used Motor Oil
543 Recovery Kit per individual dwelling unit per week from Single-Family Customers
544 who request it.

545 **E. Used Cooking Oil Collection**

546 Contractor shall Collect Used Cooking Oil in a Contractor-provided Used Cooking Oil Recovery Kit from
547 Single-Family Customers and properly Dispose of or Recycle the Used Cooking Oil.

- 548 **Containers:** Used Cooking Oil Recovery Kit

549 **Container Sizes:** Various (as provided by Contractor)
 550 **Service Frequency:** Up to one (1) time per week (as requested by Customer)
 551 **Service Location:** Curbside (adjacent to Recyclable Materials Cart)
 552 **Acceptable Materials:** Used Cooking Oil
 553 **Prohibited Materials:** Solid Waste, Recyclable Materials, Organic Materials, C&D, Excluded Waste
 554 **Additional Service:** Not applicable
 555 **Other Requirements:** Contractor shall provide a Used Cooking Oil Recovery Kit to a Customer on the
 556 next scheduled service day after such request is made by Customer at no
 557 additional cost to Customer. Upon Collection of Used Cooking Oil from a
 558 Customer, Contractor shall leave a Used Oil Recovery Kit adjacent to the
 559 Recyclables Cart. Contractor shall not be required to Collect more than one (1)
 560 Used Cooking Oil Recovery Kit per individual dwelling unit per week from Single-
 561 Family Customers who request it.

562 **F. On-Call Curbside Bulky Item/Reusable Materials Collection**

563 Contractor shall Collect Bulky Items and other materials listed below from Single-Family Customers and
 564 Transport all Collected materials to the Approved Facility with the exception of Reusable Materials
 565 collected at no cost by a third party).

566 **Containers:** Not applicable
 567 **Service Level:** Up to three (3) cubic yards of Solid Waste, Recyclable Materials, Organic
 568 Materials, Reusable Materials, C&D, and E-Waste OR up to one (1) Appliance or
 569 Bulky Item
 570 **Service Frequency:** Up to four (4) times per year (as requested by Customer)
 571 **Service Location:** Curbside
 572 **Acceptable Materials:** Solid Waste, Recyclable Materials, Organic Materials (including small tree stumps
 573 not to exceed 16 inches in diameter and length), Reusable Materials, Appliances,
 574 Bulky Items, E-Waste, C&D (excluding concrete), and U-Waste
 575 **Prohibited Materials:** Excluded Waste or any single item that exceeds seventy-five (75) pounds.
 576 **Additional Service:**

- Contractor shall Collect additional items that exceed the required Service Level and may charge an “Additional Bulky Item” Rate not to exceed the Maximum Rate approved by the City (as requested by Customer).
- Contractor shall provide additional Collection events for a Customer beyond four (4) per year and may charge an “Additional Bulky Item Collection” Rate not to exceed the Maximum Rate approved by the City.

 577
 578
 579
 580
 581
 582 **Other Requirements:**

- The Contractor shall provide the service to the Customer on the Customer’s regularly scheduled Solid Waste Collection day within seven (7) Business Days of the Customer’s requested service date, and such date shall be mutually agreed upon by the Customer and Contractor.
- Contractor’s shall notify Customers that materials shall not be placed Curbside more than twenty-four (24) hours in advance of the scheduled bulky Collection day.
- Contractor shall tag any items not Collected and such tag shall indicate the reason the item(s) were not Collected and how to arrange for proper Disposal. Within twenty-four (24) hours of tagging item(s), the Contractor shall post on Contractor’s website for access by the City the Premises where materials were not picked up, describing the type of material(s) and reason.

 583
 584
 585
 586
 587
 588
 589
 590
 591
 592
 593

594 **G. Seasonal Programs**

595 Contractor shall develop and educate Customers about the availability of and participation requirements
596 for programs dealing with seasonal or periodic waste management demands that exceed regularly
597 scheduled Collection including, without limitation: inclusion of Halloween pumpkins in the Organic
598 Materials Carts, holiday tree Collection instructions, and handling of materials from spring cleaning, and
599 fall leaves through on-call Curbside bulky clean-up collections and/or the overages program.

600 **H. Bin-for a Day**

601 Contractor shall offer small Bins for Single Family use as an alternative to an On-Call pickup. Contractor
602 shall, as requested, provide the Bin within five (5) Business Days of a Customer request and shall drop-off
603 and Collect Bins Mondays through Fridays. Accepted materials are the same as provided in Section 4.1.F.
604 Contractor shall provide a one, two, or three cubic yard Bin upon request. Contractor shall place the Bin
605 in a location designated by the property owner, but in no circumstance will place Bins in a location that
606 impedes the public right-of-way (i.e., on sidewalks, in City streets, etc.). Contractor shall collect materials
607 and remove Bin within five (5) days of a Customer request. Contractor may charge Customer a Container
608 delivery and removal fee, as approved under this Agreement, for Bins, but may not charge a Disposal fee
609 for the materials Collected under this program.

610 **I. Alternative Service Locations for Seniors and Disabled Customers**

611 Contractor shall allow for Seniors and Persons that have a disability as defined by the Americans with
612 Disabilities Act (which means Public Law 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 27 U.S.C. 225
613 and 611, and all Federal rules and regulations relating thereto) that are Occupants of Single-Family
614 Premises to receive Collection services at a location other than Curbside at no extra charge to the
615 Customer. Contractor shall review all applications made by Senior Customers (which shall include a
616 driver's license or birth certificate) and by disabled Customers (which shall include statements from
617 physicians) to determine conformance with this exemption provision and shall grant exemptions, if
618 applicable. Contractor shall make reasonable accommodations with regard to provision of and servicing
619 of Containers (e.g., Container size and type, placement of Containers for Collection, etc.) at no additional
620 cost to the Customer.

621 **J. Senior Rates**

622 Contractor shall bill Customers who qualify as seniors at the Rate specified in Exhibit L, approved by City
623 as a percentage of the Rate Contractor charges other Single-Family Customers for comparable level of
624 service. Contractor shall verify Customer's eligibility for the Senior discount using driver's license or birth
625 certificate and proof of residency.

626 **K. Billing Coordination**

627 Contractor shall work with appropriate City representatives to coordinate with water and sewer utility
628 billing in the application of billing and service standards consistent with the City's Municipal Code. For
629 example, and not by way of limitation, Municipal Code Section V-200-3.20 requires that service be
630 provided to a property unless terminated due to non-occupancy. In order to comply with these

631 requirements, Contractor must coordinate with City staff to ensure that services provided under this
632 Agreement are not terminated unless the City has approved the change in occupancy status and that the
633 schedule for terminating all services, including water and sewer, is coordinated.

634 **4.2 Multi-Family Residential Services**

635 The City’s General Plan (or as modified per Milpitas City Council approval) defines a range of housing
636 densities as follows: (1) “Medium Density” housing may include single-family attached and semi-attached
637 houses and duplexes; (2) “High Density” housing may include attached row houses to triplexes and four-
638 plexes, stacked townhomes, and walk-up garden apartments; (3) “Very High Density” housing may include
639 attached row houses and townhouses to lofts and stacked flats with structured parking, and; (4) “Mixed
640 Use” allows for commercial offices, retail and services, High Density residential and public and quasi-public
641 uses. Mixed use buildings can contain a combination of residential and commercial uses. Specific permit
642 conditions related to type of service may be placed on new developments as a function of density, and
643 Contractor shall adhere to all such permit conditions.

644 The following changes in Multi-Family Customer service require City approval prior to implementation,
645 and Contractor shall promptly inform City if a Multi-Family Customer requests either:

- 646 1. Conversion from use of Debris Boxes to Bins.
- 647 2. Reduction in total volume of service in excess of twenty five (25) percent or five (5) cubic yards
648 per week.

649 See Figures 4-1 through 4-4 for summary of MFD Collection Service by location type.

650 **A. Solid Waste Collection**

651 Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week
652 from Multi-Family Customers and Transport all Solid Waste to the Approved Disposal Facility.

653 Multi-Family Customers with “individual” service using Carts will be provided Solid Waste Collection
654 services for each dwelling unit as described in Section 4.1.A. Multi-Family Customers with “pooled”
655 service using Bins and Compactors will be provided the following:

- | | | |
|-----|------------------------------|--|
| 656 | Containers: | Carts and Bins; Compactors at City-approved “high density” locations utilizing |
| 657 | | “valet service” |
| 658 | Container Sizes: | 64-, and 96-gallon Carts (single compartment and split compartment) |
| 659 | | 1-, 1.5-, 2-, 3-, 4-,6-, and 8-cubic yard Bins |
| 660 | | 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors |
| 661 | | (as requested by Customer) |
| 662 | Service Frequency: | Up to five (5) times per week but not less than one (1) time per week, as |
| 663 | | requested by Customer |
| 664 | Service Location: | Curbside or other Customer-selected service location at the Multi-Family |
| 665 | | Premises |
| 666 | Acceptable Materials: | Solid Waste |
| 667 | Prohibited Materials: | Recyclable Materials, Organic Materials, Excluded Waste |
| 668 | Additional Service: | Upon Customer request and to accommodate periodic additional service needs, |
| 669 | | Contractor shall provide Collection service at a greater frequency than the |

670 Customer's regularly scheduled service, up to the maximum Service Level and
671 Contractor may charge an appropriate Rate for the higher Service Level at a
672 Rate not to exceed the Maximum Rate approved by the City.
673 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
674 unlock Containers, or perform other services as reasonably necessary to access
675 and empty Containers.

676 **B. Recyclable Materials Collection**

677 Contractor shall Collect Recyclable Materials in Contractor-provided Containers not less than one (1) time
678 per week from Multi-Family Customers and Transport all Recyclable Materials to the Approved Recyclable
679 Materials Processing Facility for Processing. Customers are charged at the Multi-Family Recyclable
680 Materials Rates approved under this Agreement and as specified in Exhibit L.

681 **Containers:** Carts, Bins at centralized locations including at mobile home parks. Customers
682 with Cart service for Solid Waste receive dual stream Recycling; Customers with
683 Bin or Compactor service for Solid Waste receive single-stream Recycling.

684 **Container Sizes:** 32-, 64- and 96-gallon Carts (single or split Carts);
685 1-, 1.5-, 2-, 3-, 4-, 6-, and 8-cubic yard Bins
686 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors
687 (as requested by Customer)

688 **Service Frequency:** Up to five (5) times per week but not less than one (1) time per week (as
689 requested by Customer)

690 **Service Location:** Curbside or other Customer-selected service location at the Multi-Family
691 Premises

692 **Acceptable Materials:** Dual-stream Recyclable Materials (separating fibers from containers)

693 **Prohibited Materials:** Solid Waste, Organic Materials, C&D, Excluded Waste

694 **Additional Service:** Upon Customer request and to accommodate periodic additional service needs,
695 Contractor shall provide Collection service at a greater frequency than the
696 Customer's regularly scheduled service, up to the maximum service frequency
697 and Contractor may charge an appropriate Rate for the higher Service Level not
698 to exceed the Maximum Rate approved by the City.

699 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
700 unlock Containers, or perform other services as reasonably necessary to access
701 and empty Containers.

702 **C. Organic Materials Collection**

703 **C.1 Yard Trimmings Collection**

704 Contractor shall Collect Yard Trimmings in Contractor-provided Containers not less than one (1) time per
705 week from Multi-Family Customers and Transport all Yard Trimmings to the Approved Yard Trimmings
706 Processing Facility for Processing. As a minimum standard and not by way of limitation, Contractor service
707 shall meet all requirements of AB 1826 for provision of service to Customers on the dates specified based
708 on level of Organics Materials or Solid Waste service, as applicable. Customers are charged at the Multi-
709 Family Organics Rates approved under this Agreement and as specified in Exhibit L.

710 **Containers:** Carts
711 **Container Sizes:** 64- and 96-gallon Carts;
712 1-, 1.5-, 2-, 3-, 4-,6-, and 8-cubic yard Bins
713 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors
714 (as requested by Customer)
715 **Service Frequency:** Up to five (5) days per week but not less than one (1) day per week, as
716 requested by Customer
717 **Service Location:** Curbside or other Customer-selected service location at the Multi-Family
718 Premises
719 **Acceptable Materials:** Yard Trimmings
720 **Prohibited Materials:** Solid Waste, Recyclable Materials, Food Scraps, C&D, Excluded Waste
721 **Additional Service:** Contractor shall provide additional Organic Materials Carts to Multi-Family
722 Customers upon request and may charge for an “Additional Organics Cart” not
723 to exceed the Maximum Rate approved by the City.
724 **Other Requirements:**

- Contractor shall open and close gates, push and/or pull Containers, lock and
725 unlock Containers, or perform other services as reasonably necessary to
726 access and empty Containers.
- Contractor shall offer to each Multi-Family Customer Collection of holiday
727 trees for the two weeks beginning on the Monday following Christmas. In
728 the event Christmas is a Monday, holiday tree Collection shall commence on
729 the second Tuesday following Christmas and continue for ten (10) Business
730 Days. Christmas trees shall be Collected on the Customer’s regular
731 Collection day during the designated week(s). Customer notification
732 requirements are specified in the public education plan, Exhibit B.
733

734 **C.2 Food Scraps Collection**

735 Contractor shall Collect Food Scraps in Contractor-provided Containers not less than one (1) time per week
736 from Multi-Family Customers and Transport all Food Scraps to the Approved Food Scraps Processing
737 Facility for Processing. As a minimum standard and not by way of limitation, Contractor service shall meet
738 all requirements of AB 1826 for provision of service to Customers on the dates specified based on level of
739 Organics Materials or Solid Waste service, as applicable. Customers are charged at the Multi-Family
740 Organics Rates approved under this Agreement and as specified in Exhibit L.

741 **Containers:** Carts
742 **Container Sizes:** 64-gallon single compartment or split-Carts; 2 gallon kitchen pails (one per unit);
743 1-, 2-, and 3-cubic yard Bins
744 **Service Frequency:** Up to five (5) days per week but not less than one (1) day per week, as
745 requested by Customer
746 **Service Location:** Curbside or other Customer-selected service location at the Multi-Family
747 Premises
748 **Acceptable Materials:** Food Scraps
749 **Prohibited Materials:** Solid Waste, Recyclable Materials, Yard Trimmings, C&D, Excluded Waste
750 **Additional Service:** Contractor shall provide one 64-gallon Food Scraps Cart per each enclosure at
751 the Multi-Family complex and additional Food Scraps Carts upon request and
752 charge an “Additional Food Scraps Cart” rate, not to exceed the Maximum Rate
753 approved by the City.
754 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and

755 unlock Containers, or perform other services as reasonably necessary to access
756 and empty Containers.

757 **D. On-Call Bulky Item/Reusable Materials Collection**

758 Contractor shall Collect Bulky Items and other materials listed below from Multi-Family Customers and
759 Transport all Collected materials to an Approved Facility with the exception of Reusable Materials
760 collected at no cost by a third party).

- 761 **Containers:** Not applicable
762 **Service Level:** Up to three (3) cubic yards of Solid Waste, Recyclable Materials, Organic
763 Materials, Reusable Materials, C&D, and E-Waste OR up to one (1) Appliance or
764 Bulky Item
765 **Service Frequency:** Up to four (4) times per year (as requested by Customer) for Single-Family style
766 properties; on-call bulky item cleanups available for a fee for Multi-Family style
767 properties
768 **Service Location:** Curbside or other Customer-selected service location at the Multi-Family
769 Premises which is immediately accessible by Contractor’s vehicle
770 **Acceptable Materials:** Solid Waste, Recyclable Materials, Organic Materials, Reusable Materials, C&D
771 (excluding concrete), Appliances, Bulky Items, E-Waste, and U-Waste
772 **Prohibited Materials:** Excluded Waste or any single item that exceeds seventy-five (75) pounds.
773 **Additional Service:**
 - 774 • Upon Customer request, Contractor shall Collect additional items which
 - 775 exceed the required Service Level and may charge an “Additional Bulky
 - 776 Item” Rate not to exceed the Maximum Rate approved by the City.
 - 777 • Contractor shall provide additional Collection events for a Single Family style
 - 778 Customer beyond four (4) per year and may charge an “Additional Bulky
 - 779 Item Collection” Rate not to exceed the Maximum Rate approved by the
 - 780 City.**Other Requirements:**
 - 781 • The Contractor shall provide the service to the Customer on the Customer’s
 - 782 regularly scheduled Solid Waste Collection day within seven (7) Business
 - 783 Days of the Customer’s requested service date, and such date shall be
 - 784 mutually agreed upon by the Customer and Contractor.
 - 785 • Contractor’s shall notify Customers that materials shall not be placed
 - 786 adjacent to Containers more than twenty-four (24) hours in advance of the
 - 787 scheduled bulky Collection day.
 - 788 • Contractor shall tag any items not Collected and such tag shall indicate the
 - 789 reason the item(s) were not Collected and describe how to arrange for
 - 790 proper Disposal. Within twenty-four (24) hours of tagging item(s), the
 - 791 Contractor shall post on Contractor’s website for access by the City the
 - 792 Premises where materials were not picked up, describing the type of
 - material(s) and reason.

793 **E. Seasonal Programs**

794 Contractor shall develop and educate Customers about the availability of and participation requirements
795 for programs dealing with seasonal or periodic waste management demands that exceed regularly
796 scheduled Collection including, without limitation: holiday tree Collection instructions.

797 **4.3 Commercial Services**

798 See Figures 4-1 through 4-4 for summary of Commercial and mixed use Collection Service by location type.

799 **A. Solid Waste Collection**

800 Contractor shall Collect Solid Waste in Contractor-provided Containers not less than one (1) time per week
801 from Commercial Customers and Transport all Solid Waste to the Approved Disposal Facility.

802 **Containers:** Carts, Bins, Drop Boxes, Compactors

803 **Container Sizes:** 64-, and 96-gallon Carts;

804 1-, 1.5-, 2-, 3-, 4-, 6-, and 8-cubic yard Bins

805 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors

806 (as requested by Customer)

807

808 **Service Frequency:** Up to six (6) times per week but not less than one (1) time per week, as
809 requested by Customer (Saturday service is available only to customers
810 receiving service Monday through Friday)

811 **Service Location:** Curbside; or other Customer-selected service location at the Commercial
812 Premises

813 **Acceptable Materials:** Solid Waste

814 **Prohibited Materials:** Recyclable Materials, Organic Materials, Excluded Waste

815 **Additional Service:** Upon Customer request and to accommodate periodic additional service needs,
816 Contractor shall provide Collection service at a greater frequency than the
817 Customer's regularly scheduled service, up to the maximum Service Level and
818 Contractor may charge an appropriate Rate for the higher Service Level at a
819 Rate not to exceed the Maximum Rate approved by the City.

820 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
821 unlock Containers, or perform other services as reasonably necessary to access
822 and empty Containers.

823 **B. Recyclable Materials Collection**

824 Contractor shall Collect Recyclable Materials in Contractor-provided Containers not less than one (1) time
825 per week from Commercial Customers and Transport all Recyclable Materials to the Approved Recyclable
826 Materials Processing Facility for Processing. Customers are charged at the Commercial Recyclable
827 Materials Rates approved under this Agreement and as specified in Exhibit L.

828 **Containers:** Carts, Bins, Drop Boxes, Compactors. Customers with Cart service for Solid
829 Waste receive dual-stream Recycling; Customers with Bin or Compactor service
830 for Solid Waste receive single-stream Recycling.

831 **Container Sizes:** 64- and 96-gallon single compartment or split-Carts;

832 1-, 1.5-, 2-, 3-, 4-,6-, and 8-cubic yard Bins

833 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors

834 (drop boxes and compactors must be serviced at least once every other week or
835 Contractor may apply the City-approved rental fee)

836 **Service Frequency:** Up to five (5) times per week but not less than one time per thirty (30) day

837 period, as requested by Customer; not less than one time per sixth (60) day
838 period for Compactors
839 **Service Location:** Curbside or other Customer-selected service location at the Commercial
840 Premises
841 **Acceptable Materials:** Dual-stream Recyclable Materials (separating fibers from Containers)
842 **Prohibited Materials:** Solid Waste, Organic Materials, C&D, Excluded Waste
843 **Additional Service:** Upon Customer request and to accommodate periodic additional service needs,
844 Contractor shall provide Collection service at a greater frequency than the
845 Customer’s regularly scheduled service, up to the maximum Service Level and
846 Contractor may charge the appropriate Rate for the higher Service Level at a
847 Rate not to exceed the Maximum Rate approved by the City.
848 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
849 unlock Containers, or perform other services as reasonably necessary to access
850 and empty Containers.
851

852 **C. Yard Trimmings Collection**

853 Contractor shall Collect Yard Trimmings in Contractor-provided Containers not less than one (1) time per
854 week from Commercial Customers and Transport all Yard Trimmings to the Approved Yard Trimmings
855 Processing Facility for Processing. As a minimum standard and not by way of limitation, Contractor service
856 shall meet all requirements of AB 1826 for provision of service to Customers on the dates specified based
857 on level of Organics Materials or Solid Waste service, as applicable. Customers are charged at the
858 Commercial Organics Rates approved under this Agreement and as specified in Exhibit L.

859 **Containers:** Carts, Bins, Drop Boxes, Compactors
860 **Container Sizes:** 96-gallon single compartment Carts;
861 1-, 1.5-, 2-, 3-, 4-,6-, and 8-cubic yard Bins
862 10-, 20-, 30-, and 40-cubic yard Drop Boxes and Compactors (as requested by
863 Customer)
864 **Service Frequency:** Up to five (5) times per week but not less than one (1) time per week, as
865 requested by Customer
866 **Service Location:** Curbside or other Customer-selected service location at the Commercial
867 Premises
868 **Acceptable Materials:** Yard Trimmings
869 **Prohibited Materials:** Solid Waste, Recyclable Materials, Food Scraps, C&D, Excluded Waste
870 **Additional Service:** Upon Customer request and to accommodate periodic additional service needs,
871 Contractor shall provide Collection service at a greater frequency than the
872 Customer’s regularly scheduled service, up to the maximum Service Level and
873 Contractor may charge the appropriate Rate for the higher Service Level at a
874 Rate not to exceed the Maximum Rate approved by the City.
875 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
876 unlock Containers, or perform other services as reasonably necessary to access
877 and empty Containers.

878 **D. Food Scrap Collection**

879 Contractor shall Collect Food Scraps in Contractor-provided Containers not less than one (1) time per week
880 from Commercial Customers and Transport all Food Scraps to the Approved Food Scraps Processing
881 Facility for Processing. As a minimum standard and not by way of limitation, Contractor service shall meet
882 all requirements of AB 1826 for provision of service to Customers on the dates specified based on level of
883 Organics Materials or Solid Waste service, as applicable, as well as include all other Customers that may
884 elect to participate. Customers are charged at the Commercial Organics Rates approved under this
885 Agreement and as specified in Exhibit L.

886 **Containers:** Carts, Bins, Drop Boxes, Compactors

887 **Container Sizes:**

888 64-gallon Carts;

889 1-, 2-, and 3-cubic yard Bins

890 **Service Frequency:** Up to five (5) times per week but not less than one (1) time per week, as
891 requested by Customer

892 **Service Location:** Curbside or other Customer-selected service location at the Commercial
893 Premises

894 **Acceptable Materials:** Food Scraps

895 **Prohibited Materials:** Solid Waste, Recyclable Materials, Yard Trimmings, C&D, Excluded Waste

896 **Additional Service:** Upon Customer request and to accommodate periodic additional service needs,
897 Contractor shall provide Collection service at a greater frequency than the
898 Customer’s regularly scheduled service, up to the maximum Service Level and
899 Contractor may charge the appropriate Rate for the higher Service Level at a
900 Rate not to exceed the Maximum Rate approved by the City.

901 **Other Requirements:** Contractor shall open and close gates, push and/or pull Containers, lock and
902 unlock Containers, or perform other services as reasonably necessary to access
903 and empty Containers.

904 **4.4 Construction and Demolition Debris (C&D)**

905 **Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section**
906 **4.4 will be deleted and retitled “Reserved”.**

907 Contractor shall offer C&D Collection services. C&D Collection service shall be a temporary service,
908 provided only at sites where construction, alteration, remodeling, repair, or demolition operations are
909 being performed. C&D Collection services shall be provided to any Customer upon request. Contractor
910 shall work with the Customer to provide Collection services that result in a minimum of fifty percent (50%)
911 of the C&D Collected and Processed as Source Separated Recyclable C&D, as required by the City’s Green
912 Building Ordinance. Contractor billings to C&D Customers shall include two components: a “per-pull”
913 charge to Transport the Drop Box to an Approved Facility, and a charge for the cost of Disposal or
914 Processing calculated on a per-Ton basis for actual Tons delivered to the Approved Facility. Such billing
915 shall be at rates not to exceed City-approved Maximum Rates.

916 Contractor shall Transport all C&D Collected under this Agreement to the Approved C&D Processing
917 Facility, except with advance written approval from the City Contract Manager. City Contract Manager
918 may approve such a request only to the extent the Approved C&D Processing Facility is unable to meet
919 the LEED certification requirements of specific Source-Separated C&D Customers. Such approval may be

920 conditioned on provision of reporting of such information as City Contract Manager may deem necessary
921 to verify the need for the request. Contractor shall pay all tipping fees and other costs associated with
922 Transporting and Processing C&D.

923 Contractor shall observe and comply with all regulations in effect at the Approved C&D Processing Facility
924 and cooperate with and take direction from the operator thereof with respect to delivery of C&D.

925 **A. C&D Collection**

926 Contractor shall Collect Source-Separated Recyclable C&D as homogeneous material types (e.g., all
927 metals, all inert materials, all wood waste, etc.) or as mixed Recyclable C&D in Contractor-provided
928 Containers at the frequency requested by C&D Customers. Contractor shall Transport all Source-
929 Separated Recyclable C&D to the Approved C&D Processing Facility for Processing or, at Contractor's
930 discretion, to any Person who will make a net payment to Contractor for the delivery of the Source-
931 Separated Recyclable C&D.

932 **Containers:** Drop Boxes
933 **Container Sizes:** 10-, 20-, 30-, and 40-cubic yard Drop Boxes
934 (as requested by Customer)
935 **Service Frequency:** Up to five (5) times per week but not less than one (1) time per month, as
936 requested by Customer
937 **Service Location:** Curbside or other Customer-selected service location at the construction site
938 **Acceptable Materials:** Source-Separated Recyclable C&D, Source-Separated Recyclable Materials
939 **Prohibited Materials:** Solid Waste, Organic Materials, Excluded Waste
940 **Additional Service:** Not applicable
941 **Other Requirements:** Contractor shall document and report to the City Contract Manager each
942 instance where Contractor delivers Source Separated Recyclable C&D to a
943 Person other than the Approved C&D Processing Facility. Such report shall
944 include the Person to whom the materials were delivered, the specific type of
945 materials delivered (e.g., metals, wood, etc.), the number of Tons, and the
946 amount received in payment for the delivery.
947

948 **4.5 Services for City Facilities**

949 **A. Collection Services to City Facilities**

950 Contractor shall Collect Solid Waste, Recyclable Materials, Organic Materials, C&D, Bulky Items, and
951 Reusable Materials from City facilities in the same manner as those services are provided to Commercial
952 Customers. Contractor shall provide service to all City facilities identified in Exhibit F as well as any future
953 City facilities. Contractor shall provide these services at no cost to the City. Contractor shall provide
954 Recycling technical assistance to City facilities to assist with implementation and/or expansion of
955 Recyclable Materials and Organic Materials Collection services.

956 Contractor shall coordinate with Disposal Contractor as provided in Section 8.2 of this Agreement
957 regarding the requirements of Section 8.2 of the Disposal Contractor's agreement with the City to provide
958 Disposal at no charge for up to 500 (five hundred) cubic yards per calendar year of Solid Waste Collected

959 from City facilities as provided in this Section 4.5 and/or from special events as provided in Section 4.6 of
960 this Agreement. Contractor shall coordinate with Disposal Contractor and with the City to ensure that this
961 provision applies to Solid Waste Delivered to Disposal Facility by Contractor and by City crews. City shall
962 maintain records of such material in coordination with the Disposal Contractor documenting the use of
963 the allocation of no charge for 500 (five hundred) cubic yards per calendar year, and shall provide the
964 records to Contractor on request for reconciliation with Disposal Contractor invoices.

965 **B. Reserved**

966 **C. Building Plan Review**

967 Contractor shall, as requested provide staff with the expertise to review and comment on building plans
968 for new Residential and Commercial development projects during the City's permit review process to
969 verify the reasonableness of the space allocation and enclosure design for Solid Waste, Recyclable
970 Materials, and Organic Materials Containers and the accessibility of such areas. For these plan reviews,
971 the Contractor may be requested to visit the site and submit written recommendations for improvements
972 to the design. Plan reviews shall be completed within two (2) weeks of the City's request for such review.

973 **4.6 Special Events**

974 Contractor shall provide Solid Waste, Recyclable Materials, and Organic Materials services at up to six (6)
975 special events per year as directed by City, and at no cost to the event or City. Contractor shall coordinate
976 with Disposal Contractor as provided in Section 8.2 of this Agreement regarding the requirements of
977 Section 8.2 of the Disposal Contractor's agreement with the City to provide Disposal at no charge for up
978 to 500 (five hundred) cubic yards per calendar year of Solid Waste Collected from special events as
979 provided in this Section 4.6 and/or City facilities as provided in Section 4.5A of this Agreement. Contractor
980 shall further coordinate with Disposal Contractor, and with City to ensure that this provision applies to
981 Solid Waste Delivered to Disposal Facility by Contractor and by City crews. City shall maintain records of
982 such material in coordination with the Disposal Contractor documenting the use of the allocation of no
983 charge for 500 (five hundred) cubic yards per calendar year, and shall provide the records to Contractor
984 on request for reconciliation with Disposal Contractor invoices.

985 Special event services include:

986 **A. Containers**

987 Contractor shall provide Containers for event collection stations to be placed throughout the event venue,
988 and Containers for the aggregation of material removed from event collection stations during the course
989 of the event. Contractor shall provide containers in sufficient number of appropriate type(s) for the needs
990 of the event as determined by Contractor in cooperation with the event organizer. Containers must be
991 delivered "unassembled" on a pallet, and City will break the containers down after the event and return
992 them to the pallet. Contractor will collect the "unassembled" containers within 24 hours of conclusion of
993 the event. City shall designate a non-profit organization as having primary responsibility for the collection
994 of Recyclables placed into the containers during a CITY-sponsored event. Contractor shall service
995 Containers, as agreed-upon with the event organizer, and deliver Collected materials to the appropriate
996 Approved Facility for Processing and Disposal.

997 **B. Public Outreach Booth**

998 Upon request of either the City Contract Manager or the event organizer, Contractor shall staff a booth
999 or exhibit at the event for the purpose of informing the public about the services and programs provided
1000 by Contractor under this Agreement and the benefits of source reduction, reuse, Recycling, and
1001 Composting.

1002 **C. Reporting**

1003 Within fourteen (14) calendar days of the end of the event, Contractor shall submit a report to the City
1004 Contract Manager and event organizer. The report should include, at a minimum: the number of event
1005 collection stations deployed at the event, the number of collection station monitors, the Tonnage of each
1006 material type (i.e., Solid Waste, Recyclable Materials, and Organic Materials) Collected, and a description
1007 of the public outreach provided at the event.

1008 Contractor may, at its sole discretion and expense, coordinate with local youth, community, or charitable
1009 organizations to provide some or all of the required services. Regardless of Contractor’s use of such an
1010 organization, Contractor shall be responsible for ensuring that service is provided at the event in a
1011 professional and timely manner.

1012 For special events that are not designated by the City as one of the six (6) required events, Contractor
1013 shall provide the above-described special event services at the request of the event organizer and may
1014 negotiate the charges for such services with the event organizer based on the specific needs of the event.

1015 **4.7 Transportation of Collected Materials**

1016 Contractor shall Transport all Solid Waste, Recyclable Materials, Organic Materials, C&D, or of other
1017 materials Collected in the City to the Approved Facilities for the purposes of Processing, or of Disposal by
1018 the Disposal Contractor of such materials, as applicable. Contractor shall maintain accurate records of the
1019 quantities of Solid Waste, Recyclable Materials, Organic Materials, C&D, and other materials Transported
1020 to the Approved Facilities and will cooperate with City in any audits or investigations of such quantities.

1021 Contractor plans to Transport Recyclable Materials, Organic Materials, and Source Separated Recyclable
1022 C&D to Approved Facilities. If the Contractor is unable to use Approved Facilities then the Contractor shall
1023 be responsible for making other Transportation and Processing arrangements. In such event, Contractor
1024 shall not be compensated for any additional costs.

1025 A site in the City used for material handling activities of any kind will be subject to the City’s strict
1026 development permit review process.

1027 **4.8 Delivery and Processing of Collected Materials**

1028 Should Council act to retain non-exclusive construction and demolition material (C&D) system, Section
1029 4.8 will in general be modified to remove “C&D” from the exclusive services provided by Contractor.
1030 Section 4.8 E. will be deleted in entirety and retitled “Reserved”.

1031 **A. Delivery of Materials to Approved Facilities**

1032 **1. Delivery.** The Contractor is responsible for Transporting Collected Solid Waste, Recyclable
1033 Materials, Organic Materials, and Recyclable C&D to the Approved Facility(ies) by direct haul. If
1034 the Contractor plans to change its Transport method, Contractor shall obtain written approval
1035 from the City prior to making the change; pay all costs; and shall not be reimbursed for any
1036 additional costs. The City shall approve the Transport method, and the duration the Transport
1037 method is expected to remain in use.

1038 **2. Compliance with Facility Rules.** Contractor (or its Subcontractor(s)) shall observe and comply with
1039 all regulations in effect at the Approved Facilities and cooperate with the operators thereof with
1040 respect to delivery of Solid Waste, Recyclable Materials, Organic Materials, and C&D including
1041 directions to unload Collection vehicles in designated areas, accommodating operations and
1042 maintenance activities, and complying with Hazardous Waste exclusion programs.

1043 **3. Vehicle Tare Weights.** Contractor is solely responsible for ensuring accurate weighing of all
1044 Collection vehicles entering Approved Facilities, and of Transfer Vehicles leaving an Approved
1045 Transfer Facility owned or operated by Contractor or Subcontractor under this Agreement. Within
1046 thirty (30) Days prior to the Commencement Date, Contractor shall ensure that all Collection
1047 vehicles used to Deliver Discarded Materials to Approved Facilities owned or operated by
1048 Contractor or Subcontractor under this Agreement are weighed to determine unloaded (“tare”)
1049 weights. Contractor shall electronically record the tare weight and provide a distinct vehicle
1050 identification number for each vehicle. Contractor shall provide City with a report listing the
1051 vehicle tare weight information upon request. Contractor shall ensure that additional or
1052 replacement Collection vehicles are promptly weighed prior to Contractor placing them into
1053 service. Contractor shall check tare weights at least annually, or within fourteen (14) Days of a
1054 City request, and shall retare vehicles immediately after any major maintenance service.

1055 **4. Vehicle Tare Weights for Disposal Contractor’s Approved Facility(ies).** Within thirty (30) Days
1056 prior to the Commencement Date, Contractor shall coordinate with the Disposal Contractor to
1057 ensure that all Collection vehicles used by Contractor to Deliver Solid Waste to Approved Facilities
1058 are weighed to determine unloaded (“tare”) weights. Contractor and Franchise Collector shall
1059 electronically record the tare weight, identify vehicle as Franchise Collector owned, and provide
1060 a distinct vehicle identification number for each vehicle. Contractor shall provide City with a
1061 report listing the vehicle tare weight information upon request. Contractor shall promptly
1062 coordinate with Franchise Collector to weigh additional or replacement Collection vehicles prior
1063 to Franchise Collector placing them into service. Contractor shall check tare weights at least
1064 annually, or within fourteen (14) Days of a City request, and shall retare vehicles immediately
1065 after any major maintenance service.

1066 **5. Facility Scales at Contractor’s Approved Facility(ies).** For all Approved Facilities owned or
1067 operated by Contractor or Subcontractor under this Agreement, Contractor shall maintain State
1068 certified motor vehicle scales in accordance with Applicable Law. All scales shall be linked to a
1069 centralized computer recording system at each Approved Facility to record weights for all
1070 incoming and outgoing materials. Contractor shall provide back-up generator(s) capable of
1071 supplying power to the scales in the event of a power outage. Contractor shall promptly arrange
1072 for use of substitute portable scales should its usual scales not be available for whatever reason.
1073 Pending substitution of portable scales, Contractor shall as necessary estimate by material types
1074 the tonnages of Discarded Materials Transported to and from the Approved Facilities, on the basis
1075 of Delivery vehicle and Transfer trailer volumes, tare weights, and/or other available facility

1076 weight records. These estimates shall take the place of actual weights while scales are inoperable,
1077 and shall be identified as estimates in electronic records and reporting. Contractor shall upon City
1078 request, weigh and provide tare weights for City vehicles should City directly Deliver Discarded
1079 Materials to an Approved Facility owned or operated by Contractor or Subcontractor under this
1080 Agreement. Contractor shall test and calibrate all scales in accordance with Applicable Law, but
1081 at least every twelve (12) months or upon City request.

1082 **6. Records and Reporting.** Contractor shall maintain computerized scale records and reports that
1083 provide information including date of receipt, inbound time, inbound and outbound weights of
1084 vehicles, vehicle identification number, as further provided in Exhibit C. Contractor shall also
1085 maintain computerized scale records and reports providing historical vehicle tare weights for each
1086 vehicle and the date and location for each tare weight recorded. If vehicle receiving and unloading
1087 operations are recorded on video cameras at the Approved Facilities, Contractor shall make those
1088 videos available for City review during the Facility’s operating hours, upon request of the City, and
1089 shall provide the name of the driver of any particular load if available.

1090 **B. General Processing Requirements**

1091 **1. Overview.** Contractor agrees to Transport and deliver all Recyclable Materials, Organic Materials,
1092 Source Separated Recyclable C&D and Mixed C&D it Collects in the City to the Approved
1093 Recyclables Processing Facility, Approved Composting Facility, and Approved C&D Processing
1094 Facility, respectively. Residue from the Processing and Composting activities shall be Disposed of
1095 by Contractor or the Processing or Composting Facility Subcontractor at a Disposal Facility
1096 selected by Contractor or its Subcontractor. Contractor’s use of the SMaRT Station (as defined
1097 below) for the Processing of any such Materials is subject to the written agreement of the City of
1098 Sunnyvale. A site in the City used for material handling activities of any kind will be subject to the
1099 City’s strict development permit review process.

1100 **2. Processing Capacity, Residue, and Facility Permits.** Contractor shall secure sufficient capacity to
1101 Process all Recyclable Materials, Organic Materials, Source Separated Recyclable C&D and Mixed
1102 C&D Collected under this Agreement and shall cause the Approved Facilities to Process and/or
1103 Compost, and market the Recyclable Materials, Organic Materials, and C&D. Contractor shall
1104 provide the City, upon request, with:

- 1105 I. Documentation demonstrating the availability of such capacity; and,
- 1106 II. Name, address and owner/operator of any transfer station used to deliver materials to
- 1107 such site.

1108 Contractor shall guarantee a residue level of twenty percent (20%) or less for Recyclable
1109 Materials, twenty percent (20%) or less for Yard Trimmings, fifty percent (50%) or less for Food
1110 Scraps, and less than twenty percent (20%) for Source Separated Recyclable C&D. For the purpose
1111 of this residue guarantee, the residue level for each type of Materials shall be equal the monthly
1112 Tonnage of Processing residue from such Materials requiring Disposal divided by the total
1113 monthly Tonnage of such Materials Collected. City and Contractor acknowledge that the residue
1114 level resulting from Contractor’s processing approach for each material type may vary and is
1115 largely dependent upon the composition of material placed by Customers for Collection. In the
1116 event that any Approved Facility fails to perform at or below the residue levels stated here, City
1117 may require Contractor to provide documentation of and reasonable assurances that all City
1118 materials are being processed by the Approved Facility and that materials targeted for recovery

1119 but are not being disposed of in any significant quantity.

1120 Contractor shall keep all existing permits and approvals necessary for use of the Approved
1121 Facility(ies) in full regulatory compliance or confirm that the owner or operator of such facility
1122 does so. Contractor shall, upon request, provide copies of permits and/or notices of violation of
1123 permits to the City.

1124 **3. Contractor-Initiated Change in Facility.** Contractor may change its selection of one or more of
1125 the Approved Facility(ies) following City's written approval, but Contractor shall not be
1126 compensated for any increased Transportation and Processing costs. Contractor will bear any
1127 increased Transportation and Processing costs associated with a Contractor-initiated change in
1128 the Approved Facility(ies). In such case, Contractor shall guarantee the same net Processing Cost
1129 specified in Exhibit N or shall increase the net Processing Costs (if the amount is a net revenue)
1130 associated with the use of Processing and/or Composting facility(ies) different from the Approved
1131 Facilities. If Contractor elects to use a Processing and/or Composting facility(ies) that is different
1132 than Approved Facility(ies), it shall request written approval from the City sixty (60) calendar days
1133 prior to use of the site and obtain the City's written approval no later than ten (10) calendar days
1134 prior to use of the site.

1135 **4. City Direction for Use of the SMaRT Station** The Parties acknowledge that City may enter into an
1136 agreement with the city of Sunnyvale regarding use of the SMaRT Station for Processing and/or
1137 Transfer of Discarded Materials under specified contractual and pricing terms. In such instance,
1138 City retains the right, but not the obligation to direct Contractor to deliver to the SMaRT Station
1139 one or more types of Discarded Materials Collected under this Agreement, excluding Source-
1140 Separated Food Scraps, for Processing and/or Transfer. City shall provide Contractor a minimum
1141 of ninety (90) days written notice of such direction. Such direction must be provided to Contractor
1142 by February 3rd, 2017, or may not be made until five (5) years after the Commencement Date.

1143 Contractor compensation shall be adjusted upward or downward to reflect any difference
1144 between 1) the then-applicable per-Ton rate for the specific Discarded Material(s) as provided in
1145 Form 7 of Exhibit N, and adjusted as provided in Section 8 of this Agreement, and 2) the then-
1146 applicable per-Ton rate for the comparable Discarded Material(s) as provided in the City's
1147 agreement with the city of Sunnyvale. Contractor acknowledges that per-Ton rates for use of the
1148 SMaRT Station will be treated as pass-through expenses without profit, and that City reserves the
1149 right to adjust the Rates as necessary to compensate Sunnyvale for use of the SMaRT Station. The
1150 cost of transport to deliver any specific Discarded Material(s) shall not be adjusted. Contractor
1151 shall arrange to obtain, and shall submit to City monthly weigh tickets for all deliveries to the
1152 SMaRT Station. Parties agree to meet and confer as necessary to address any other issues related
1153 to such direction.

1154 **5. Inability to Use Approved Facility.** If Contractor is unable to use an Approved Facility due to an
1155 emergency or sudden unforeseen closure of the Approved Facility, Contractor may use an
1156 alternative Processing or Composting facility provided that the Contractor provides verbal and
1157 written notice to the City and receives written approval from the City at least twenty-four (24)
1158 hours prior to the use of an alternative Processing or Composting facility. The Contractor's written
1159 notice shall include a description of the reasons the Approved Facility is not feasible and the
1160 period of time Contractor proposes to use the alternative facility. Contractor shall not be
1161 compensated for any increased Transportation and Processing costs and shall guarantee the net
1162 Processing Cost specified in Exhibit N or shall increase the net Processing Costs (if net revenues)
1163 associated with the use of Processing or Composting facility(ies) different from the Approved

1164 Facility. Contractor shall be entitled to an adjustment to Rates to compensate them for any
1165 increased Transportation and Processing costs associated with the use of any Facilities designated
1166 by the City.

1167 **6. Marketing.** The Contractor shall be responsible for the marketing of materials it Collects in the
1168 City including: (i) Recyclable Materials; (ii) Yard Trimmings, Food Scraps, and/or Organic Materials;
1169 and, (iii) Source Separated Recyclable C&D. Contractor or the Approved Facility that markets such
1170 materials shall be compensated by the end users/market place for such materials at no less than
1171 fair market value. With regard to Organic Materials, Contractor or the Approved Organics Facility
1172 shall market the resulting products. Yard Trimmings shall be used for Compost or mulch and shall
1173 not be used as Alternative Daily Cover or any other use at a landfill site. Food Scraps shall be used
1174 for production of animal feed stock supplement or by-product, Compost, or other use with prior
1175 approval of City.

1176 Upon request, Contractor shall provide proof to the City that all Recyclable Materials, Organic
1177 Materials, and Source Separated Recyclable C&D (less residue) Collected by Contractor are
1178 marketed for Recycling or reuse in such a manner that materials shall be considered as Diverted
1179 in accordance with the State regulations established by the AB 939 and AB 341. All residual
1180 material from the Processing and Composting activities that is not marketed for use shall be
1181 accounted for as Disposal Tonnage at a permitted Disposal Facility. No Recyclable Materials,
1182 Organic Materials, or C&D shall be transported to a domestic or foreign location if Solid Waste
1183 Disposal of such material is its intended use.

1184 Upon request, Contractor shall provide a summary of its marketing plan and end markets for
1185 Recyclable Materials, Organic Materials, and Source Separate Recyclable C&D and submit it to the
1186 City for review and approval. Contractor shall provide City with a list of broker/buyers it has used
1187 during the preceding twelve (12) months, if requested by City. If Contractor becomes aware that
1188 a broker or buyer has illegally handled or Disposed of material generated by the City or elsewhere,
1189 Contractor shall immediately inform the City and terminate its contract or working relationship
1190 with such party.

1191 **7. No Disposal.** No Collected materials other than Solid Waste shall be deposited for Disposal. No
1192 materials Collected other than Solid Waste shall be used as Alternative Daily Cover or Alternative
1193 Intermediate Cover, or used for Beneficial Reuse purposes except C&D Processing residue which
1194 may be used for Beneficial Reuse purposes without prior written authorization by the City and
1195 which permission may be terminated at any time upon notice by City.

1196 If for reasons beyond its reasonable control, Contractor (or its Subcontractor(s)) believes that it
1197 cannot Divert the Recyclable Materials, Organic Materials, or Source Separate Recyclable C&D
1198 from Disposal, then it shall prepare a written request for approval to Dispose of such material.
1199 Such request shall contain the basis for Contractor's belief (including, but not limited to,
1200 supporting documentation), describe the Contractor's efforts to arrange for the Diversion from
1201 Disposal of such material, the period required for such Disposal, the incremental net cost
1202 increases or net cost savings (giving account to the value from the sale of the Recyclable Material,
1203 Organic Materials, or Recyclable C&D) resulting from such Disposal, and any additional
1204 information supporting the Contractor's request. In addition, the request shall describe the
1205 Contractor's proposed interim plans for implementation while the City is evaluating its request.
1206 If the City objects to the interim plans, the City shall provide written notice to the Contractor and
1207 request an alternative arrangement. The City shall consider the Contractor's request and inform
1208 Contractor in writing of its decision within sixty (60) calendar days. If the City approves such

1209 request, any difference in the net cost of such Disposal compared to Diversion shall result in an
1210 adjustment to the Maximum Rates in accordance with Section 8.4. Depending on the nature of
1211 the Contractor's request, the City may extend the sixty (60) day calendar period, at its own
1212 discretion, to provide more time for evaluation of the request and negotiation of an acceptable
1213 arrangement with the Contractor.

1214 **8. Allocation Method.** Contractor shall develop a method of allocating Recyclable Materials,
1215 Organic Materials, and Source Separated Recyclable C&D Diverted by materials type and
1216 Processing residue to Contractor and the City. The allocation method shall be the same as that
1217 used to report Solid Waste Disposal to the State, and shall be certified by an authorized personnel
1218 or officer of that Approved Facility owner or operator. Contractor shall Collect materials
1219 generated in the City in Collection Vehicles separately from other materials generated outside the
1220 City and shall weigh each vehicle so that the Tonnage of materials Collected in the City can be
1221 documented on a per-load basis with supporting documentation (such as a certified weight ticket
1222 or tag).

1223 Periodically, the Contractor shall review its marketing records to calculate the volume of
1224 Recyclable Materials received at the Approved Recyclable Materials Processing Facility and
1225 marketed to determine the percentage of various Recyclable Materials (e.g., glass, newspaper,
1226 cardboard, PET, HDPE, aluminum, etc.) and the City's residue level. The percentages determined
1227 from the review of marketing records shall be used to allocate the total Tonnage of Recyclable
1228 Materials Collected in the City into various categories of Recyclable Materials and residue. This
1229 same review of marketing records and allocation of Tonnage by material type shall be performed
1230 for Organic Materials and Source Separated Recyclable C&D.

1231 **C. Recyclables Processing**

1232 **1. Approved Recyclables Processing Facility.** Below is information about the Approved Recyclables
1233 Processing Facility selected by the Contractor:

- 1234 Facility Name: GreenWaste Recovery MRF
- 1235 Owner: GreenWaste Recovery, Inc.
- 1236 Operator: GreenWaste Recovery, Inc.
- 1237 Address: 625 Charles Street, San Jose, CA 95112
- 1238 Contact Person and telephone number: Frank Weigel, 408.938.4902

1239 Allocation Method: All inbound and outbound materials are weighed and all data is tracked by
1240 origin, company, material, weight and date and time, ensuring each company/jurisdiction
1241 material is accurately allocated.

1242 **2. Alternative Approved Recyclables Processing Facilities.** Following facilities are Approved
1243 Alternative Facilities for Processing of Recyclables as of the Effective Date:

- 1244 Facility Name: Alameda County Industries Material Recovery Facility
- 1245 Owner/Operator: Alameda County Industries

1246 Address: 610 Aladdin Ave, San Leandro, CA 94577
1247 Contact Person and telephone number: Louie Pellegrini, 650.814.9532
1248 Allocation Method: All inbound and outbound materials are weighed and all data is tracked by
1249 origin, company, material, weight and date and time, ensuring each company/jurisdiction
1250 material is accurately allocated.

1251 Facility Name: Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)

1252 Owner: City of Sunnyvale

1253 Operator: Bay Counties Waste Services

1254 Address: 301 Carl Road, Sunnyvale, CA 94089

1255 Contact Person and telephone number: Jerry Nabhan, 408.566.1809

1256 Allocation Method: The SMaRT Station currently utilizes a staffed scale house that results in rapid
1257 weighing and material tracking procedures. All inbound and outbound materials are weighed and
1258 all data is tracked by origin, company, material, weight and date and time, ensuring each
1259 company/jurisdiction material is accurately allocated.

1260 **D. Organic Materials Processing**

1261 **1. Approved Yard Trimmings Facility.** Below is information about the Approved Yard Trimmings
1262 Facility selected by the Contractor for Processing of Yard Trimmings:

1263 Facility Name: GreenWaste Recovery MRF

1264 Owner: GreenWaste Recovery, Inc.

1265 Operator: GreenWaste Recovery, Inc.

1266 Address: 625 Charles Street, San Jose, CA 95112

1267 Contact Person and telephone number: Frank Weigel, 408.938.4902

1268 Allocation Method: All inbound and outbound materials are weighed and all data is tracked by
1269 origin, company, material, weight and date and time, ensuring each company/jurisdiction
1270 material is accurately allocated.

1271 **2. Approved Food Scraps Processing Facility.** Below is information about the Approved Food Scraps
1272 Processing Facility selected by the Contractor for Processing of Food Scraps:

1273 Facility Name: Sustainable Organic Solutions (SOS)

1274 Owner: SOS

1275 Operator: SOS

1276 Address: 1080 Walsh Ave, Santa Clara, CA 95050

1277 Contact Person and telephone number: Louie Pellegrini, 650.814.9532

1278 Allocation Method: All inbound and outbound materials are weighed and all data is tracked by
 1279 origin, company, material, weight and date and time, ensuring each company/jurisdiction
 1280 material is accurately allocated.

1281 Contractor has also identified the Blue Line Transfer Station Anaerobic Digestion Facility, located
 1282 at 500 East Jamie Court in South San Francisco, CA as an alternate Approved Food Scraps
 1283 Processing Facility. That Facility is an Affiliate of Contractor and shall be used (at no added cost to
 1284 the City) in the event that the primary facility, identified above, is unavailable for Processing of
 1285 Food Scraps.

1286 **3. Alternative Approved Organics Processing Facilities.** Following facilities are Approved
 1287 Alternative Facilities for Processing of Organic Materials as of the Effective Date:

1288 Facility Name: East Bay Municipal Utility District Treatment Plant

1289 Owner: East Bay Municipal Utility District

1290 Operator: East Bay Municipal Utility District

1291 Address: 375 11th Street, Oakland, CA 94607

1292 Contact Person and telephone number: Steve Sherman, 510.287.0818

1293 Allocation Method: **To be added**

1294 Facility Name: Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)

1295

1296 Owner: City of Sunnyvale

1297 Operator: Bay Counties Waste Services

1298 Address: 301 Carl Road, Sunnyvale, CA 94089

1299 Contact Person and telephone number: Jerry Nabhan, 408.566.1809

1300 Allocation Method: The SMaRT Station currently utilizes a staffed scale house that results in rapid
 1301 weighing and material tracking procedures. All inbound and outbound materials are weighed and
 1302 all data is tracked by origin, company, material, weight and date and time, ensuring each
 1303 company/jurisdiction material is accurately allocated.

1304 **4. Food Scraps Processing Standards.** The following Processing standards shall be met by the
 1305 Approved Food Scraps Processing Facility:

1306 I. Pre-processing activities shall include, at a minimum, the inspection for and removal of
 1307 Hazardous Waste and any obvious prohibited items that will not be removed by the
 1308 process.

- 1309 II. Food scraps shall be processed to remove large contaminants (plastic bags, cutlery,
1310 bottles, etc.), screened to eliminate smaller contaminants, and processed into food mash.
- 1311 III. Food mash shall be dehydrated/treated with heat as pathogen reduction and used to
1312 create an animal feed stock supplement or by-product.
- 1313 IV. All Food Scraps shall be Processed and marketed for use as animal feed and none shall be
1314 Disposed, used as Alternative Daily Cover or Alternative Intermediate Cover, or used for
1315 Beneficial Reuse purposes.

1316 **5. Yard Trimmings Processing Standards.** The following Processing standards shall be met by the
1317 Approved Composting Facility:

- 1318 I. Pre-processing activities shall include, at a minimum, the inspection for and removal of
1319 Hazardous Waste and removal of visible contaminants to the Yard Trimmings.
- 1320 II. Composting shall be accomplished by the use of recognized Composting methods, which
1321 have been demonstrated to be able to consistently produce stable, mature Compost
1322 Product that is suitable for general purpose use, similar to the U.S. Composting Council's
1323 Class 1 rating.
- 1324 III. Post-composting processing activities shall include screening to remove plastics and other
1325 contaminants from the Compost Product.
- 1326 IV. The Composting activities shall maintain an average monthly residue level less than
1327 twenty percent (20%) where the residue level shall be equal to the monthly Tonnage of
1328 Processing or Composting residue requiring Disposal divided by the total monthly
1329 Tonnage of Yard Trimmings Collected.
- 1330 V. All Yard Trimmings shall be Processed and marketed for use as Compost, mulch, or soil
1331 amendment and none shall be Disposed, used as Alternative Daily Cover or Alternative
1332 Intermediate Cover, or used for Beneficial Reuse purposes. In order to make productive
1333 use of Compost "overs", Contractor may use no more than five percent (5%) by weight of
1334 the total inbound tonnage of Yard Trimmings received at the Approved Compost Facility
1335 as Alternative Daily Cover.
- 1336 VI. Contractor shall offer Compost Products to the City at a price that is limited to the cost
1337 incurred by the Contractor to purchase and Transport such material to the City. Services
1338 as of contract execution include, but may be revised, if the City and Contractor agree upon
1339 a different approach. The Contractor will collaborate with the City to deliver materials in
1340 a Drop Box Container to the City's Corporation Yard where residents can access the
1341 Compost Product twice per year.

1342 **E. C&D Processing**

1343 **1. Approved Facilities.** Below is information about the Approved C&D Processing Facilities selected
1344 by the Contractor for Processing of Source Separated Recyclable C&D and Mixed C&D:

1345 Facility Name: Mission Trail Waste Systems MRF / Transfer Station

1346 Owner: Mission Trail Waste Systems (MTWS)

1347 Operator: MTWS

1348 Address: 1313 Memorex Drive, Santa Clara, CA 95050

1349 Contact Person and telephone number: Louie Pellegrini, 650.814.9532

1350 Allocation Method: The MTWS MRF / Transfer Station currently utilizes a staffed scale house that
1351 results in rapid weighing and material tracking procedures. All inbound and outbound materials
1352 are weighed and all data is tracked by origin, company, material, weight and date and time,
1353 ensuring each company/jurisdiction material is accurately allocated.

1354 **2. Approved Alternative Facilities.** Following facilities are approved as Alternative Facilities for C&D
1355 Processing as of the Effective Date.

1356 Facility Name: Zanker Road Resource Management Facilities

1357 Owner/Operator: Zanker Road Resource Management

1358 Address: 675 and 705 Los Esteros Road, San Jose, CA 95134

1359 Contact Person and telephone number: Michael Gross, 408.263.2384

1360 Allocation Method: The Zanker Road facilities currently utilizes a staffed scale house that results
1361 in rapid weighing and material tracking procedures. All inbound and outbound materials are
1362 weighed and all data is tracked by origin, company, material, weight and date and time, ensuring
1363 each company/jurisdiction material is accurately allocated.

1364 Facility Name: Guadalupe C&D Recovery Facility

1365 Owner/Operator: Waste Management

1366 Address: 15999 Guadalupe Mines Road, San Jose, CA 95120

1367 Contact Person and telephone number: Mike Rivera, 408.323.6311

1368 Allocation Method: to be added

1369 Facility Name: Sunnyvale Materials Recovery and Transfer Station (SMaRT Station)

1370 Owner: City of Sunnyvale

1371 Operator: Bay Counties Waste Services

1372 Address: 301 Carl Road, Sunnyvale, CA 94089

1373 Contact Person and telephone number: Jerry Nabhan, 408.566.1809

1374 Allocation Method: The SMaRT Station currently utilizes a staffed scale house that results in rapid
1375 weighing and material tracking procedures. All inbound and outbound materials are weighed and
1376 all data is tracked by origin, company, material, weight and date and time, ensuring each
1377 company/jurisdiction material is accurately allocated.

1378 **F. Insurance, Indemnifications and Performance Standards**

1379 If Contractor uses an Affiliate Subcontractor to provide transfer, Processing, and/or Composting services,
1380 or enters into any contract, agreement or understanding with a party for services related to Recyclable
1381 Materials Processing and marketing, Organic Materials Processing, Composting, C&D Processing and
1382 marketing, and marketing, or Transfer Station services, Contractor shall provide that terms and conditions
1383 (such as insurance requirements, indemnifications, and Processing, Composting, marketing performance,
1384 and residue guarantees) of any contract, agreement, or other understanding Contractor has with such
1385 party can be enforced by the City as an additional insured or third party beneficiary thereof in the same
1386 manner provided in Article 9 and in a manner reasonably satisfactory to City.

1387 If Contractor, an Affiliate, or Subcontractor owns or operates the Approved Recyclable Materials
1388 Processing Facility, Approved Composting Facility, or Approved C&D Processing Facility, Contractor shall
1389 include City as an additional insured on liability policies and defend and indemnify City in a manner
1390 satisfactory to City, and provide that any materials recovery and marketing performance standards or
1391 guarantees made to any other facility customers are made to City as well, including obligations such as
1392 recovered product and Compost Product quality guarantees and limits on the residue level.

1393 Contractor shall demonstrate compliance with the requirements of this paragraph on or before the
1394 Commencement Date of this Agreement.

1395 **G. Compliance with Applicable Law**

1396 Contractor (or its Affiliate or Subcontractor(s)) warrants throughout the Term that the Approved Facilities
1397 (excluding the Approved Transfer Facility) selected by Contractor are respectively authorized and
1398 permitted to accept Recyclable Materials, Organic Materials, and C&D in accordance with Applicable Law
1399 and is in full compliance with Applicable Law. Contractor shall: (1) verify compliance for the Approved
1400 Facilities (that neither it nor its Affiliates own) by contacting the local enforcement agency and other
1401 regulatory agencies having jurisdiction over the Approved Facilities at least quarterly; and (2) upon City
1402 direction, shall promptly provide City with copies of the Approved Facilities' permits or notice of violations
1403 to City.

1404 **H. Transportation and Processing Costs**

1405 All costs associated with Transporting Discarded Materials and street sweepings to, and Processing of
1406 Discarded Materials and street sweepings at the Approved Facilities shall be paid by Contractor.

1407 **I. Weighing and Record Requirements**

1408 Contractor shall ensure that all Solid Waste, Recyclable Materials, Organic Materials, and C&D are
1409 weighed upon delivery to the Approved Facilities, and all weight and related delivery information
1410 (including date, time, material type, route and truck number) ("Delivery Data") is recorded. Contractor
1411 shall provide City the name of any driver of any identified delivery promptly upon request by City. If
1412 vehicle receiving and unloading operations are recorded on video cameras at any Approved Facility,
1413 Contractor shall make, or shall use its best efforts to arrange with the facility operator if other than
1414 Contractor to make, those videos available for City review during the facility's operating hours, upon
1415 request of the City.

1416 **J. City Option to Direct Solid Waste for Processing**

1417 Unless directed by City to use the SMaRT Station as provided in Section 4.8.B4 commensurate with the
1418 terms of an agreement between the City and Sunnyvale that provides for Processing of Solid Waste,
1419 Contractor shall, beginning at the Commencement Date make good faith efforts to arrange for the
1420 availability of capacity for Processing of Solid Waste at a specified per-Ton rate should the City need such
1421 service.

1422 Should City direct Contractor use of the SMaRT Station as provided in Section 4.8.B4, and should City
1423 provide notice of its intent to use the SMaRT Station for Processing of City-designated Solid Waste,
1424 Contractor shall within sixty (60) days of a written request provide for Processing of City-designated Solid
1425 Waste at the SMaRT Station. Solid Waste Processing shall meet the provisions of this Section 4.8. City shall
1426 provide Disposal Contractor with notice of such request as provided in the City's Disposal agreement.
1427 Contractor shall coordinate with Disposal Contractor as necessary regarding City-designation of Solid
1428 Waste for Processing. City may designate for Processing some or all of Solid Waste Collected from Carts,
1429 Bins, Debris Boxes and/or Compactors, however Solid Waste Collected from a given route shall be
1430 designated either for Disposal or for Processing, but not both.

1431 Contractor may not commence or cease Processing of Solid Waste without prior City direction or approval.
1432 City may within sixty (60) days written notice require cessation of some or all of approved Solid Waste
1433 Processing, with a commensurate adjustment to the then-current Maximum Rates to reflect net costs for
1434 Transport and Disposal of Solid Waste, as applicable. City reserves the right to require modified reporting
1435 requirements if necessary to understand the impact of such Processing on Disposal and Diversion.

1436 **4.9 Public Outreach Efforts**

1437 The public outreach activities included in the scope of services provided by Contractor under this
1438 Agreement are described in Exhibit B. Outreach activities collectively include leading development and
1439 production of a range of types of print material, maintaining a website presence, and public meetings and
1440 tours. Contractor's outreach strategy shall focus on improving Customer understanding of the benefits of
1441 and opportunities for source reduction, reuse, Recycling, and Composting. In general, Contractor-
1442 provided outreach should: (i) inform Customers about the services that are provided under this
1443 Agreement with specific focus on describing the methods and benefits of source reduction, reuse,
1444 Recycling, and Composting; (ii) instruct Customers on the proper method for placing materials in
1445 Containers for Collection and setting Containers out for Collection with specific focus on minimizing
1446 contamination of Recyclable and Organic Materials; and, (iii) clearly define Excluded Waste and inform
1447 Customers of the hazards of such materials and the opportunities for its proper handling.

1448 Contractor, and its Subcontractors, shall cooperate and coordinate with the City Contract Manager or
1449 their designee regarding outreach activities to minimize duplicative, inconsistent, or inappropriately
1450 timed outreach campaigns. Contractor is aware that Santa Clara County conducts ongoing education
1451 regarding a variety of solid waste and related programs.

1452 Contractor shall allow the City Contract Manager a minimum of five (5) Business Days to review, request
1453 modifications to, and approve the content for all outreach materials including, but not limited to: print,
1454 radio, television, or internet media before publication, distribution, and/or release. City may require
1455 inclusion of specific City information on print and electronic outreach materials.

1456 The City shall maintain a budget for graphic design, printing, advertising placements, mailing and door-to-
1457 door distributions of public outreach materials. Contractor staff shall lead development (writing, graphic
1458 design), including working with graphic designers, translators and other outreach support services as
1459 designated by the City. City staff shall review drafts and facilitate printing using the City’s contractor.

1460 Contractor shall provide City prior right of review and approval for Contractor’s proposed inclusion of the
1461 City name or City staff contact information on print materials or in electronic media.

1462 Contractor shall provide City notice by phone and email no less than one (1) Business Day prior to releasing
1463 any information to the media regarding the Agreement or the services provided under it.

1464 Contractor will regularly promote the company website. The website will feature how-to videos, digital
1465 copies of printed outreach (newsletters and billing inserts), service tips, proper hazardous waste disposal,
1466 information about local recycling ordinances and free assistance. Contractor will provide links to existing
1467 sites (such as the Recycling & Waste Reduction Division of Santa Clara County) that feature applicable
1468 information and support regarding items such as environmentally preferred purchasing and green
1469 business programs. Social media will focus on community involvement activities, program
1470 announcements, service tips and will refer to the website for general program information. Social media
1471 outlets may include, but are not limited to: Facebook, Instagram and/or Snapchat. Due to the ever-
1472 changing social media landscape, Contractor will collaborate with the City Contract Manager annually to
1473 determine the relevance of social media outlets in use and make changes if appropriate.

1474 As part of the Contractor’s third quarterly report (required by Section 6.2 of this Agreement) for the Rate
1475 Period, Contractor shall work collaboratively with City to submit an Annual Plan outlining its public
1476 outreach efforts for the coming Rate Period. For each service audience, the plan shall list each public
1477 outreach piece (e.g., newsletters, bill inserts, flyers, newspaper advertisements, etc.) to be prepared, the
1478 purpose of the piece, the key subject(s) to be covered, and the anticipated date of issuance. In addition,
1479 the plan shall list all events the Contractor plans to attend and the public outreach it intends to provide
1480 at such event. The City shall review and approve the Annual Plan. It is recognized that changing conditions
1481 exist and that plan elements may need to be modified, such as add or delete public events and alter the
1482 manner and timing of outreach. In addition, Contractor is responsible for producing a Quarterly Schedule
1483 of outreach activities two weeks in advance of each quarter for City review, comment and approval.

1484 **4.10 Multi-Family/Commercial Technical Assistance**

1485 Contractor shall provide comprehensive recycling technical assistance to Multi-Family and Commercial
1486 Customers with the primary purpose of helping Customers increase Recycling and Organics Collection
1487 services and to assist them in complying with the requirements of AB 341 and AB 1826. The technical
1488 assistance services shall include at least one (1) annual meeting with each property manager/owner and
1489 on-site assessments of the Multi-Family and Commercial premises to improve Recycling and Organics
1490 Collection program participation. During the site visits, Contractor will be required to provide and/or
1491 restock posters, “how to” guides, personal recycling baskets/bags for Multi-Family tenants, and any other
1492 appropriate materials and provide new signage for the Recycling and Organics Containers if necessary.
1493 This program shall also involve preparation and presentation of reports to the City on the Contractor’s
1494 efforts and results of the technical assistance efforts.

1495 Throughout the term of the agreement, Contractor will continually and proactively work with commercial
1496 and multi-family customers to adopt and improve conservation strategies using creative ideas to keep

1497 commercial and multi-family customers engaged. Contractor will meet with each commercial and multi-
1498 family site during the transition and annually thereafter. Contractor-provided outreach shall inform
1499 Customers about the services that are provided, include information on the methods and benefits of
1500 source Reduction, Reuse, Recycling, and Composting and how to keep contamination of Recyclable and
1501 Organic Materials at a minimum. Customers will be instructed on the proper placement of materials in
1502 containers and the proper set out of containers for collection. Customers will be informed of the
1503 definition, hazards and proper handling of prohibited waste. Details of the technical assistance program
1504 that will assist City in achieving its diversion and compliance goals are outlined in Exhibit B.

1505 **4.11 Billing**

1506 Beginning with the Effective Date, Contractor shall meet with City billing staff as requested to ensure an
1507 orderly and smooth transition from City to Contractor billing for Single-Family Residential services.

1508 Contractor shall bill all Customers at Rates not to exceed Maximum Rates approved by City, and
1509 Contractor shall be solely responsible for collecting billings. Maximum Rates shall be set by the City in
1510 accordance with Article 8. Billing shall be performed on the basis of services rendered and this Agreement
1511 shall create no obligation on the part of any Person on the sole basis of the ownership of property.

1512 Contractor's website shall provide Customers with the ability to pay their bills through an electronic check
1513 or credit card and include the ability for Customer billings to be automatically charged on a recurring basis.
1514 Contractor shall prepare, mail, and collect bills from Customers who decline to use such internet-based
1515 billing system. Contractor shall make arrangements to allow Customers to pay bills by cash, check,
1516 electronic check, money order, and credit card. Contractor shall also provide a minimum of one (1)
1517 convenient drop-off location within the Service Area to be available on Business Days from 8:30 AM to
1518 5:00 PM for Customers to directly bring payments. Contractor shall also coordinate with City staff to
1519 collect Customer payments from a drop-off box to be located at the City Hall first floor information desk.
1520 Such service shall be provided for up to two years from the Commencement Date, as needed during the
1521 transition to Contractor billing.

1522 Specific provisions for Customer billing include:

- 1523 1. All Single-Family Customers must receive a single bill.
- 1524 2. Commercial Customers that share service are solely responsible for determining which
1525 participating Customer will be billed and which will pay.
- 1526 3. Mobile homes complexes may request per-unit billing of residents.
- 1527 4. For mixed use complexes with Residential and Commercial Customers, Contractor shall be solely
1528 responsible for determining which party will receive and pay bills.
- 1529 5. Verifying and maintaining records for residential properties that do not receive Yard Trimmings
1530 service and are not billed the Yard Trimmings service fee. Contractor shall coordinate with the
1531 City Contract Manager to determine Yard Trimmings exemptions and Contractor shall still provide
1532 Food Scraps Collection and Processing services.

1533 If Customer requests a change in Service Level that results in a lower Rate, Contractor shall adjust
1534 Customer's billing amount within seven (7) days of the date Customer requested the change regardless
1535 of whether or not Contractor delivers the appropriate Containers or modifies the Service Level within that
1536 timeframe. However, If Customer requests change in Service Level that results in a higher Rate,

1537 Contractor shall adjust the Customer’s billing amount within seven (7) days of the effective date of the
1538 actual change in Service Level. Should a Multi-Family Customer request a change in service as provided in
1539 Section 4.2, Contractor shall inform City for approval prior to making such change.

1540 Contractor shall maintain copies of all billings and receipts, each in chronological order, for the Term of
1541 this Agreement, for inspection and verification by the City Contract Manager at any reasonable time but
1542 in no case more than thirty (30) calendar days after receiving a request to do so.

1543 Contractor shall be responsible for collection of payment from Customers with past due accounts (“bad
1544 debt”). Contractor shall make reasonable efforts to obtain payment from delinquent accounts through
1545 issuance of late payment notices, telephone requests for payments, and assistance from collection
1546 agencies.

1547 If a Customer’s payment becomes more than one hundred twenty (120) days past due, Contractor may
1548 request approval from the City to reduce the Customer’s service level. If the City approves such request,
1549 the Contractor shall provide the Customer thirty (30) days written notice of its intent to reduce the service
1550 level. For Single-Family Customers, Contractor may reduce service to thirty two (32) gallons of Solid Waste
1551 Collection service and may discontinue Recyclable Materials and Organic Materials Collection by
1552 retrieving Containers from that Customer. For Multi-Family and Commercial Customers, Contractor may
1553 discontinue Recyclable Materials and Organic Materials Collection by retrieving Containers from that
1554 Customer Contractor. In no case shall service level reductions occur prior to one hundred twenty (120)
1555 days following the initial Billing date. After service level reduction, Contractor may charge the Customer
1556 a fee to restart service at a Rate not to exceed the City-approved Maximum Rate, and may require the
1557 Customer to pay all amounts due (including late payment fees), and/or make a deposit in advance equal
1558 to two (2) months of service, as a condition to recommencing service. If a Customer’s service level is
1559 reduced, Contractor shall provide written notification to the City within twenty-four (24) hours and shall
1560 include in the notice to City the Customers’ name and address, original date of billing, date of delinquency
1561 notice, and amount due. The City may involve their code enforcement officer in the assessment of public
1562 health and safety concerns at a Customer’s premises following a service level reduction. All notifications
1563 and correspondence issued by Contractor shall be directed to the Customer and the owner of the property
1564 if the owner is a different Person or entity than the Customer.

1565 Contractor shall verify Customer’s eligibility for the Senior Rate by reviewing subscribers’ driver’s license
1566 or birth certificate. Contractor shall also assist the City with administration of any other special Rate
1567 programs such it may establish.

1568 **4.12 Customer Service Program**

1569 **A. Program Requirements**

1570 **1. Availability of Representatives.** A representative of the Contractor who is knowledgeable of the
1571 service area, services, and Rates shall be available from 9 a.m. to 5 p.m. Monday through Friday
1572 to communicate with the public in person and by telephone. Contractor shall maintain a local or
1573 toll-free telephone number which it shall publicize. Contractor shall also maintain an after-hours
1574 telephone number allowing twenty-four (24) hour per day access to Contractor management by
1575 City Contract Manager in the event of an emergency involving Contractor’s equipment or services
1576 including, but not necessarily limited to, fires, blocked access, or property damage.

- 1577 **2. Telephone.** Contractor shall maintain a telephone system in operation from 7 a.m. to 6 p.m. and
1578 shall have sufficient equipment in place and staff available to handle the volume of calls
1579 experienced on the busiest days and such telephone equipment shall be capable of recording the
1580 responsiveness to calls. Contractor shall provide a dedicated phone number for use by City
1581 Customers. Recording of Contractor’s responsiveness to calls shall include, at a minimum, all items
1582 included in the “Service Quality and Reliability” and “Customer Service” performance standards
1583 listed in Exhibit E. An answering machine or voicemail service shall record Customer calls and
1584 voice messages between 6:00 p.m. and 7:00 a.m.
- 1585 **3. Website.** Contractor shall develop and maintain a website (or webpage) that is specifically
1586 dedicated to the City to provide customers with detailed service information and Rates. The
1587 website or webpage shall be accessible by the public. In addition, Contractor’s website shall
1588 include all public outreach materials described in Exhibit B and provide the public the ability to e-
1589 mail Contractor questions, service requests, or complaints. Contractor shall update the website
1590 regularly so that information provided is current.
- 1591 **4. Training.** All Persons involved in providing Customer service and/or billing support to Customers
1592 shall be well educated on and knowledgeable of all aspects of the City’s Collection services, Rates,
1593 and other relevant information.
- 1594 **5. Translations.** Contractor shall utilize commercial language translation services where reasonably
1595 available; if commercial language translation services are not used, shall have representatives
1596 reasonably available (through employees or subcontractors) during normal business hours who
1597 are fluent in three languages other than English

1598 **B. Service Requests, Compliments, Complaints**

1599 Contractor shall maintain a minimum of three (3) dedicated Customer Service Representatives (CSR’s) at
1600 all times dedicated to services provided to City. Call center shall be within a fifty (50) mile radius of the
1601 City. Contractor shall be responsible for the prompt and courteous attention to, and prompt and
1602 reasonable resolution of, all Customer service requests and complaints. Contractor shall record in a
1603 separate log, approved as to form by City Contract Manager, all complaints, noting the name and address
1604 of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. The
1605 Contractor shall retain this complaint log for the Term. Upon request by the City Contract Manager,
1606 Contractor shall compile and submit a summary statistical table of the complaint log.

1607 Contractor shall respond to all complaints received within twenty-four (24) hours, weekends and Holidays
1608 excluded. In particular, if a complaint involves a failure to Collect Solid Waste, Recyclable Materials or
1609 Organic Materials from a Premises in the City, Contractor shall Collect the material in question within
1610 twenty-four (24) hours of receipt of the Complaint, provided that Generator has properly placed materials
1611 for Collection.

1612 Contractor shall ensure its call center has sufficient technical and staffing capability to process the
1613 increased volume of calls that will occur prior to and subsequent to the Commencement Date, and during
1614 the start-up or expansion of services such as those required for compliance with AB 1826.

1615 For a minimum of sixty (60) days prior to and sixty (60) days subsequent to the Commencement Date,
1616 Contractor shall ensure availability of such additional CSR’s to address the volume of calls promptly and
1617 efficiently. Such CSRs shall be fully trained to provide accurate information consistent with the services to

1618 be provided under the terms of the Agreement.

1619 Contractor's call center shall be located within a fifty (50) mile radius of the Service Area.

1620 Customer service performance standards and penalties are specified in Exhibit E.

1621 **C. Customer Satisfaction Assessment**

1622 Contractor shall conduct a statistically reliable quantitative and qualitative commercial customer
1623 satisfaction survey on a bi-annual basis during odd-numbered years. The results of the survey shall be
1624 reported to the City within 60 days after the surveys have been completed. The design of the survey shall
1625 be to the satisfaction of the City but may include an insert with the Solid Waste bill. Contractor's survey
1626 report is due no later than December 15 of odd-numbered years. The Contractor's annual report to the
1627 City as outlined in Section 6.2 of this Agreement, shall include a summary of the survey results, a
1628 description of service improvement goals for the next year as identified by the City based on the survey
1629 findings, identification of tasks required of Contractor during the next year to accomplish the service
1630 improvement goals, and a report of the Contractor's accomplishments for previous year's service
1631 improvement goals.

1632 **4.13 City Web-Based Access to Information**

1633 Contractor shall establish a web-based system that enables the City to access Contractor's customer
1634 service and billing system to view Customer records including service information, Rate, call history, etc.,
1635 on a twenty-four (24) hour, real-time basis. Contractor shall also provide web-based access to street
1636 sweeping information including but not limited to completion of callbacks, damage to property,
1637 complaints and daily reports as provided in Sections 4.15.B.3, 4.15.D.11, 4.15.E.2, and 4.15.F.2,
1638 respectively. Contractor's customer service and billing software is a cloud-based system that allows the
1639 City to have read only access to the database and includes customer information, service history, rates,
1640 call logs, account notes, and reports.

1641 **4.14 Diversion Requirements; AB 939, AB 341, AB 1826, SB 1383**

1642 Contractor shall perform all education, outreach, monitoring, and shall prepare required reports for City
1643 review and comment for all Commercial and Multi-Family properties as required by AB 939, AB 341, and
1644 AB 1826. These activities shall, at a minimum include providing outreach to Multi-Family and Commercial
1645 Customers regarding the mandatory Diversion requirements of AB 341 and AB 1826; notifying non-
1646 compliant Multi-Family and Commercial Customers at least semi-annually; and providing the City
1647 information regarding Customer compliance with the mandates.

1648 The Contractor shall provide all necessary reporting data requested by the City relating to the City's
1649 compliance requirements pertaining to AB 939, AB 341, AB 1826 and SB 1383 as it affects the County's
1650 Integrated Waste Management Plan and the City's SRRE. Contractor shall also provide regular reporting
1651 substantiating that it is Processing a minimum of thirty one percent (31%) of the total materials Collected,
1652 less residue and excluding C&D and street sweeping materials.

1653 The Contractor shall cooperate in activities requested by the City to measure diversion of Solid Waste
1654 from landfills including, but not limited to, providing a location for conducting waste sorting at the

1655 Contractor's facility, and re-routing trucks on a temporary basis to facilitate composition analysis. Such
1656 reports shall include, but not necessarily be limited to, throughput, recovery rates per material type,
1657 residue, costs, Recyclable Material commodity values, and final disposition of Recyclable Materials and
1658 Organic Materials. The Contractor shall also supply any other information reasonably requested by the
1659 City Contract Manager to meet State, Federal, or County regulatory requirements as those requirements
1660 may be amended from time to time.

1661 Contractor shall provide a comprehensive program that ensures that each customer has the correct
1662 information, tools, resources and support to reach their best diversion potential, and to assist the City in
1663 meeting their requirements under AB 341, AB 1826 and SB 1383. The City is required in their Annual
1664 Reports to CalRecycle to provide local businesses subject to the rule education, outreach and monitoring
1665 of the program and Contractor shall prepare such reports to the City. Businesses that are not in
1666 compliance will be notified by the Contractor. Contractor shall calculate total number of regulated
1667 businesses, as well as how many pounds of recyclables, organic and inorganic waste are generated per
1668 employee per week, and through a conversion process, approximately how many cubic yards and tonnage
1669 of each waste type is generated per week will be determined. The regulated businesses will be prioritized
1670 for Technical Assistance and Outreach Services based on their compliance deadline, determined by the
1671 amount of waste generated per AB 1826.

1672 The Parties are aware that SB 1383, the Short-Lived Climate Pollutants Act of 2016 became law on
1673 September 15 2016 (an act to add Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and
1674 Safety Code, and to add Chapter 13.1 [commencing with Section 42652] to Part 3 of Division 30 of the
1675 Public Resources Code, relating to methane emissions). The Parties agree that the passage of this law and
1676 the regulations required under it will not represent a Change in Law because this Agreement provides for
1677 the programs, education, outreach, and reporting required in the statute. In the event that the City
1678 requests Contractor be responsible for providing enforcement, additional services, or programs for this
1679 law under the Agreement, that shall be considered a City-directed Change in Scope and Contractor shall
1680 be entitled to appropriate compensation for such additional services.

1681 **4.15 Street Sweeping**

1682 Section 4.15 and Exhibit O of the Agreement specify City's requirements for provision of street sweeping
1683 services by Contractor.

1684 **A. Definitions**

1685 The following definitions apply to this Section 4.15 and to Exhibit O, and are in addition to the definitions
1686 contained in Exhibit A.

- 1687 **1. Curb Mile** - Linear measurement of 5,280 feet of curbing or pavement edge to be used as standard
1688 unit of Scheduled Service.
- 1689 **2. Street Debris** - All loose, inert, dry waste material including refuse, dirt, sand, glass, metal
1690 fragments and typical street litter (i.e. cans, bottles, leaves), but excluding bulky or putrid wastes.
1691 Street debris does not include waste materials in the catch basins of storm sewers.
- 1692 **3. Sweeping Path** - Specified paved surface distance from curb line or pavement edge in which
1693 Scheduled Service is to be performed. This sweeping path is the only area to be swept in
1694 Scheduled Service.

1695 4. **Scheduled Service** - Regularly scheduled sweeping frequency for residential, commercial and
1696 industrial areas is defined in Section 4.15.B.1. Specific routes and sweeping frequencies are also
1697 shown in the map provided in Exhibit O-5.

1698 5. **Unscheduled Service** - That service which can be requested by the City to be performed outside
1699 the bounds of the scheduled service (i.e. sweeping after parades or major events).-

1700 **B. Scope of Work and Compensation**

1701 1. **Scheduled Service** - The Contractor will furnish Scheduled Service using modern sweeping
1702 equipment for those public streets designated by City at the time of the execution of the
1703 Agreement. After the execution of the Agreement, City may add other public streets, or
1704 portions of public streets.

1705 2. **Unscheduled Service** - The Contractor will also provide, if required by the City, Unscheduled
1706 Service before or after major events such as parades, fairs, etc., of any street or streets, or
1707 portions of streets. Contractor shall provide this service at no additional cost to the City twice per
1708 calendar year. Contractor shall sweep up to 11,000 Curb Miles per calendar year, including both
1709 scheduled service and unscheduled service. Unscheduled services which are within this annual
1710 allowance shall be provided at the direction of the City Contract Manager and at no additional
1711 charge to the City. This allowance shall be adjusted annually to reflect an increase or decrease in
1712 the actual number of Curb Miles swept during the previous year relative to the total Curb Mile
1713 allowance at \$ [redacted] per Curb Mile swept (including both Contractor’s direct cost and City fees),
1714 the calculation of which shall be presented by Contractor in their Annual Report. In the event that
1715 the City requests unscheduled sweeping services which exceed this allowance, Contractor shall
1716 be compensated at \$0.XX per Curb Mile swept and shall invoice City directly for such services.

1717 3. **Callbacks** – When in the opinion of the City Contract Manager following sweeping a section of
1718 street is inadequately swept, Contractor shall within 2 Business days resweep the section in
1719 question at no additional charge.

1720 4. **Compensation** – Contractor’s compensation for street sweeping services under this agreement is
1721 included in the Maximum Rates charged to Customers. In the event that City terminates this
1722 portion of the Agreement, under Section 4.15.H, Contractor’s proposed annual cost of street
1723 sweeping services (\$XXX,XXX), plus any percentage change applied to Customer Rates after the
1724 start of this Agreement, shall be excluded from Customer Rates.

1725 **C. Frequency of Service**

1726 1. **General** - Residential areas shall be swept twice a month. Commercial and industrial areas shall
1727 be swept four times a month.

1728 2. **Exception** - Residential Areas C, E, F, G, H, and J as shown on Exhibit O-5, shall be swept weekly
1729 during the months of November and December using vacuum type units.

1730 **D. Operations**

1731 1. **Days and Hours of Operation** – Sweeping for the purposes of the Agreement shall be Monday
1732 through Friday, only. Sweeping of residential and mixed use areas shall not start before 8:00 a.m.

1733 or continue after 5:00 p.m. Industrial/commercial areas shall be swept between 12:00 a.m. and
1734 8:00 a.m. Exceptions to sweeping hours or days shall be only upon the mutual written agreement
1735 of the City and Contractor. If Contractor reasonably determines that an exception is necessary in
1736 order to complete sweeping due to unusual circumstances in case of emergency, such exception
1737 shall require written approval of the City, within ten working days of said emergency. If
1738 Contractor experiences a breakdown, or other reason, which prevents the completion of daily
1739 scheduled street sweeping services, Contractor shall notify City immediately and provide a plan
1740 for completing the sweeping as soon as possible.

1741 **2. Adequate Equipment and Staffing** - The Contractor shall provide additional equipment and staff
1742 as necessary to complete the street sweeping on the frequency shown in Section 4.15.B.1 during
1743 weeks with less than normal working days. Street sweeping shall not occur on City holidays, which
1744 are New Year's Day, Monday observing Martin Luther King's Birthday, President Lincoln's
1745 Birthday, Monday observing President Washington's Birthday, Memorial Day, Independence Day,
1746 Labor Day, Veteran's Day, Thanksgiving Day and the day after, Christmas Eve, and Christmas Day.
1747 Street sweeping shall not occur on any other additional holidays approved by the Milpitas City
1748 Council. In the event a holiday falls on a Sunday, the following Monday shall be the holiday
1749 instead. In the event a holiday falls on a Saturday, the preceding Friday shall be a holiday instead.

1750 **3. Sweeping Routes** – Contractor shall develop sweeping routes for City review and comment by no
1751 later than May 1, 2017. Such schedule shall minimize changes to the existing schedule shown in
1752 Exhibit O5, and the final approved versions be inserted as the new Exhibit O-5. Contractor to
1753 provide a description of how they plan to meet the sweeping routine schedule. Contractor shall
1754 submit a map designating the routes to the City for approval. Contractor shall coordinate
1755 sweeping routes with Collection, and to the extent possible will avoid Collection and street
1756 sweeping of any area of the City on the same day. It is understood that if vehicles are parked on
1757 the streets when services are being performed by the Contractor, then Contractor's operations
1758 will be impeded and Contractor will be required to bypass said parked vehicles. In such event,
1759 Contractor compensation shall remain as provided in this Section 4.15.

1760 **4. Sweeping Equipment** – The Contractor shall provide list of vehicles for scheduled sweeping
1761 services adequate to accomplish the sweeping effectively (broom and vacuum units). All sweeping
1762 equipment shall have proper safety markings in accordance with State Vehicle Code and subject
1763 to approval of City Contract Manager. Commercial and industrial streets shall be broom swept.
1764 Residential streets shall be broom swept, except where heavy leaf concentrations make such
1765 methods less effective as described in Section 4.15.C.1 Heavy leaf concentrations shall be vacuum
1766 swept. The Contractor may use a vacuum truck with curb broom anywhere a broom truck is
1767 permitted. Equipment shall use a wheelbase small enough to go between parked cars to sweep
1768 a minimum length between cars of eight (8) feet. All vehicles and other equipment shall be kept
1769 in good repair, appearance, and in a sanitary condition at all times. Each vehicle shall be equipped
1770 with mobile radios and hour meters. A two-way mobile radio shall be made available to the street
1771 maintenance supervisor on each work day. Each vehicle shall have clearly visible on each side the
1772 identity and telephone number of the Contractor. Sweeping equipment to be used must provide
1773 a minimum sweeping path of 72 inches and be capable of removing street debris, which lies in
1774 this path. Contractor shall sweep at speeds which minimize the amount of streaking and is
1775 required to make additional passes if necessary to remove this debris. Each vehicle shall have a
1776 dust control system which shall be utilized at all times during sweeping operations. All vehicles
1777 shall have sound control devices and shall comply with Milpitas Municipal Code - Chapter 213,
1778 Noise Abatement. Contractor shall tare weigh all vehicles upon initiation of service for the City

1779 with weights provided to all Approved Facilities used for street sweeping debris Processing or
1780 Disposal. Contractor shall provide City with a report listing the vehicle tare weight information
1781 upon request. Contractor shall promptly weigh additional or replacement Transfer vehicles prior
1782 to placing them into service. Contractor shall check tare weights at least annually, or within
1783 fourteen (14) Days of a City request, and shall retare vehicles immediately after any major
1784 maintenance service.

1785 **5. Vehicle Speed** – Contractor shall at all times operate sweepers at no more than five (5) miles per
1786 hour, unless it can be demonstrated to satisfaction of City Contract Manager that the specified
1787 quality of service can be safely accomplished at a higher speed.

1788 **6. Hauling** – All street debris hauled by the Contractor shall be contained, tied or enclosed so that
1789 leaking, spilling or blowing are prevented.

1790 **7. Weather** – In the event of heavy rain or other severe weather conditions, the scheduled sweeping
1791 service may be suspended. The decision to sweep will be made by the City after consultation with
1792 the Contractor.

1793 **8. Water** – City will provide at no cost to the Contractor access to water from City hydrants, except
1794 during periods of declared water shortage. During such shortages, water supply site(s) shall be
1795 designated by the City. Contractor shall be required to use a construction meter, provided by the
1796 City, for this purpose.

1797 **9. Disposition of Material** – All collected street debris shall be delivered to the applicable Approved
1798 Facility for Processing or Disposal.

1799 **10. Direct Point of Contact** – Contractor shall designate a management-level representative,
1800 including of an Affiliate or Subcontractor as appropriate, directly responsible for street sweeping
1801 service to be available to the City on an on-call basis.

1802 **11. Damage to Property** - Any property, including, but not limited to, the existing structures,
1803 equipment, piping, pipe covering, grounds, sidewalks, curbs, gutters, driveways, fences, etc.,
1804 damaged by the Contractor or its Subcontractor during provision of Street Sweeping services as a
1805 result of Contractor’s (including its employees and agents) negligence shall be replaced or
1806 repaired by the Contractor in a manner satisfactory to the City and to the Contractor’s expense.

1807 **E. Outreach and Customer Service**

1808 **1. Outreach** - Contractor shall provide full page advertisements describing street sweeping
1809 schedules in the Milpitas Post monthly. On an annual basis no later than January 15 of each year,
1810 or next following business day, Contractor shall provide a street sweeping calendar by service
1811 section to each single family household receiving street sweeping services. On an annual basis to
1812 be received by affected customers no later than the last Monday of October, Contractor shall
1813 provide mailed notification of the weekly street sweeping schedule to households in service areas
1814 described in Section 4.15.C.2. Contractor shall provide doorhangers to customers affected by
1815 route changes.

1816 **2. Complaints** – All customer complaints shall be made directly to the Contractor and shall be given
1817 prompt and courteous attention. Contractor shall within three (3) Business Days of receipt of any
1818 complaint, notify City of schedule and plan for resolution of the complaint and for informing
1819 complainant of resolution, as applicable.

1820 3. **Office** – The Contractor shall maintain an office or such other facility through which he/she can
1821 be contacted and from which he/she can maintain radio contact with sweeping vehicles. It shall
1822 be equipped with sufficient telephones and shall have a responsible person in charge from 9:00
1823 a.m. to 5:00 p.m., Monday through Friday.

1824 **F. Recordkeeping and Reporting**

1825 1. **Recordkeeping** - Collector shall maintain street sweeping records relating to: Curb Miles swept
1826 using a broom odometer, or mileage only when cleaning and excluding driver mileage to or from
1827 an area; volume and/or weight of material removed for each cleaning day, and; areas needing
1828 more frequent routine sweeping or added sweeping prior to the rainy season.

1829 2. **Daily Reports** – Contractor shall post a daily report of curb miles swept and cubic yards and
1830 tonnage of debris collected on the Contractor’s website for City access as provided in Section 4.13.
1831 Daily reports shall use the format specified in Exhibit O-4.

1832 3. **Monthly Reports** - Contractor shall submit to City monthly reports on or before the twenty-fifth
1833 (25th) day following the end of each calendar month. Monthly reports shall use the format
1834 specified in Exhibit O-1. In addition, monthly reports must contain completed forms as shown in
1835 Exhibits O-2 and O-3 to track parked cars and low hanging trees that impede sweeping.

1836 4. **Report Formats and Requirements** – City reserves the right to modify or add to reporting formats,
1837 reporting frequency, and/or content with 30 days’ notice.

1838 5. **Performance Standards** – Failure to meet the requirements of Section 4.15 and Exhibit O may
1839 result in penalties as provided in Exhibit E.

1840 **G. Wage Scale**

1841 For the purposes of this Section 4.15.G, Resolution No. 5981 of the City of Milpitas requires that any
1842 Contractor performing routine and recurring labor or services in excess of \$1,000.00 on behalf of the City
1843 of Milpitas, pay not less than general prevailing wage of per diem wages as set forth in Contractor’s
1844 collective bargaining agreement with its employees to all employees engaged to perform said labor or
1845 services. (This requirement shall not apply to the sale of goods or to professional services, including, but
1846 not limited to, consultant services, construction inspection services, engineering services, architectural
1847 services, land surveying services, legal services, financial services, accounting or auditing services, data
1848 processing services, administrative services, instructional services, personnel services, and services
1849 provided by other public entities.) In addition, Contractor shall pay prevailing wages as otherwise required
1850 by State law.

1851 **H. Termination**

1852 Notwithstanding the provisions of Article 10, and with or without cause, City may issue Contractor a
1853 written notice to terminate the street sweeping service with 30 days’ notice.

1854 **4.16 Performance Reviews and Financial Audits**

1855 **A. Performance Reviews**

1856 Performance and service quality reviews may be conducted or caused to be conducted by the City at its
1857 discretion throughout the Term and any extensions. Such reviews may be conducted from time to time
1858 during the term of this Agreement by a qualified independent consultant selected by City. The reports
1859 required by this Agreement and the Contractor's ability or inability to achieve Diversion goals may be
1860 utilized as a basis of review. Such review or audit may include, but shall not be limited to analyses of both
1861 financial and qualitative performance of Contractor and Contractor's operations. If any noncompliance
1862 with the Agreement is found, the City may direct the Contractor to correct the inadequacies in accordance
1863 with the terms of this Agreement. If the Contractor fails to correct the noncompliance items, said failure
1864 will be considered a default under this Agreement. Contractor shall cooperate fully with City in conducting
1865 such evaluations and audits. The cost of such reviews or audits shall be borne by Contractor up to a total
1866 of \$200,000 during the term of the Agreement, and up to the equivalent of \$50,000 per year for each year
1867 of an extension.

1868 **B. Route Audits**

1869 City may conduct or require that Contractor conduct a route audit for any of, or each of Contractor's
1870 Collection routes by type of material Collected. The period in which the audit is conducted shall be set by
1871 City. City reserves the right to determine which routes will be audited in a particular week and, if City
1872 exercises this right, shall notify Contractor of the routes not less than seventy-two (72) hours in advance.
1873 The route audits may at City direction include any of the following information for each Collection route:

- 1874 A. The route number, the date of the audit, and the starting and ending times of Collection during
1875 the audit.
- 1876 B. A description of the route location, including the names of the streets covered.
- 1877 C. The number of Service Recipients by category on the route.
- 1878 D. The number of Service Recipients by category participating on the date of the audit and the
1879 number and type (e.g., Solid Waste, Recyclables, Yard Trimmings, Food Scraps, Used Motor Oil,
1880 Cooking Oil) of pickups in each Service Recipient category.
- 1881 E. For Collection routes, the number of Service Recipients by category which set out overages and
1882 the total number of overages Collected.
- 1883 F. For the Recyclables and Organics Collection routes, the number of Containers distributed by
1884 Service Recipient category.
- 1885 G. For routes with Used Motor Oil Collection, the number of Used Motor Oil Containers Collected
1886 and the number of Used Motor Oil Containers distributed by Service Recipient category.
- 1887 H. For routes with Cooking Oil Collection, the number of Cooking Oil Containers Collected and the
1888 number of Cooking Oil Containers distributed by Service Recipient category.
- 1889 I. The number of Collection vehicles used on the route by vehicle type (e.g., rear loader Solid Waste
1890 truck, compartmentalized Recyclables truck), the weight of each vehicle, the capacity of each
1891 vehicle by weight and volume, and the number of trips made by each vehicle to Approved
1892 Facilities).

- 1893 J. The tonnages or volumes by type of material Collected per vehicle trip.
- 1894 K. A description of any changes in the route occurring since the immediately preceding route audit,
- 1895 including changes in the location of the route, the number of Service Recipients, equipment used,
- 1896 and Collection methods employed.
- 1897 L. The name(s), telephone number(s) and signature(s) of the persons performing each route audit.
- 1898 The City reserves the right to request any additional data it, in its sole discretion, deems necessary to
- 1899 evaluate the effectiveness of Contractor’s operations. Costs of route audits, if any, shall be borne by
- 1900 Contractor.

ARTICLE 5. STANDARD OF PERFORMANCE

5.1 General

Contractor shall at all times comply with Applicable Laws and provide services in a manner that is safe to the public and the Contractor’s employees. Except to the extent that a higher performance standard is specified in this Agreement, Contractor shall perform services in accordance with Solid Waste, Recyclable Materials, Organic Materials, and C&D management practices common to Northern California.

5.2 Operating Hours and Schedules

A. Hours of Collection. Unless otherwise authorized by the City Contract Manager, Contractor’s days and hours for Collection operations shall be as follows:

1. **Residential Premises.** Collection from Residential Premises shall only occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday.
2. **Commercial Premises.** Collection from Commercial Premises that are two hundred (200) feet or less from Residential Premises shall only occur between the hours of 7:00 a.m. and 7:00 p.m., Monday through Friday. Collection from Commercial Premises more than two hundred (200) feet from Residential Premises shall only occur between the hours of 4:00 a.m. and 7:00 p.m., Monday through Saturday, except that such pickups may begin at 3 a.m. during April through September. Contractor is encouraged to schedule Collection from Commercial Customers in close proximity to any Residential Customers after 7:00 a.m. by focusing early morning Collection service in Commercial areas away from Residential neighborhoods. Upon complaints from Residential Customers about Collection noise, the Contractor shall re-route its Collection vehicles to the extent practical and shall meet and confer with the City to agree on a proposed solution.

B. Holiday Collection Schedule. Contractor, at its sole discretion, may choose not to provide Collection services on a Holiday. In such event, Contractor shall provide Collection services on the day following the Holiday thereby adjusting subsequent work that week; however, Customer service days shall be returned to the normal schedule within one (1) week of the Holiday. The Contractor shall provide Customers notice of Holiday-related changes in Collection schedules at least two (2) weeks prior to the change.

1929 **5.3 Collection Standards**

1930 **A. Servicing Containers.** Contractor shall pick up and return each Container to the location where
1931 the Occupant properly placed the Container for Collection. Contractor shall place the Containers
1932 upright with lids properly secured.

1933 Contractor, at the request of Customers, may provide special services including: (i) unlocking
1934 Containers; (ii) accessing Container enclosures with a key; or, (iii) pulling or pushing Containers to
1935 the Collection vehicle.

1936 **B. Litter Abatement.** Contractor shall use due care to prevent spills or leaks of material placed for
1937 Collection, Used Motor Oil, fuel, and fluids while providing services under this Agreement. If any
1938 materials are spilled or leaked during Collection and Transportation, the Contractor shall clean up
1939 all spills or leaks before leaving the site of the spill.

1940 Contractor shall not transfer loads from one vehicle to another on any public street, unless it is
1941 necessary to do so because of mechanical failure, hot load (combustion of material in the truck),
1942 or accidental damage to a vehicle.

1943 Contractor shall cover all open Drop Boxes at the pickup location before Transporting materials
1944 to the Approved Facility.

1945 **C. Clean-Up.** During the Collection or Transportation process, the Contractor shall clean-up litter in
1946 the immediate vicinity of any Container storage area (including the areas where Collection Bins
1947 and Drop Boxes are delivered for Collection) whether or not Contractor has caused the litter. The
1948 Contractor shall discuss instances of repeated spillage not caused by it directly with the Generator
1949 responsible and will report such instances to City. City will attempt to rectify such situations with
1950 the Generator if Contractor has already attempted to do so without success.

1951 **D. Noise.** All Collection operations shall be conducted as quietly as possible and shall conform to
1952 applicable Federal, State, County and City noise level regulations, including the requirement that
1953 the noise level during the stationary compaction process not exceed seventy-five (75) decibels at
1954 a distance of twenty-five (25) at a height of five (5) feet from the Collection vehicle. The City may
1955 conduct random checks of noise emission levels to ensure such compliance.

1956 **E. Damage to Property.** Any property, including, but not limited to, the existing structures,
1957 equipment, piping, pipe covering, grounds, sidewalks, curbs, gutters, driveways, fences, etc.,
1958 damaged by the Contractor or its Subcontractor during the course of his work as a result of
1959 Contractor's (including its employees and agents) negligence shall be replaced or repaired by the
1960 Contractor in a manner satisfactory to the City and to the Contractor's expense.

1961 **F. Route Changes.** On or before, May 1, 2017, Contractor shall provide City with route information
1962 and maps of the Single-Family Collection routes in sufficient detail that allows the City to plan its
1963 street sweeping routes. Route maps shall be provided in Adobe Acrobat PDF format or other
1964 format agreed upon by the City Contract Manager. Contractor shall meet and confer with the City
1965 Contractor Manager to amend the route schedule, and Contractor shall not modify scheduled
1966 Collection routes or scheduled Collection days for the first six (6) months of this Agreement.
1967 Contractor shall assess routing after the first 6 months and can change routes upon receiving
1968 written notification of approval from the City. Contractor shall ensure that if less than ten percent
1969 (10%) of all Customers will be affected by a route/day change, Customers will be properly notified
1970 well in advance of route day changes. If more than ten percent (10%) of all Customers will be

1971 affected by a route/day change, City approval is required.
1972 **G. Dedicated Routes.** Except otherwise provided with prior City permission, Contractor shall Collect
1973 materials generated in the City in Collection Vehicles separately from other materials generated
1974 outside the City.

1975 **5.4 Vehicle Requirements**

1976 Contractor shall provide a fleet of Collection vehicles sufficient in number and capacity to efficiently
1977 perform the work required by the Agreement in strict accordance with its terms. Contractor shall have
1978 available sufficient back-up vehicles for each type of Collection vehicle used to respond to scheduled and
1979 unscheduled maintenance, service requests, complaints, and emergencies. All such vehicles shall have
1980 watertight bodies designed to prevent leakage, spillage, or overflow. All such vehicles shall meet On-Road
1981 Heavy Duty Vehicle emissions requirements for model year 2016, regardless of the actual model year of
1982 Contractor’s vehicles, and generally comply with all Federal, State, and local laws and regulations.

1983 Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and
1984 local ordinances. Contractor shall not load vehicles in excess of the manufacturer's recommendations or
1985 limitations imposed by State or local weight restrictions on vehicles. Collection vehicles shall present a
1986 clean appearance while providing service under this Agreement. Collection vehicles shall be thoroughly
1987 washed and steam cleaned on a regular basis so as to present a clean appearance. City may inspect
1988 vehicles at any time to determine compliance with sanitation requirements. Contractor shall make
1989 vehicles available to the Santa Clara County Health Department for inspection, at any frequency it
1990 requests.

1991 Vehicles shall be tare weighted as provided in Section 4.8.A.

1992 Contractor's name and local telephone number shall be displayed on all vehicles in at least four (4) inch
1993 characters. Vehicles shall be equipped with sign board holders or other hardware to allow public outreach
1994 signage of no less than thirty (30) by forty-eight (48) inches to be displayed on both sides of the vehicle.

1995 Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles
1996 that are not operating properly shall be taken out of service until they are repaired and operate properly.
1997 Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are
1998 needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and
1999 operable condition. City Contract Manager may inspect vehicles at any reasonable time, and within three
2000 (3) calendar days of such a request, to determine compliance with sanitation requirements.

2001 Contractor shall furnish the City a written inventory of all vehicles, including Collection vehicles, used in
2002 providing service, and shall update the inventory annually. The inventory shall list all vehicles by
2003 manufacturer, identification number, date of acquisition, type, capacity and decibel rating.

2004 **5.5 Container Requirements**

2005 **A. General.** Contractor shall provide Customers with Collection Containers as requested by the
2006 Customer to meet its desired Service Level as provided in Sections 4.1, 4.2 and 4.3. All Contractor-
2007 provided Containers shall be new as of the Commencement Date and shall be designed and
2008 constructed to be watertight and prevent the leakage of liquids. Contractor shall purchase

2009 Containers with a useful life of ten (10) years or more and shall depreciate the Containers over a
2010 fifteen-year (15-year) period. New Container purchases shall comply with the requirements of
2011 Sections 5.5.B, C and F.

2012 Contractor shall make Compactors available to Customers for purchase or lease and shall allow
2013 Customers to purchase or lease Compactor’s through an outside vendor.

2014 **B. Carts.** Cart sizes and their availability shall conform to the requirements of Sections 4.1, 4.2 and
2015 4.3.

2016 **C. Bins, Drop Boxes and Compactors.** Contractor shall provide Bins, Drop Boxes and/or Compactors
2017 for storage and Collection of Solid Waste, Recyclables, Organic Materials, and C&D, and in
2018 conformance with the requirements of Sections 4.1, 4.2 and 4.3. Contractor shall install plastic
2019 lids on all Bin Containers owned and serviced by the Contractor. All Containers with the capacity
2020 of one cubic yard or more shall meet applicable federal regulations for Bin safety. All Bins, Drop
2021 Boxes and Compactors shall be painted the Contractor's standard color (subject to approval by
2022 the City Contract Manager). Contractor shall steam clean and repaint all Bins, Drop Boxes and
2023 Compactors as requested by Customer or as deemed necessary by Contractor to present a clean
2024 appearance. If Customer requests steam cleaning more frequently than one (1) time per year,
2025 Contractor may charge the Customer at Rates not to exceed City-approved Maximum Rates for
2026 such service.

2027 **D. Repair and Replacement of Containers; Inventory.** Contractor shall be responsible for repairing
2028 or replacing Containers when Contractor determines the Container is no longer suitable for
2029 service; or when the City or Customer requests replacement of Customer’s Container that does
2030 not properly function, leaks, is damaged, or is otherwise not fit for service. Contractor shall be
2031 responsible for acquiring the replacement Containers. Contractor shall maintain a sufficient
2032 inventory of Containers to accommodate new Customer requests for service, requests for change
2033 in Service Levels (size, type, or number of Containers) from current Customers, and requests for
2034 replacement due to damage. All such Containers shall be provided within one (1) week of request.
2035 Contractor’s failure may request in assessment of Liquidated Damages pursuant to Section 10.6.

2036 Subject to subparagraph H below, Contractor shall repair or replace all damaged or broken
2037 Containers within a one (1) week period. If the repair or replacement cannot be completed within
2038 a week, the Customer shall be notified by Contractor and a larger Container shall be made
2039 available until the proper Container can be replaced.

2040 **E. City Ownership of Containers at End of Term.** Upon expiration or early termination of
2041 Agreement, all Carts, Bins, Drop Boxes, and Compactors (for permanent Customers) purchased
2042 and put into service at Customers’ Premises during the Term of the Agreement shall become
2043 property of the City at no cost to the City if such Containers are fully depreciated. All Carts, Bins,
2044 Drop Boxes, and Compactors (for permanent Customers) purchased and put into service at
2045 Customers’ Premises during the Term of the Agreement that have not been fully depreciated shall
2046 be available to the City, at the City’s option, at a cost reflecting the net book value.

2047 At its sole discretion, the City may elect not to exercise its rights with regards to this Section and,
2048 in such case; the Containers shall remain the property of the Contractor upon the expiration date
2049 of this Agreement or date of its earlier termination of this Agreement. In such case, Contractor
2050 shall be responsible for outstanding depreciation, and for removing at its own cost all Containers
2051 in service from premises within five (5) Business Days of the expiration date or early termination
2052 date of this Agreement in full cooperation and coordination with the City’s then-current

2053 franchised collector.

2054 **F. New Container Standards.** Contractor shall provide Containers for storage and Collection of Solid
2055 Waste, Recyclable Materials, Organic Materials, and C&D which shall be designed and constructed
2056 to be watertight and prevent the leakage of liquids.

2057 When purchasing plastic Collection Containers, Contractor shall purchase Containers that contain
2058 a minimum of 30% post-consumer recycled plastic content. All such Containers shall be 100%
2059 recyclable.

2060 All new Carts shall be manufactured by injection or rotational molding methods and shall meet
2061 the Cart design, color, and performance requirements provided in Attachment H. Contractor shall
2062 obtain the City's written approval of Cart specifications before acquisition. Carts provided to
2063 Customers shall have a minimum useful life of ten (10) years as evidenced by a manufacturer's
2064 warranty or other documentation acceptable to the City.

2065 Contractor shall differentiate Containers from each other by: (i) providing Container bodies
2066 and/or lids of different colors, and/or (ii) adhering clearly-visible labels identifying the allowable
2067 material type.

2068 **G. Container Labeling.** On each Container, Contractor shall label with paint, adhesive label, or white,
2069 hot-stamped lettering, the type of materials (e.g., Solid Waste, Recyclable Materials, cardboard,
2070 mixed paper, Yard Trimmings, Food Scraps, Recyclable C&D, C&D Waste, wood waste, metal, etc.)
2071 to be placed in the Container for Collection. The labeling shall be positioned on each Container
2072 so it is visible to the Customer at all times.

2073 All Containers shall display the Contractor's name, local telephone number, and some identifying
2074 inventory or serial number. Contractor-specific information shall not be hot stamped on
2075 Containers.

2076 **H. Maintenance, Cleaning, Painting.** All Containers shall be maintained in a safe, serviceable, and
2077 functional condition and present a clean appearance. Contractor shall repair or replace all
2078 Containers damaged by Collection operations, unless damage is caused by Customer's gross
2079 negligence, in which case, the Customer will be billed for repair or replacement of Container. All
2080 Containers shall be maintained in a functional condition.

2081 Contractor shall steam clean and repaint all Containers as needed (other than Carts) so as to
2082 present a clean appearance. Contractor shall offer steam cleaning service (or clean Container
2083 exchange) to Customers requesting such service, and shall charge Customers for such cleaning (or
2084 Container exchange) at a Rate not to exceed City-approved Maximum Rates.

2085 Contractor shall remove graffiti from Containers within forty-eight (48) hours of identification by
2086 Contractor or notice by City or Customer if such graffiti includes any written or pictorial
2087 obscenities and otherwise within five (5) Business Days.

2088 At the City's request, Contractor shall provide City with a list of Containers and the date each
2089 Container was painted and maintained.

2090 **5.6 Personnel**

2091 **A. General.** Contractor shall furnish such qualified personnel as may be necessary to provide the
2092 services required by this Agreement in a safe and efficient manner. Contractor shall designate at
2093 least one (1) qualified employee as City’s primary point of contact with Contractor who is
2094 principally responsible for Collection operations and resolution of service requests and complaints
2095 who shall be available telephonically at all times Transfer and Disposal operations are taking place
2096 Contractor shall use its best efforts to assure that all employees present a neat appearance and
2097 conduct themselves in a courteous manner. Contractor shall not permit its employees to accept,
2098 demand, or solicit, directly or indirectly, any additional compensation, or gratuity from members
2099 of the public.

2100 **B. Driver Qualifications.** All drivers must have in effect a valid license, of the appropriate class,
2101 issued by the California Department of Motor Vehicles. Contractor shall use the Class II California
2102 Department of Motor Vehicles employer “Pull Notice Program” to monitor its drivers for safety.

2103 **C. Safety Training.** Contractor shall provide suitable operational and safety training for all of its
2104 employees who operate Collection vehicles or equipment. Contractor shall train its employees
2105 involved in Collection to identify, and not to collect, Excluded Waste. Upon the City Contract
2106 Manager’s request, Contractor shall provide a copy of its safety policy and safety training
2107 program, the name of its safety officer, and the frequency of its trainings.

2108 **D. Provision of Field Supervision.** Contractor shall at all times, and at a minimum maintain the City-
2109 approved number of field supervisors specified in Exhibit N. Field supervisors shall devote at least
2110 fifty percent (50%) of their time in direct monitoring of Collection operations, including
2111 responding to complaints.

2112 **E. Identification.** All representatives of the Contractor shall display and/or provide proper
2113 identification or documentation exhibiting their association with the Contractor while operating
2114 in the field.

2115 **F. Hiring Displaced Employees.** Contractor shall make best efforts to offer employment to qualified
2116 employees of the prior contractor for the performance of this Agreement. Such efforts shall not
2117 be required in regard to employees who are (1) exempt under the Fair Labor Standards Act, (2)
2118 employed by the prior contractor for less than six months, or (3) convicted of a job-related or
2119 workplace crime. Contractor shall not be obligated to offer employment to more prior
2120 contractor’s employees than the Contractor needs to perform the services required under the
2121 Agreement and the Contractor shall not be obligated to offer employment to prior contractor’s
2122 employees that are not working prior to the Commencement Date due to a leave of absence
2123 related to disability or workers’ compensation claim. Additionally, the Contractor shall not be
2124 obligated to displace any of its current employees or modify its current job performance
2125 requirements or employee selection standards. Additional employees, if needed, shall be
2126 obtained pursuant to procedures currently in effect under the collective bargaining agreement
2127 with the prior contractor. This requirement, however, shall not be applicable to management or
2128 supervisory personnel. Upon request by the City, the Contractor shall demonstrate to the City
2129 that good faith efforts that have been made to comply with this provision

2130 **G. Wage and Benefits.** Wages and benefits applicable to employees performing work under the
2131 Agreement shall be commensurate with current compensation or in accordance with existing
2132 agreements with represented labor groups.

2133 **H. Subcontractor Obligations.** Subcontractors shall be required to comply with the obligations

2134 stated in this Section 5.6.

2135 **I. Labor Agreements.** Labor agreements for drivers and mechanics shall be included as Exhibit K
2136 and future modification shall be submitted to the City. The Contractor shall provide full copies of
2137 the labor agreements including any and all amendments, extensions, renewals, or other forms of
2138 modification.

2139 **5.7 Hazardous Waste Inspection and Handling**

2140 **A. Inspection Program and Training.** Contractor shall develop a load inspection program that
2141 includes the following components: (i) personnel and training; (ii) load checking activities; (iii)
2142 management of wastes; and, (iv) record keeping and emergency procedures.

2143 Contractor’s load checking personnel, including its Collection vehicle drivers, shall be trained in:
2144 (i) the effects of Hazardous Substances on human health and the environment; (ii) identification
2145 of prohibited materials; and, (iii) emergency notification and response procedures. Collection
2146 vehicle drivers shall inspect Containers before Collection when practical.

2147 **B. Response to Excluded Waste Identified During Collection.** If Contractor determines that material
2148 placed in any Container for Collection is Excluded Waste or presents a hazard to Contractor's
2149 employees, the Contractor shall have the right to refuse to accept such material. The Generator
2150 shall be contacted by the Contractor and requested to arrange proper Disposal. If the Generator
2151 cannot be reached immediately, the Contractor shall, before leaving the Premises, leave a tag at
2152 least two (2) inches by six (6) inches in size, which indicates the reason for refusing to Collect the
2153 material and lists the phone number of a facility that accepts the Excluded Waste or a phone
2154 number of an entity that can provide information on proper Disposal of the Excluded Waste.
2155 Under no circumstances shall Contractor’s employees knowingly Collect Excluded Waste or
2156 remove unsafe or poorly containerized Excluded Waste from a Collection Container. Prior to
2157 Commencement of this Agreement, the tag that will be used to notice Customers of reason for
2158 non-Collection shall be reviewed and approved by the City Contract Manager.

2159 If Excluded Waste is found in a Collection Container or Collection area that could possibly result
2160 in imminent danger to people or property, the Contractor shall immediately notify the Fire
2161 Department.

2162 **C. Response to Excluded Waste Identified At Disposal or Processing Facility.** Materials Collected
2163 by Contractor will be delivered to the Approved Facilities for purposes of Processing or Disposal.
2164 In the event that load checkers and/or equipment operators at such facility identify Excluded
2165 Waste in the loads delivered by Contractor, such personnel shall remove these materials for
2166 storage in approved, on-site, Excluded Waste storage Container(s). Contractor shall arrange for
2167 removal of the Excluded Wastes at its cost by permitted haulers in accordance with Applicable
2168 Laws and regulatory requirements. The Contractor may at its sole expense attempt to identify
2169 and recover the cost of Disposal from the Generator. If the Generator can be successfully
2170 identified, the cost of this effort, as well as the cost of Disposal shall be chargeable to the
2171 Generator.

2172 **5.8 City Contract Manager**

2173 City has designated staff, the City Contract Manager, to be responsible for the monitoring and

2174 administration of this Agreement. Contractor shall meet and confer with the City Contract Manager to
2175 resolve differences of interpretation and implement and execute the requirements of this Agreement in
2176 an efficient, effective, manner that is consistent with the stated objectives of this Agreement.

2177 From time to time the City Contract Manager may designate other agents of City to work with Contractor
2178 on specific matters. In such cases, those individuals should be considered designates of the City Contract
2179 Manager for those matters to which they have been engaged. Such designates shall be afforded all of the
2180 rights and access granted thereto. In the event of a dispute between the City Contract Manager's
2181 designate and Contractor, the City Contract Manager's determination shall be conclusive.

2182 In the event of dispute between the City Contract Manager and the Contractor regarding the
2183 interpretation of or the performance of services under this Agreement, the City Contract Manager's
2184 determination shall be conclusive except where such determination results in a material impact to the
2185 Contractor's revenue and/or cost of operations. In the event of a dispute between the City Contract
2186 Manager and the Contractor results in such material impact to the Contractor, Contractor may appeal the
2187 determination of the City Contract Manager to the City Council, whose determination shall be conclusive.
2188 For the purposes of this Section, "material impact" is an amount equal to or greater than thirty thousand
2189 dollars (\$30,000) per year.

2190 City Contract Manager or their designate shall have the right to observe and review Contractor operations
2191 and Processing Facilities and enter Premises for the purposes of such observation and review, including
2192 review of Contractor's records, during reasonable hours with reasonable notice. In no event shall
2193 Contractor prevent access to such Premises for a period of more than three (3) calendar days after
2194 receiving such a request.

2195 **5.9 Cooperation with City, County**

2196 The Contractor shall with no added compensation cooperate with the City, its agent, and/or Santa Clara
2197 County and/or its agent if the City or County seek to collect data, perform field work, and/or evaluate and
2198 monitor Diversion program results through characterization of Solid Waste, including providing
2199 reasonably requested data, allowing visits to Approved Facilities, and allowing use of Contractor-
2200 designated areas of Approved Facilities as needed to perform Solid Waste characterizations.

2201 **ARTICLE 6. RECORD KEEPING AND REPORTING**

2202 **6.1 Record Keeping and Audit of Records**

2203 Contractor shall maintain accounting, statistical, operational, and other records related to its performance
2204 as necessary to provide reporting under SB 1016, AB 939, AB 341 and AB 1826, and to demonstrate
2205 compliance with this Agreement. The Contractor shall maintain complete financial statements and
2206 accounting records for operations under this Agreement. Contractor shall account for revenues received
2207 and expenses incurred as a result of this Agreement separately from the accounting for other operations
2208 performed by Contractor or its Affiliates. The Gross Receipts derived from the Collection Services under
2209 this Agreement, whether such services are performed by the Contractor, by an Affiliate, or by a
2210 Subcontractor, shall be recorded as revenues in the accounts of the Contractor. Upon demand, the
2211 Contractor shall permit the City Contract Manager to examine and audit the books of account of the
2212 Contractor at any and all reasonable times for the purpose of verifying Contractor's performance under

2213 this Agreement. Upon request, the Contractor shall allow the City Contract Manager to examine the
2214 reports of Gross Receipts and the invoices pertaining to any fee or charge approved by the City Council
2215 for Services provided under this Agreement. Such request shall be made at reasonable times and with
2216 reasonable notice. City reserves the right to produce any such documents examined to any State or local
2217 regulatory or permitting authority upon request.

2218 In the event that an extraordinary Rate adjustment pursuant to Section 8.4, such records shall be subject
2219 to review in accordance with appropriate professional standards, and inspection, for the primary purpose
2220 of reviewing changes in costs to the Contractor attributable to the extraordinary Rate adjustment request,
2221 at any reasonable time by an independent third party. The selection of the independent third party as
2222 well as the scope of work for such review shall be approved in advance by the City Contract Manager. The
2223 independent reviewer shall provide any and all drafts of its review to the City and the Contractor. The cost
2224 of such review shall be paid by Contractor and considered an allowable expense in the extraordinary Rate
2225 adjustment.

2226 Unless otherwise required in this Article, Contractor shall retain all records and data required to be
2227 maintained by this Agreement for the Term of this Agreement plus three (3) years after its expiration or
2228 earlier termination. Records and data shall be in chronological and organized form and readily and easily
2229 interpreted. Upon request, any such records shall be retrieved in a timely manner by Contractor and made
2230 available to the City Contract Manager. Contractor shall maintain adequate record security to preserve
2231 records from events that can be reasonably anticipated such as a fire, theft, and an earthquake.
2232 Electronically-maintained data and records shall be protected and backed-up. The Contractor shall obtain,
2233 within one hundred twenty (120) days of a request by the City Contract Manager, complete independently
2234 audited financial statements for the prior calendar year, including its balance sheet, statement of
2235 revenues and expenses, and statement of changes in cash position, and provide such financial statements
2236 to the City Contract Manager.

2237 City views its ability to defend itself against Comprehensive Environmental Response, Compensation and
2238 Liability Act (CERCLA), and related litigation as a matter of great importance. For this reason, City regards
2239 its ability to prove where Collected Solid Waste is taken for transfer or Disposal. Contractor shall maintain
2240 records which can establish where Solid Waste Collected was Delivered to an Approved Facility with the
2241 intent of Disposal. This provision shall survive the expiration or earlier termination of this Agreement.
2242 Contractor shall maintain these records for a minimum of ten (10) years beyond expiration or earlier
2243 termination of the Agreement. Contractor shall provide these records to City (upon request or at the end
2244 of the record retention period) in an organized and indexed manner rather than destroying or Disposing
2245 of them.

2246 **6.2 Report Submittal Requirements**

2247 Contractor shall submit monthly and quarterly reports within thirty (30) calendar days after the end of
2248 the calendar month or quarter, as applicable. Contractor shall submit annual reports no later than forty-
2249 five (45) calendar days after the end of each calendar year. Monthly, quarterly, and annual reports shall,
2250 at a minimum, include all data and information as described in Exhibit C, and shall be provided in Word
2251 and Excel.

2252 Contractor may propose report formats that are responsive to the objectives and audiences for each
2253 report. The format of each report shall be approved by the City Contract Manager and such approval shall
2254 not be unreasonably withheld. City Contract Manager may, from time to time during the Term, review

2255 and request changes to Contractor’s report formats and content and Contractor shall not unreasonably
2256 deny such requests.

2257 Contractor shall submit (via mail and e-mail) all reports to the City Contract Manager.

2258 City reserves the right to require Contractor to provide additional reports or documents as City Contract
2259 Manager reasonably determines to be required for the administration of this Agreement or compliance
2260 with Applicable Law.

2261 **6.3 Performance Monitoring Meetings**

2262 City and Contractor shall meet no less than quarterly to discuss reports and compliance with the
2263 Agreement. Quarterly meetings shall be held within two weeks of submittal of each quarterly report or at
2264 such time as City otherwise specifies. Nothing in this Section 6.3 or in Exhibit C relieves Contractor of the
2265 responsibility to promptly request a meeting should shall if necessary to ensure its ability to comply with
2266 any of the requirements specified in this Exhibit C.

2267 City and Contractor shall meet twice per year to assess performance and compliance with the following
2268 service quality goals, on or before February 28th (for the immediate previous calendar year) and August
2269 31st (for the immediately previous July 1st through June 30th).

- 2270 A. Ten (10) or fewer Liquidated Damages assessed in each applicable twelve (12) month period.
- 2271 B. Completion of all outreach activities by the identified dates as specified in Section 4.9, Exhibit C,
2272 or as contained in Contractor plans developed with relation to the Agreement requirements
2273 contained in Section 4.9 and Exhibit C.
- 2274 C. Completion of bi-annual commercial customer satisfaction survey and analysis as provided in
2275 Section 4.12.C.

2276 **ARTICLE 7. FRANCHISE FEES AND OTHER FEES**

2277 The highlighted text below will be filled in to reflect the option selected by Council.

2278 **7.1 Franchise Fee**

2279 In consideration of the rights provided Contractor herein, Contractor shall pay Franchise Fees to City each
2280 month equal to _____ percent (___%) of Gross Receipts for all services performed under this
2281 Agreement, as provided in Article 8.

2282 **7.2 Adjustment to Fees**

2283 City may set other fees or adjust the fees established in this Article from time to time during the Term of
2284 this Agreement and such adjustments shall be included in the adjustment of Maximum Rates as described
2285 in Exhibit D.

2286 **7.3 Payment Schedule and Late Fees**

2287 At the end of each month, during the Term of this Agreement, Contractor shall remit to City all fees for
2288 the previously completed month as described in this Article. Such fees shall be remitted to City and sent
2289 or delivered to the City Contract Manager. If such remittance is not paid to City on or before the last day
2290 of the month, all fees due shall be subject to a delinquency penalty of two percent (2%), which attaches
2291 on the first day of delinquency. The delinquency penalty shall be increased an additional two percent (2%)
2292 for each additional month the payment remains delinquent.

2293 Each monthly remittance to City shall be accompanied by a statement listing the amount of each fee paid;
2294 calculation of each fee; and, statement of Gross Receipts, by Customer Type for the period collected from
2295 all operations conducted or permitted by this Agreement. City Contract Manager may, at any time during
2296 the Term, request a detailed calculation of Gross Receipts which may include, but is not necessarily limited
2297 to, the number of Customers charged at each Service Level and Rate for each billing period.

2298 City Contract Manager may, at any time during the Term, perform an audit of Contractor's billings and
2299 payment of fees. Contractor shall cooperate with the City Contract Manager in any such audit. Should City
2300 or its agent perform this review and identify billing errors or other errors in payment of fees valued at one
2301 (1) percent or more of Gross Receipts, Contractor shall, in addition to compensating City for lost fees,
2302 reimburse the City's cost of the review.

2303 **7.4 Procurement Reimbursement Payment**

2304 Within (5) Business Day of the Commencement Date, Contractor shall reimburse the City for its costs
2305 related to the procurement and negotiation of this Agreement in the maximum amount of four hundred
2306 twenty five thousand dollars (\$425,000). This amount shall be paid by Contractor and may not be
2307 recovered through Rates charged to Customers; provided, however, that, in the event the City takes
2308 action, or is forced by Legal Challenge, to rescind the award of this Agreement to Contractor after its
2309 payment of the \$425,000 amount, the City shall reimburse Contractor the total amount of \$425,000 within
2310 sixty (60) days.

2311 **ARTICLE 8. CONTRACTOR'S COMPENSATION AND**
2312 **RATE SETTING**

2313 **8.1 General**

2314 The Contractor's Compensation for performance of all its obligations under this Agreement shall be Gross
2315 Receipts. Contractor's Compensation provided for in this Article shall be the full, entire and complete
2316 compensation due to Contractor pursuant to this Agreement for all labor, equipment, materials and
2317 supplies, Processing and Disposal fees, fees due to City, taxes, insurance, bonds, overhead, operations,
2318 profit, and all other things necessary to perform all the services required by this Agreement in the manner
2319 and at the times prescribed. Nothing herein shall obligate City to provide any compensation to Contractor
2320 beyond Gross Receipts.

2321 If Contractor's actual costs, including fees due to City, are more than Gross Receipts, Contractor shall not
2322 be compensated for the difference in actual costs and actual Gross Receipts. If Contractor's actual costs

2323 are less than the actual Gross Receipts, Contractor shall retain the difference provided that Contractor
2324 has paid City fees pursuant to Article 7.

2325 Under this Agreement, Contractor shall have the right and obligation to charge and collect from
2326 Customers, Rates that shall not exceed the Maximum Rates in Exhibit L that are approved by the City for
2327 provision of services to Customers, and regardless of whether a specific type of rate is described in the
2328 Agreement other than in Exhibit L. The Maximum Rates for Rate Period One are based on the Contractor's
2329 Proposal. Contractor's proposed costs and operating assumptions for Rate Period One are presented in
2330 Exhibit N.

2331 The Contractor or its Subcontractor(s) that operates the Approved Facilities shall retain revenues received
2332 for the sale of Recyclable Materials including California Redemption Value revenues, Organic Materials,
2333 and C&D. Such revenues have been considered in the establishment of Maximum Rates for services
2334 provided under this Agreement. Neither Contractor nor its Affiliates or Subcontractor(s) that operates
2335 the Approved Facilities are entitled to grant funds available through the Department of Resources
2336 Recycling and Recovery (CalRecycle) through its "Curbside Supplemental Payments" for registered
2337 Curbside Recycling programs or "City/County Payment Program" pursuant to Section 14581(a)(5)(A) of
2338 the California Beverage Container Recycling and Litter Reduction Act.

2339 Contractor is solely responsible for timely payment of invoices submitted to Contractor by Disposal
2340 Contractor, for services provided by Disposal Contractor under City's agreement with the Disposal
2341 Contractor. Contractor shall coordinate with Disposal Contractor regarding the Disposal Contractor's
2342 provision of Disposal services at no charge to the City as provided in Sections 4.5A and 4.6 of this
2343 Agreement and Section 8.2 of the City's agreement with the Disposal Contractor.

2344 Contractor shall comply with recordkeeping and reporting requirements of Article 6 and Exhibit C.

2345 **8.2 Rates and Annual Adjustments**

2346 **A. General.** The City shall be responsible for approving Maximum Rates as described in this Article.
2347 A Maximum Rate has been established for each individual Service Level and the initial Rates for
2348 Rate Period One are presented in Exhibit L. Contractor may, in its sole discretion, charge
2349 Customers any amount up to and including the Maximum Rate approved by the City, but in no
2350 case exceeding the Maximum Rate. Contractor shall charge all Customers that have the same
2351 Service Level at the same Rate so that Customers are treated equitably. The comparability of
2352 Service Levels and related Rates shall be considered separately for Solid Waste, Recyclable
2353 Materials, Organics Materials, and C&D services.

2354 If at any time during the Term of the Agreement, the Contractor determines the need for a
2355 Maximum Rate that does not appear on the City-approved Maximum Rate schedule in Exhibit L,
2356 Contractor shall immediately notify the City and request establishment of such Maximum Rate.
2357 For example, if a Customer requires Collection of Organic Materials in a fifteen (15) cubic yard
2358 Compactor five (5) times per week and the City-approved Maximum Rate schedule does not
2359 include this level of service, the Contractor must request that the City approve a Maximum Rate
2360 for this level of service.

2361 **B. Rates for Rate Period One.** Maximum Rates for Rate Period One, which are presented in Exhibit
2362 L, were determined by Contractor and City and were approved by City resolution on or before the
2363 execution of the Agreement. The Maximum Rates for Rate Period One shall be effective from the

2364 Commencement Date of this Agreement through December 31, 2018.

2365 **C. Rates for Subsequent Rate Periods.** Rates for subsequent Rate Periods shall be adjusted annually
2366 in accordance with this Section 8.2 and Exhibit D. Rates for Rate Periods Two, Three, Five, Six,
2367 Eight, Nine, Ten, Eleven, Thirteen, Fourteen, and Fifteen will be adjusted in accordance with
2368 Exhibit D-1, Index-Based Rate Adjustment Methodology. Rate Period Three Rates shall also be
2369 adjusted for provision of Drop Box Service to C&D Customers, as provided in Section 2.F.2 of
2370 Exhibit D-1. Rates for Rate Periods Four, Seven, and Twelve shall be adjusted in accordance with
2371 Exhibit D-2, Cost-Based Rate Adjustment Methodology.

2372 The index-based adjustment, which is described in Exhibit D-1, involves applying the percentage
2373 change in the consumer price index and a fuel index to calculate adjusted Maximum Rates. Such
2374 Rate adjustment calculations shall be performed in strict conformance to the procedures
2375 described in Exhibit D-1.

2376 The cost-based adjustment, which is described in Exhibit D-2, involves a review of Contractor's
2377 actual costs and projection of cost for the coming Rate Period. This cost-based Rate adjustment
2378 shall be performed instead of the index-based rate adjustment for Rate Periods Four and Eight
2379 and, if the term is extended, for Rate Period Twelve. Such Rate adjustment calculations shall be
2380 performed in strict conformance to the procedures described in Exhibit D-2.

2381 **D. Rate Structure.** The City and Contractor shall meet and confer to change the relationship of
2382 individual Rates in comparison with other Rates. Any such changes would occur in conjunction
2383 with the annual Rate adjustment process described in Section 8.2.C or in conjunction with a Rate
2384 adjustment resulting from an extraordinary Rate adjustment in accordance with Section 8.4.
2385 Changes to the rates charged under the new structure shall be calculated in such a way that the
2386 revised Rate structure generates at least the same amount of total revenue when the number of
2387 accounts at each Service Level are multiplied by the Rates charged for each Service Level and the
2388 total for all Service Levels are summed.

2389 **8.3 Reserved**

2390 **8.4 Extraordinary Rate Adjustments**

2391 It is understood that the Contractor accepts the risk for changes in cost of providing services and the
2392 service levels requested by Customers and therefore the extraordinary adjustments to Maximum Rates
2393 shall be limited to a Change in Law or a City-directed change in scope. If a Change in Law or City-directed
2394 change in scope (pursuant to Section 3.9) occurs, either Party may petition City for an adjustment to the
2395 Maximum Rates in excess of the annual adjustment described in Section 8.2.

2396 The petitioning Party shall prepare an application for the extraordinary Rate adjustment calculating the
2397 net financial effect on its operations (both increases and decreases of costs and revenues) resulting from
2398 the Change in Law or City Directed Change in Scope (but not resulting from unrelated changes in costs
2399 and revenues), clearly identifying all assumptions related to such calculations and providing the
2400 underlying documentation supporting the assumptions. The application shall be prepared in compliance
2401 with the procedures described in Exhibit D-2 and shall provide all information requested by City Contract
2402 Manager specific to the nature of the request being made. City Contract Manager shall evaluate the
2403 application for reasonableness. As part of that review, the City Contract Manager may request access to
2404 the financial statements and accounting records required to be maintained by the Contractor (pursuant

2405 to Article 6) in order to determine the reasonableness of the Contractor’s application. Should the
2406 Contractor not grant such access, then the City may rely on the Contractor’s Proposal and other
2407 information available to it as the basis for making reasonable assumptions regarding what those
2408 accounting and financial records would have shown and therefore the reasonableness of the Contractor’s
2409 application. Contractor shall pay all reasonable costs incurred by the City, including the costs of outside
2410 accountants, attorneys, and/or consultants, in order to make a determination of the reasonableness of
2411 the requested Rate adjustment. Any such costs paid by Contractor shall be considered an allowable
2412 expense in the extraordinary Rate adjustment.

2413 In the event of such an application for extraordinary Rate adjustment, it is understood that the City or
2414 Contractor, as the case may be, shall have the burden of demonstrating the reasonableness of the
2415 requested adjustment.

2416 The Contractor may appeal the decision of the City Contract Manager to the City Council, which shall then
2417 make the final determination as to whether an adjustment to the Maximum Rates will be made, and if a
2418 Rate adjustment is permitted, the amount of the Rate adjustment. With respect to an extraordinary Rate
2419 adjustment requested by the City Contract Manager, the City Council shall then make the final
2420 determination as to whether an adjustment to the Maximum Rates will be made, and if a Rate adjustment
2421 is permitted, the amount of the Rate adjustment.

2422 **ARTICLE 9. INDEMNITY, INSURANCE, PERFORMANCE**
2423 **BOND, AND RIGHT TO PERFORM SERVICE**

2424 **9.1 Indemnification**

2425 **A. General.** Contractor shall indemnify, defend with counsel reasonably acceptable to City, and hold
2426 harmless (to the full extent permitted by law) City and its officers, officials, employees, volunteers,
2427 and agents from and against any and all claims, liability, loss, injuries, damage, expense, and costs
2428 (including without limitation costs and fees of litigation, including reasonable attorneys’ and
2429 expert witness fees) (collectively, “Damages”) of every nature arising out of or in connection with
2430 Contractor’s performance under this Agreement, or its failure to comply with any of its obligations
2431 contained in the Agreement, except to the extent such loss or damage was caused by the sole
2432 negligence or willful misconduct of City.

2433 **B. Excluded Waste.** Contractor acknowledges that it is responsible for compliance during the entire
2434 Term of this Agreement with all Applicable Laws. Contractor shall not store, transport, use, or
2435 Dispose of any Excluded Waste except in strict compliance with all Applicable Laws.

2436 In the event that Contractor negligently or willfully mishandles Excluded Waste in the course of
2437 carrying out its activities under this Agreement, Contractor shall at its sole expense promptly take
2438 all investigatory and/or remedial action reasonably required for the remediation of such
2439 environmental contamination. Prior to undertaking any investigatory or remedial action,
2440 however, Contractor shall first obtain City’s approval of any proposed investigatory or remedial
2441 action. Should Contractor fail at any time to promptly take such action, City may undertake such
2442 action at Contractor’s sole cost and expense, and Contractor shall reimburse City for all such
2443 expenses within thirty (30) calendar days of being billed for those expenses, and any amount not
2444 paid within that thirty (30) calendar day period shall thereafter be deemed delinquent and subject
2445 to the delinquent fee payment provision of Section 7.3. These obligations are in addition to any

2446 defense and indemnity obligations that Contractor may have under this Agreement. The
2447 provisions of this Section shall survive the termination or expiration of this Agreement.

2448 Notwithstanding the foregoing, Contractor's duties under this subsection shall not extend to any
2449 claims arising from the Disposal of Solid Waste at the Approved Transfer Facility or Disposal
2450 Facility that accepted Solid Waste from the Approved Transfer Facility, including, but not limited
2451 to, claims arising under Comprehensive Environmental Response, Compensation and Liability Act
2452 (CERCLA) unless such claim is a direct result of Contractor's negligence or willful misconduct.

2453 **C. Environmental Indemnity.** Contractor shall defend, indemnify, and hold City harmless against
2454 and from any and all claims, suits, losses, penalties, damages, and liability for damages of every
2455 name, kind and description, including reasonable attorneys' fees and costs incurred, attributable
2456 to the negligence or willful misconduct of Contractor in handling Excluded Waste.

2457 **D. Related to AB 939, AB 341, AB 1826, AB 1594 and SB 1383.** Contractor's duty to defend and
2458 indemnify herein includes all fines and/or penalties imposed by CalRecycle if the requirements of
2459 AB 939, AB 341, AB 1826, AB 1594 and/or SB 1383 are not met by the City with respect to the
2460 materials Collected under this Agreement and/or Contractor's other obligations under this
2461 Agreement, and such failure is: (i) due to the failure of Contractor to meet its obligations under
2462 this Agreement; or, (ii) due to Contractor delays in providing information that prevents Contractor
2463 or the City from submitting reports to regulators in a timely manner.

2464 Notwithstanding any other provision in this Agreement, Contractor's obligations with respect to
2465 the Diversion requirements set forth in this Agreement and any Diversion requirements under
2466 State Law shall be subject to the provisions of Section 40059.1 of the Public Resources Code, and
2467 Contractor shall not be liable for any indemnity obligations or penalties under this Agreement in
2468 respect of any such requirements except to the extent that indemnity obligations by Contractor
2469 are enforceable under said Section.

2470 **E. Related to Proposition 218.** Should there be a Change in Law or a new judicial interpretation of
2471 Applicable Law, including, but not limited to, Article XIII C and D of the California Constitution
2472 (Commonly Proposition 218), which impacts the Rates for the Collection services established in
2473 accordance with this Agreement, Contractor agrees to meet and confer with City to discuss the
2474 impact of such Change in Law on either Party's ability to perform under this Agreement.

2475 If, at any time, a Rate adjustment determined to be appropriate by both City (which determination
2476 shall not be unreasonably withheld) and Contractor to compensate Contractor for increases in
2477 costs as described in this Agreement cannot be implemented for any reason, Contractor shall be
2478 granted the option to negotiate with City, in good faith, a reduction of services equal to the value
2479 of the Rate adjustment that cannot be implemented. If City and Contractor are unable to reach
2480 agreement about such a reduction in services, then Contractor may terminate this Agreement
2481 upon one hundred eighty (180) calendar days prior written notice to City, in which case the
2482 Contractor and City shall each be entitled to payment of amounts due for contract performance
2483 through the date of termination but otherwise will have no further obligation to one another
2484 pursuant to this Agreement after the date of such termination. Should a court of competent
2485 jurisdiction determine that the Contractor cannot charge and/or increase its Rates for charges
2486 related to Franchise Fees, other City fees or payments to City, and governmental fees and charges,
2487 Contractor shall reduce the Rates it charges Customers a corresponding amount and shall be
2488 relieved from paying such Franchise Fees, fees or charges, provided that said fees, Rates and/or

2489 charges disallowed by the court were determined not to be related to the cost of providing service
2490 hereunder and had been incorporated in the Rates charged by Contractor to its Customers.

2491 Nothing herein is intended to imply that California Constitution, Articles XIII C or XIII D, apply to the
2492 Rates established for services provided under this Agreement; rather this Section is provided
2493 merely to allocate risk of an adverse judicial interpretation between the Parties.

2494 This provision (i.e., Section 9.1) shall survive the expiration or earlier termination of this
2495 Agreement and shall not be construed as a waiver of rights by City to contribution or indemnity
2496 from third parties.

2497 **F. Survival of Provisions.** Section 9.1 will survive the expiration or earlier termination of this
2498 Agreement and shall not be construed as a waiver of rights by City to contribution or indemnity
2499 from third parties.

2500 **9.2 Insurance**

2501 **A. General Requirements.** Contractor/Subcontractor shall, at its sole cost and expense, maintain in
2502 effect at all times during the Term of this Agreement not less than the following coverage and
2503 limits of insurance:

2504 **B. Coverages and Requirements.** During the Term of this Agreement, Contractor/Subcontractor
2505 shall at all times maintain, at its expense, the following coverages and requirements. The
2506 comprehensive general liability insurance shall include broad form property damage insurance.

2507 1. Minimum Coverages. Insurance coverage shall be with limits not less than the following:

2508 **Commercial General Liability** – \$10,000,000 combined single limit per occurrence for bodily
2509 injury, personal injury, and property damage.

2510 **Automobile Liability** – \$10,000,000 combined single limit per accident for bodily injury and
2511 property damage (include coverage for hired and non-owned vehicles).

2512 **Workers' Compensation** – Statutory Limits/Employers' Liability - \$1,000,000/accident for
2513 bodily injury or disease.

2514 **Blanket Fidelity/Crime Policy** – \$500,000 per event covering the City for any and all acts
2515 including, but not limited to, dishonesty, forgery, alteration, theft, disappearance, and
2516 destruction (inside or outside).

2517 General Liability and Auto Liability Limits of Insurance may be satisfied by a combination of
2518 primary and umbrella or excess insurance.

2519 2. Additional Insured. City, its officers, agents, employees, and volunteers shall be named as
2520 additional insured on all but the workers' compensation and Blanket Fidelity/Crime Policy
2521 coverages.

2522 3. Said policies shall remain in force through the life of this Agreement and, with the exception
2523 of professional liability coverage, shall be payable on a "per occurrence" basis unless City's
2524 Risk Manager specifically consents in writing to a "claims made" basis. For all "claims made"
2525 coverage, in the event that the Contractor/Subcontractor changes insurance carriers
2526 Contractor/Subcontractor shall purchase "tail" coverage or otherwise provide for continuous
2527 coverage covering the Term of this Agreement and not less than three (3) years thereafter.

2528 Proof of such “tail” or other continuous coverage shall be required at any time that the
2529 Contractor/Subcontractor changes to a new carrier prior to receipt of any payments due.

2530 4. The Contractor/Subcontractor shall declare all aggregate limits on the required coverage are
2531 in place before commencing performance of this Agreement and are available throughout
2532 the performance of this Agreement.

2533 Each insurance policy required by this clause shall be endorsed to state that coverage shall
2534 not be canceled by either party, except after thirty (30) days’ prior written notice (10 days
2535 for non-payment) by certified mail, return receipt requested, has been given to the City. If
2536 Contractor’s insurer refuses to provide this endorsement, Contractor shall be responsible for
2537 providing written notice to the City that coverage will be canceled thirty (30) days after the
2538 date of the notice or ten (10) days for non-payment.

2539 5. The deductibles or self-insured retentions are for the account of Contractor/Subcontractor
2540 and shall be the sole responsibility of the Contractor/Subcontractor.

2541 6. Contractor shall furnish the City with original certificates and amendatory endorsements
2542 effecting coverage required by this clause. The endorsements should be on insurance
2543 industry forms, provided those endorsements or policies conform to the contract
2544 requirements. All certificates and endorsements are to be received and approved by the City
2545 before work commences. “The City reserves the right to require complete copies of all
2546 required insurance policies, including endorsements evidencing the coverage required by
2547 these specifications. The Contractor shall be allowed to redact information that it considers
2548 confidential”.

2549 7. The Certificate with endorsements and notices shall be mailed to: City of Milpitas, Attention:
2550 Purchasing, 455 East Calaveras Boulevard, Milpitas California, 95035-5411.7.

2551 Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A-VII,
2552 unless otherwise approved by City Risk Manager.

2553 8. The policies shall cover all activities of Contractor/Subcontractor, its officers, employees,
2554 agents and volunteers arising out of or in connection with this Agreement.

2555 9. For any claims relating to this Agreement, the Contractor/Subcontractor’s insurance
2556 coverage shall be primary, including as respects City, its officers, agents, employees, and
2557 volunteers. Any insurance maintained by City shall apply in excess of, and not contribute to,
2558 coverage provided by Contractor/Subcontractor’s liability insurance policy.

2559 10. The Contractor/Subcontractor shall waive, by evidenced endorsement to the policy, all rights
2560 of subrogation against City, its officers, employees, agents, and volunteers.

2561 **C. Endorsements.** Prior to the Effective Date pursuant to this Agreement, Contractor/Subcontractor
2562 shall furnish City Contract Manager with certificates or original endorsements reflecting coverage
2563 required by this Agreement. The certificates or endorsements are to be signed by a Person
2564 authorized by that insurer to bind coverage on its behalf. All certificates or endorsements are to
2565 be received by, and are subject to the approval of, City Risk Manager before work commences.

2566 **D. Renewals.** During the Term of this Agreement, Contractor/Subcontractor shall furnish City
2567 Contract Manager with certificates or original endorsements reflecting renewals, changes in
2568 insurance companies, and any other documents reflecting the maintenance of the required
2569 coverage throughout the entire Term of this Agreement. The certificates or endorsements are to
2570 be signed by a Person authorized by that insurer to bind coverage on its behalf.

2571 E. **Workers' Compensation.** Contractor/Subcontractor shall provide workers' compensation
2572 coverage as required by State law, and prior to the Effective Date pursuant to this Agreement,
2573 Contractor/Subcontractor shall file the following statement with City.

2574 "I am aware of the provisions of Paragraph 3700 of the Labor Code that require every employer
2575 to be insured against liability for workers' compensation or to undertake self-insurance in
2576 accordance with the provisions of that code, and I will comply with such provisions before
2577 commencing any services required by this Agreement."

2578 "Contractor agrees to include in their subcontract the same requirements and provisions of this
2579 agreement including the indemnity and insurance requirements to the extent they apply to the
2580 scope of the Subcontractor's work. Subcontractors hired by Contractor agree to be bound to
2581 Contractor and City in the same manner and to the same extent as Contractor is bound to City
2582 under the Contract Documents. Subcontractor further agrees to include these same provisions
2583 with any Sub-subcontractor. A copy of the Contract/Agreement and Insurance Provisions will be
2584 furnished to the Subcontractor. The Contractor shall require all Subcontractor's to provide a valid
2585 certificate of insurance and the required endorsements included in the agreement prior to
2586 commencement of any work and will provide proof of compliance to the City."

2587 "The Person executing this Certificate on behalf of Contractor/Subcontractor affirmatively
2588 represents that she/he has the requisite legal authority to do so on behalf of
2589 Contractor/Subcontractor, and both the Person executing this Agreement on behalf of
2590 Contractor/Subcontractor and Contractor/Subcontractor understand that City is relying on this
2591 representation in entering into this Agreement."

2592 **9.3 Performance Bond**

2593 The highlighted text below will be replaced with three months of projected initial revenues based on the
2594 Council-selected option.

2595 Within seven (7) calendar days of the City's notification to Contractor that the City has executed this
2596 Agreement, Contractor shall file with the City a bond, payable to the City, securing the Contractor's
2597 performance of its obligations under this Agreement and such bond shall be renewed annually if necessary
2598 so that the performance bond is maintained at all times during the Term. The principal sum of the bond
2599 shall be _____ dollars (\$) and shall be adjusted every three (3) years, commencing with Rate
2600 Period Three, to equal three (3) months of the prior Rate Period's annual Gross Receipts. The bond shall
2601 be executed as surety by a corporation authorized to issue surety bonds in the State of California that has
2602 a rating of A or better in the most recent edition of Best's Key Rating Guide, and that has a record of
2603 service and financial condition satisfactory to the City. The bond shall be in the form attached as Exhibit J.

2604 As an alternative to the performance bond required above, at City's option, Contractor may deposit with
2605 City a fully prepaid irrevocable letter of credit for at least the duration of the Contract Year for which the
2606 letter of credit is deposited. Such letter of credit shall be in the amount of _____ dollars (\$_____). The
2607 form of the letter of credit and the issuer of the letter of credit are subject to the approval of City's Risk
2608 Manager and the City Attorney. Nothing in this Section 9.3 shall in any way obligate City to accept a letter
2609 of credit in lieu of the performance bond.

2610 City shall have the right to draw against the faithful performance bond or the letter of credit in the event
2611 of a breach or default of Contractor or the failure of Contractor to perform fully any obligation under this

2612 Agreement. Within five (5) calendar days of receipt of notice from City, Contractor shall renew or replace
2613 such sums of money as needed to bring the faithful performance bond or letter of credit current.

2614 **9.4 Reserved**

2615 **9.5 Emergency Conditions**

2616 The City Manager may declare the existence of an Emergency Condition and shall provide notice as soon
2617 as practicable to Contractor of said declaration. Within 72 hours an emergency meeting of the City Council
2618 shall be scheduled and consideration of the continuation of an Emergency Condition shall be heard by the
2619 City Council. The City Council shall, by resolution, declare the continued existence of the emergency
2620 condition, if appropriate, and transmit a certified copy of the resolution to Contractor.

2621 As used in this Article 9, "Emergency Condition" means the declaration of a State of Emergency by the
2622 City Manager or the City Council resulting from a major disaster or in or proximate to the City.

2623 **A. Emergency Operations**

2624 The Parties acknowledge that either temporary cessation or cessation of indeterminate duration of the
2625 services to be provided by Contractor hereunder may result in conditions detrimental to the public health,
2626 safety and welfare and that, in order to protect the public, invoking the extraordinary provisions of this
2627 section may be necessary. From and after the declaration of the existence of an Emergency Condition,
2628 City or the designee of City (irrespective of whether such designee is another public agency or privately-
2629 owned entity) may assume and carry out, as the "Emergency Operator", any or all Collection operations
2630 of Contractor hereunder. During the period of the Emergency Condition exists all revenues which, but for
2631 the Emergency Condition, would accrue hereunder to Contractor, shall instead accrue and be payable to
2632 the Emergency Operator.

2633 **B Use of Contractor's Facilities**

2634 Upon the declaration of the existence of an Emergency Condition pursuant to this Section, Contractor
2635 shall make available and relinquish to the Emergency Operator all of Contractor's operable vehicles,
2636 equipment, and other facilities necessary or convenient for providing Collection in the Service Area.
2637 Further, Contractor shall provide the Emergency Operator access, and/or rights of access, to such transfer
2638 station facilities and/or Disposal or Processing facilities available to, or under the control of, Contractor
2639 for the transferring and disposal of Discarded Materials, and Contractor shall, to the extent it possesses
2640 rights to use such transfer, Disposal, or Processing facilities, assign such rights to the Emergency Operator
2641 for use during the existence of the Emergency Condition. Notwithstanding the foregoing provisions of this
2642 section, the use of Contractor's vehicles, equipment, and other facilities and the assignment of rights to
2643 Contractor shall, in the case of Contractor's insolvency, bankruptcy or other adverse financial condition,
2644 be subject to the provisions of the United States Bankruptcy Act (11 U.S.C. §§101 et seq.) to the extent
2645 applicable. During the existence of an Emergency Condition the Emergency Operator shall operate,
2646 maintain and repair, and adequately insure, without cost to Contractor, Contractor's vehicles, equipment
2647 and other facilities used by it. Upon the cessation of the Emergency Condition the right to use such
2648 vehicles, equipment and facilities shall expire and the Emergency Operator shall return said vehicles,
2649 equipment and facilities to Contractor in a condition substantially the same as that which existed upon
2650 acquiring said vehicles, equipment and facilities, ordinary wear and tear excepted.

2651 **C. Indemnification**

2652 In the event that an Emergency Operator appointed by City utilizes any facilities and/or equipment of
2653 Contractor, City shall defend, indemnify and hold harmless Contractor and its affiliates from and against
2654 any and all losses, expenses, liens, claims, demands and causes of action of every kind and character
2655 (excluding those based upon the sole active or passive negligence or willful misconduct of Contractor, its
2656 officers, employees and agents) for death, personal injury, property damage or any other liability or
2657 damages, including costs, reasonable attorney's fees, and settlements arising out of, or in connection
2658 with, the use of Contractor's facilities and/or equipment.

2659 **D. Cessation of Emergency**

2660 At any time after the Emergency Operator has commenced the Collection of Discarded Materials, City
2661 may hold a hearing on the question of the cessation of the Emergency Condition upon giving not less than
2662 forth-eight (48) hours' prior written notice to Contractor and the Emergency Operator. At the hearing
2663 Contractor, the Emergency Operator, and any and all interested persons shall be given the opportunity to
2664 be heard on the question aforesaid. Upon the conclusion of the hearing, City shall determine if the
2665 Emergency Condition has ceased. If it is determined that the Emergency Condition has ceased, the City
2666 Council shall, by resolution, declare the cessation of the Emergency Condition, and transmit a certified
2667 copy of the resolution to Contractor.

2668 **E. Resumption of Service**

2669 Upon the declaration of cessation of the Emergency Condition, the Emergency Operator shall return to
2670 Contractor its vehicles, equipment, and other facilities acquired and used by it. Further, upon the
2671 declaration of cessation of the Emergency Condition, and unless City has terminated this Agreement
2672 pursuant to Article 10, Contractor shall recommence its operations hereunder and shall perform all of its
2673 duties and obligations in accordance with the provisions hereof, and shall be entitled to all of its rights
2674 hereunder, including accrual of revenues for its benefit, from and after the date upon which the
2675 Emergency Condition shall be deemed to have ceased.

2676 **F. Limitation**

2677 Notwithstanding anything herein contained to the contrary, no Emergency Condition shall exist for more
2678 than 180 consecutive days. Upon the expiration of said 180 days, and unless the Emergency Condition has
2679 ceased prior thereto, this Agreement shall terminate. In the event of such termination no rights shall
2680 accrue to Contractor under this Agreement from and after the date of termination.

2681 **G. City Termination of Agreement**

2682 Notwithstanding the provisions of Section 9.5.E., if, upon the cessation of the Emergency Condition, the
2683 City Council determines that Contractor is not substantially able to perform its duties and obligations
2684 hereunder due to the effects of the Emergency Condition, the City Council may declare this Agreement
2685 terminated effective upon the date of the cessation of the Emergency Condition. In the event of such
2686 termination no rights shall accrue to Contractor under this Agreement from and after the date of
2687 termination.

2688 **9.6 Disaster Operations**

2689 **A. Availability of Contractor’s Personnel and Equipment**

2690 In event of wartime, natural, physical or other disaster in or proximate to the City Limits resulting in the
2691 declaration of a State of Emergency by the City Manager or City Council, Contractor shall make available
2692 to City, at no cost to City, all equipment, vehicles, and/or personnel normally performing services under
2693 this Agreement, for emergency operations conducted or directed by the City.

2694 **B. Temporary Possession and Employment**

2695 City shall have the right to take temporary possession of all such vehicles and equipment made available
2696 by Contractor, and to temporarily employ all such Contractor personnel as emergency operations forces
2697 of City, under the direction and control of the City.

2698 **C Use of Additional Equipment**

2699 Contractor may make available, in addition to the vehicles, equipment, and personnel provided in Section
2700 9.6.A above, equipment, vehicles, and personnel from those Contractor operations and resources not
2701 otherwise serving City pursuant to this Agreement, to the extent necessary to conduct effective Discarded
2702 Materials Collection and removal services during any declared State of Emergency, subject to the direction
2703 and control of the City.

2704 **D. Reimbursement**

2705 City shall not be required to compensate Contractor in any manner or form for Contractor’s provision of
2706 Equipment, vehicles, or personnel normally performing services under this Agreement within the City
2707 Limits, when made available during a declared State of Emergency. When additional equipment, vehicles,
2708 or personnel are provided during such an emergency, pursuant to Section 9.6.C above, City shall
2709 compensate Contractor for actual expenses incurred by Contractor in providing such equipment, vehicles,
2710 and/or personnel upon submission by Contractor to City of detailed records of costs and expenses actually
2711 borne by Contractor, and upon approval by the appropriate Federal agency of City’s reimbursement of
2712 expenses incurred by Contractor during such State of Emergency.

2713 **E. Indemnity**

2714 In the event of a declared State of Emergency during which City takes possession of and utilizes the
2715 equipment, vehicles and/or personnel of Contractor pursuant to this Section 9.6, City agrees to indemnify
2716 and defend Contractor and its officers, directors, agents, and employees, and hold such parties harmless
2717 against all actions, suits, liabilities, costs, and expenses (including reasonable attorneys’ fees and costs of
2718 defense) arising out of or related to City’s possession and operation of all Contractor’s equipment,
2719 vehicles, and facilities utilized by City to render services during any such State of Emergency.

2720

ARTICLE 10. DEFAULT AND REMEDIES

2721 **10.1 Events of Default**

2722 All provisions of the Agreement are considered material. Each of the following shall constitute an event
2723 of default.

2724 **A. Fraud or Deceit.** Contractor practices, or attempts to practice, any fraud or deceit upon the City.

2725 **B. Insolvency or Bankruptcy.** Contractor becomes insolvent, unable, or unwilling to pay its debts,
2726 or upon entry of an order for relief in favor of Contractor in a bankruptcy proceeding.

2727 **C. Failure to Maintain Coverage.** Contractor fails to provide or maintain in full force and affect the
2728 Workers' Compensation, liability, or indemnification coverage as required by this Agreement.

2729 **D. Violations of Regulation.** Contractor violates any orders or filings of any regulatory body having
2730 authority over Contractor relative to this Agreement, provided that Contractor may contest any
2731 such orders or filings by appropriate proceedings conducted in good faith, in which case no breach
2732 or default of this Agreement shall be deemed to have occurred.

2733 **E. Violations of Applicable Law.** Contractor is found in violation of Applicable Law relative to this
2734 Agreement. Contractor may contest any alleged violations by appropriate proceedings conducted
2735 in good faith, in which case no breach or default of this Agreement shall be deemed to have
2736 occurred until Contractor has been found in violation by an authority with jurisdiction over the
2737 issue in question. During the pendency of any appeals of violations related to: i) felonious acts, ii)
2738 fraud related to the performance of this Agreement, or iii) any violations of law related to
2739 inappropriate conduct between Contractor and a public official, the City may require Contractor
2740 to reassign any particular individuals in question such that they are not involved in management
2741 or provision of service in the City.

2742 **F. Failure to Perform Direct Services.** Contractor ceases to provide Collection, Transportation, or
2743 Processing services as required under this Agreement for a period of two (2) consecutive calendar
2744 days or more, for any reason within the control of Contractor.

2745 **G. Failure to Pay or Report.** Contractor fails to make any payments to City required under this
2746 Agreement including payment of City fees or Liquidated Damages and/or refuses to provide City
2747 with required information, reports, and/or records in a timely manner as provided for in the
2748 Agreement.

2749 **H. Acts or Omissions.** Any other act or omission by Contractor which violates the terms, conditions,
2750 or requirements of this Agreement, AB 939, as it may be amended from time to time, or any law,
2751 statute, ordinance, order, directive, rule, or regulation issued there under and which is not
2752 corrected or remedied within the time set in the written notice of the violation or, if Contractor
2753 cannot reasonably correct or remedy the breach within the time set forth in such notice, if
2754 Contractor should fail to commence to correct or remedy such violation within the time set forth
2755 in such notice and diligently effect such correction or remedy thereafter.

2756 **I. False, Misleading, or Inaccurate Statements.** Any representation or disclosure made to the City
2757 by Contractor in connection with or as an inducement to entering into this Agreement, or any
2758 future amendment to this Agreement, which proves to be false or misleading in any material
2759 respect as of the time such representation or disclosure is made, whether or not any such
2760 representation or disclosure appears as part of this Agreement; and, any Contractor-provided

2761 report containing a misstatement, misrepresentation, data manipulation, or an omission of fact
2762 or content explicitly defined by the Agreement, excepting non-numerical typographical and
2763 grammatical errors.

2764 **J. Seizure or Attachment.** There is a seizure of, attachment of, or levy on, a substantial part or all
2765 of Contractor's operating equipment, including without limits its equipment, maintenance or
2766 office facilities, Approved Facility(ies), or any part thereof.

2767 **K. Suspension or Termination of Service.** Except as set forth in Section 10.7 hereof, there is any
2768 termination or suspension of the transaction of business by Contractor related to this Agreement,
2769 including without limit, due to labor unrest by Contractor's employees, including strike, work
2770 stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more than two
2771 (2) calendar days.

2772 **L. Criminal Activity.** Contractor, its officers, managers, or employees are found guilty of criminal
2773 activity related directly or indirectly to performance of this Agreement or any other agreement
2774 held with the City.

2775 **M. Assignment without Approval.** Contractor transfers or assigns this Agreement without the
2776 expressed written approval of the City unless the assignment is permitted without City approval
2777 pursuant to Section 12.6.

2778 **N. Failure to Provide Proposal or Implement Change in Service.** Contractor fails to provide a
2779 proposal for new services or changes to services or fails to implement a change in service as
2780 requested by the City as specified in Section 3.9.

2781 **O. Failure to Perform Any Obligation.** Contractor fails to perform any obligation established under
2782 this Agreement.

2783 City shall provide Contractor written notice of default within seven (7) calendar days of the occurrence of
2784 default or within seven (7) calendar days of the City's first knowledge of the Contractor's default,
2785 whichever occurs first.

2786 **10.2 Right to Terminate Upon Event of Default**

2787 Contractor shall be given ten (10) Business Days from written notification by City to cure any default
2788 which, in the City Contract Manager's sole opinion, creates a potential public health and safety threat.

2789 Contractor shall be given ten (10) Business Days from written notification by City to cure any default
2790 arising under subsections C, E, F, I, J, and K in Section 10.1 provided, however, that the City shall not be
2791 obligated to provide Contractor with a notice and cure opportunity if the Contractor has committed the
2792 same or similar breach/default within a twenty-four (24) month period.

2793 Contractor shall be given thirty (30) calendar days from written notification by City to cure any other
2794 default (which is not required to be cured within ten (10) Business Days); however, that the City shall not
2795 be obligated to provide Contractor with a notice and cure opportunity if the Contractor has committed
2796 the same or similar breach/default within a twenty-four (24) month period.

2797 **10.3 City's Remedies in the Event of Default**

2798 In the event of Contractor's default, City maintains following remedies:

2799 **A. Waiver of Default.** City may waive any event of default or may waive Contractor’s requirement
2800 to cure a default event if City determines that such waiver would be in the best interest of the
2801 City. City’s waiver of an event of default is not a waiver of future events of default that may have
2802 the same or similar conditions.

2803 **B. Suspension of Contractor’s Obligation.** City may suspend Contractor’s performance of its
2804 obligations if Contractor fails to cure default in the time frame specified in Section 10.2 until such
2805 time the Contractor can provide assurance of performance in accordance with Section 10.8.

2806 **C. Liquidated Damages.** City may assess Liquidated Damages for Contractor’s failure to meet
2807 specific performance standards pursuant to Section 10.6 and Exhibit E.

2808 **D. Termination.** In the event that Contractor should default and subject to the right of the
2809 Contractor to cure, in the performance of any provisions of this contract, and the default is not
2810 cured for any default within in ten (10) calendar days if the default creates a potential public
2811 health and safety threat or arises under Section 10.1.C., E, F, I, J, or K, or otherwise thirty (30)
2812 calendar days after receipt of written notice of default from the City, then the City may, at its
2813 option, terminate this Agreement and/or hold a hearing at its City Council meeting to determine
2814 whether this Agreement should be terminated. In the event City decides to terminate this
2815 Agreement, the City shall serve twenty (20) calendar days written notice of its intention to
2816 terminate upon Contractor. In the event City exercises its right to terminate this Agreement, the
2817 City may, at its option, upon such termination, either directly undertake performance of the
2818 services or arrange with other Persons to perform the services with or without a written
2819 agreement. This right of termination is in addition to any other rights of City upon a failure of
2820 Contractor to perform its obligations under this Agreement.

2821 Contractor shall not be entitled to any further Gross Receipts or other revenues from Collection
2822 operations authorized hereunder from and after the date of termination.

2823 **E. Other Available Remedies.** City’s election of one (1) or more remedies described herein shall not
2824 limit the City from any and all other remedies at law and in equity including injunctive relief, etc.

2825 **10.4 Possession of Records Upon Termination**

2826 In the event of termination for an event of default, the Contractor shall furnish City Contract Manager
2827 with immediate access to all of its business records, including without limitation, proprietary Contractor
2828 computer systems, related to its Customers, Collection routes, and billing of accounts for Collection
2829 services.

2830 **10.5 City’s Remedies Cumulative; Specific Performance**

2831 City’s rights to terminate the Agreement under Section 10.2 and to take possession of the Contractor’s
2832 records under Section 10.4 are not exclusive, and City’s termination of the Agreement and/or the
2833 imposition of Liquidated Damages shall not constitute an election of remedies. Instead, these rights shall
2834 be in addition to any and all other legal and equitable rights and remedies which City may have.

2835 By virtue of the nature of this Agreement, the urgency of timely, continuous, and high quality service; the
2836 lead time required to effect alternative service; and, the rights granted by City to the Contractor, the
2837 remedy of damages for a breach hereof by Contractor is inadequate and City shall be entitled to injunctive
2838 relief (including but not limited to specific performance).

2839 **10.6 Performance Standards and Liquidated Damages**

2840 **A. General.** The Parties find that as of the time of the execution of this Agreement, it is impractical,
2841 if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City
2842 as a result of a breach by Contractor of its obligations under this Agreement. The factors relating
2843 to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i)
2844 substantial damage results to members of the public who are denied services or denied quality or
2845 reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of
2846 the benefits of the Agreement to individual members of the general public for whose benefit this
2847 Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of
2848 measurement in precise monetary terms; (iii) that exclusive services might be available at
2849 substantially lower costs than alternative services and the monetary loss resulting from denial of
2850 services or denial of quality or reliable services is impossible to calculate in precise monetary
2851 terms; and, (iv) the termination of this Agreement for such breaches, and other remedies are, at
2852 best, a means of future correction and not remedies which make the public whole for past
2853 breaches.

2854 **B. Service Performance Standards; Liquidated Damages for Failure to Meet Standards.** The Parties
2855 further acknowledge that provision of all services specified in this Agreement in a consistent,
2856 reliable manner is of utmost importance to City and that City has considered and relied on
2857 Contractor's representations as to its quality of service commitment in awarding the Agreement
2858 to it. The Parties recognize that some quantified standards of performance are necessary and
2859 appropriate to ensure consistent and reliable service and performance. The Parties further
2860 recognize that if Contractor fails to achieve the performance standards, or fails to submit required
2861 documents in a timely manner, City and its residents and businesses will suffer damages, and that
2862 it is, and will be, impractical and extremely difficult to ascertain and determine the exact amount
2863 of damages which City will suffer. Therefore, without prejudice to City's right to treat such non-
2864 performance as an event of default under this Section, the Parties agree that the Liquidated
2865 Damages amounts established in Exhibit E of this Agreement and the Liquidated Damage amounts
2866 therein represent a reasonable estimate of the amount of such damages considering all of the
2867 circumstances existing on the Effective Date of this Agreement, including the relationship of the
2868 sums to the range of harm to City that reasonably could be anticipated and the anticipation that
2869 proof of actual damages would be costly or impractical.

2870 Contractor agrees to pay (as Liquidated Damages and not as a penalty) the amounts set forth in
2871 the Performance Standards and Liquidated Damages, Exhibit E.

2872 Before assessing Liquidated Damages, City shall give Contractor notice of its intention to do so.
2873 The notice will include a brief description of the incident(s) and non-performance. City may review
2874 (and make copies at its own expense) all information in the possession of Contractor relating to
2875 incident(s) and/or non-performance. City may, within ten (10) Business Days after issuing the
2876 notice, request a meeting with Contractor. City may present evidence of non-performance in
2877 writing and through testimony of its employees and others relevant to the incident(s) and non-
2878 performance. City Contract Manager will provide Contractor with a written explanation of their
2879 determination on each incident(s) and non-performance prior to authorizing the assessment of
2880 Liquidated Damages under this Section 10.6. Within ten (10) Business Days of receipt of such
2881 determination of assessment of Liquidated Damages, or within forty (40) Business Days if the
2882 assessment totals over \$30,000, in such case, no liquidated damages over \$30,000 may be
2883 imposed on Contractor until Contractor has been given a reasonable opportunity to respond to

2884 allegations and to meet and confer with City Manager. In such case, the decision of City Manager
2885 shall be final and Contractor shall not be subject to, or required to exhaust, any further
2886 administrative remedies. Should Contractor not exercise its right to meet and confer with the City
2887 Manager, the decision of City Contract Manager shall be final.

2888 Except as otherwise noted in Exhibit E, all Liquidated Damages shall apply during the transition
2889 period beginning ninety (90) days prior to, and ending ninety (90) days after the Commencement
2890 Date.

2891 **C. Two-Phase Performance Management.** The Parties desire to minimize the time and cost involved
2892 in monitoring Contractor’s performance under this Agreement, particularly with regard to the
2893 assessment of Liquidated Damages. Exhibit E to this Agreement identifies each “Performance
2894 Area” for which the City desires to establish performance standards for this Agreement.
2895 Contractor’s performance within each “Performance Area” shall be primarily monitored using the
2896 “Performance Indicator” described for each. The City shall not assess Liquidated Damages for the
2897 “Specific Performance Measures” identified in Exhibit E unless Contractor fails to meet the
2898 minimum standard for the “Performance Indicator” within the same “Performance Area”.

2899 **D. Amount.** City may assess Liquidated Damages for each calendar day or event, as appropriate,
2900 that Contractor is determined to be liable in accordance with this Agreement in the amounts
2901 specified in Exhibit E subject to annual adjustment described below.

2902 **E. Timing of Payment.** Contractor shall pay any Liquidated Damages assessed by City within ten (10)
2903 Business Days of the date the Liquidated Damages are assessed. If they are not paid within the
2904 ten (10) Business Day period, City may proceed against the performance bond required by the
2905 Agreement, order the termination of the rights or “franchise” granted by this Agreement, or all of
2906 the above.

2907 **F. Repeated Failure to Meet Goals.** Should the City determine as provided in Section 6.3 that more
2908 than ten (10) Liquidated Damages have been assessed in the prior twelve (12) month period, the
2909 Liquidated Damages provided in Exhibit E shall be increased by one hundred percent (100 %) for
2910 the next twelve (12) month period.

2911 **10.7 Excuse from Performance**

2912 The Parties shall be excused from performing their respective obligations hereunder and from any
2913 obligation to pay Liquidated Damages if they are prevented from so performing by reason of floods,
2914 earthquakes, other acts of nature, war, terrorist activity, civil insurrection, riots, acts of any government
2915 (including judicial action), and other similar catastrophic events which are beyond the control of and not
2916 the fault of the Party claiming excuse from performance hereunder. In the case of labor unrest or job
2917 action directed at a third party over whom Contractor has no control, the inability of Contractor to provide
2918 services in accordance with this Agreement due to the unwillingness or failure of the third party to: (i)
2919 provide reasonable assurance of the safety of Contractor's employees while providing such services; or,
2920 (ii) make reasonable accommodations with respect to Container placement and point of Delivery, time of
2921 Collection, or other operating circumstances to minimize any confrontation with pickets or the number of
2922 Persons necessary to make Collections shall, to that limited extent, excuse performance. The foregoing
2923 excuse shall be conditioned on Contractor's cooperation in performing Collection services at different
2924 times and in different locations. Further, in the event of labor unrest, including but not limited to strike,
2925 work stoppage or slowdown, sickout, picketing, or other concerted job action conducted by the

2926 Contractor's employees or directed at the Contractor, or a subsidiary, the Contractor shall not be excused
2927 from performance. In such case, Contractor shall continue to provide a reasonably satisfactory level of
2928 performance during the pendency thereof, but the Contractor shall not be required to adhere strictly to
2929 the specific requirements of this Agreement regarding routes, Collection times or similar matters;
2930 provided, however, that in no event shall more than seven (7) calendar days elapse between pickups for
2931 Residential and Commercial Customers.

2932 The Party claiming excuse from performance shall, within two (2) calendar days after such Party has notice
2933 of such cause, give the other Party notice of the facts constituting such cause and asserting its claim to
2934 excuse under this Section.

2935 If either Party validly exercises its rights under this Section, the Parties hereby waive any claim against
2936 each other for any damages sustained thereby.

2937 The partial or complete interruption or discontinuance of Contractor's services caused by one (1) or more
2938 of the events described in this Article shall not constitute a default by Contractor under this Agreement.
2939 Notwithstanding the foregoing, however, if Contractor is excused from performing its obligations
2940 hereunder for any of the causes listed in this Section for a period of thirty (30) calendar days or more, City
2941 shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10)
2942 Business Days' notice to Contractor, in which case the provisions of Section 10.4 shall apply.

2943 **10.8 Right to Demand Assurances of Performance**

2944 The Parties acknowledge that it is of the utmost importance to City and the health and safety of all those
2945 members of the public residing or doing business within City who will be adversely affected by interrupted
2946 waste management service, that there be no material interruption in services provided under this
2947 Agreement.

2948 If Contractor: (i) is the subject of any labor unrest including work stoppage or slowdown, sick-out,
2949 picketing or other concerted job action; (ii) appears in the reasonable judgment of City to be unable to
2950 regularly pay its bills as they become due; or, (iii) is the subject of a civil or criminal judgment or order
2951 entered by a Federal, State, regional or local agency for violation of an Applicable Law, and City believes
2952 in good faith that Contractor's ability to perform under the Agreement has thereby been placed in
2953 substantial jeopardy, City may, at its sole option and in addition to all other remedies it may have, demand
2954 from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form
2955 and substance as City believes in good faith is reasonably necessary in the circumstances to evidence
2956 continued ability to perform under the Agreement. If Contractor fails or refuses to provide satisfactory
2957 assurances of timely and proper performance in the form and by the date required by City, such failure or
2958 refusal shall be an event of default for purposes of Section 10.1.

2959 **ARTICLE 11. REPRESENTATIONS AND WARRANTIES**
2960 **OF THE PARTIES**

2961 The Parties, by acceptance of this Agreement, represents and warrants the conditions presented in this
2962 Article.

2963 **11.1 Contractor's Corporate Status**

2964 Contractor is a corporation duly organized, validly existing and in good standing under the laws of the
2965 State. It is qualified to transact business in the State and has the power to own its properties and to carry
2966 on its business as now owned and operated and as required by this Agreement.

2967 **11.2 Contractor's Corporate Authorization**

2968 Contractor has the authority to enter this Agreement and perform its obligations under this Agreement.
2969 The Board of Directors of Contractor (or the shareholders, if necessary) has taken all actions required by
2970 law, its articles of incorporation, its bylaws, or otherwise, to authorize the execution of this Agreement.
2971 The Person signing this Agreement on behalf of Contractor represents and warrants that they have
2972 authority to do so. This Agreement constitutes the legal, valid, and binding obligation of the Contractor.

2973 **11.3 Agreement Will Not Cause Breach**

2974 To the best of Contractor's and City's knowledge after reasonable investigation, the execution or delivery
2975 of this Agreement or the performance by either Party of their obligations hereunder does not conflict
2976 with, violate, or result in a breach: (i) of any Applicable Law; or, (ii) any term or condition of any judgment,
2977 order, or decree of any court, administrative agency or other governmental authority, or any agreement
2978 or instrument to which Contractor or City is a party or by which Contractor or any of its properties or
2979 assets are bound, or constitutes a default hereunder.

2980 **11.4 No Litigation**

2981 To the best of Contractor's and City's knowledge after reasonable investigation, there is no action, suit,
2982 proceeding or investigation, at law or in equity, before or by any court or governmental authority,
2983 commission, board, agency or instrumentality decided, pending or threatened against either Party
2984 wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would:

- 2985 A. Materially adversely affect the performance by Party of its obligations hereunder;
2986 B. Adversely affect the validity or enforceability of this Agreement; or,
2987 C. Have a material adverse effect on the financial condition of Contractor, or any surety or entity
2988 guaranteeing Contractor's performance under this Agreement.

2989 **11.5 No Adverse Judicial Decisions**

2990 To the best of Contractor's and City's knowledge after reasonable investigation, there is no judicial
2991 decision that would prohibit this Agreement or subject this Agreement to legal challenge.

2992 **11.6 No Legal Prohibition**

2993 To the best of each Party's knowledge, after reasonable investigation, there is no Applicable Law in effect
2994 on the date that Party signed this Agreement that would prohibit the performance of either their
2995 obligations under this Agreement and the transactions contemplated hereby.

2996 **11.7 Contractor's Ability to Perform**

2997 Contractor possesses the business, professional, and technical expertise to perform all services,
2998 obligations, and duties as described in and required by this Agreement including all Exhibits thereto.
2999 Contractor possesses the ability to secure equipment, facility, and employee resources required to
3000 perform its obligations under this Agreement.

3001 **11.8 Contractor's Rights and Obligations Regarding City's Disposal Contractor**

3002 Contractor has exercised due diligence to fully familiarize itself with its rights regarding, and obligations
3003 to the City's Disposal Contractor as enumerated in this Agreement and in the City's agreement with the
3004 Disposal Contractor. Such rights and obligations include but are not limited to: Disposal of Solid Waste
3005 intended for Disposal, Disposal of Residue from City-directed Processing of Solid Waste, and payment to
3006 the Disposal Contractor. Contractor warrants that it shall fully cooperate with City and Disposal Contractor
3007 in the event that there is a change in the Disposal Contractor and/or use of an Alternative Disposal Facility
3008 is required.

3009 **11.9 Contractor's Diligence in Coordinating with City of Sunnyvale**

3010 Contractor has exercised due diligence in coordinating with the City of Sunnyvale as necessary to ensure
3011 the accuracy of information contained in this Agreement and to effectuate the services as described
3012 herein.

3013 **ARTICLE 12. OTHER AGREEMENTS OF THE PARTIES**

3014 **12.1 Relationship of Parties**

3015 The Parties intend that Contractor shall perform the services required by this Agreement as an
3016 independent Contractor engaged by City and neither as an officer nor employee of City, nor as a partner
3017 or agent of, or joint venturer with, City. No employee or agent of Contractor shall be, or shall be deemed
3018 to be, an employee or agent of City. Contractor shall have the exclusive control over the manner and
3019 means of performing services under this Agreement, except as expressly provided herein. Contractor shall
3020 be solely responsible for the acts and omissions of its officers, employees, Subcontractors and agents.
3021 Neither Contractor nor its officers, employees, Subcontractors, or agents shall obtain any rights to
3022 retirement benefits, workers' compensation benefits, or any other benefits which accrue to City
3023 employees by virtue of their employment with City.

3024 **12.2 Compliance with Law**

3025 Contractor shall at all times, at its sole cost, comply with all Applicable Laws, permits and licenses of the
3026 United States, the State, County of Santa Clara, and City and with all applicable regulations promulgated
3027 by Federal, State, regional or local administrative and regulatory agencies, now in force and as they may
3028 be enacted, issued or amended during the Term.

3029 **12.3 Governing Law**

3030 This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the
3031 State.

3032 **12.4 Jurisdiction**

3033 Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the
3034 courts of Santa Clara County in the State of California, which shall have exclusive jurisdiction over such
3035 lawsuits. With respect to venue, the Parties agree that this Agreement is made in and will be performed
3036 in Santa Clara County.

3037 **12.5 Binding on Successors**

3038 The provisions of this Agreement shall inure to the benefit to and be binding on the successors and
3039 permitted assigns of the Parties.

3040 **12.6 Assignment**

3041 Contractor acknowledges that this Agreement involves rendering a vital service to City’s residents and
3042 businesses, and that City has selected Contractor to perform the services specified herein based on (i)
3043 Contractor’s experience, skill and reputation for conducting its operations in a safe, effective and
3044 responsible fashion, and (ii) Contractor’s and the Guarantor’s financial resources to maintain the required
3045 equipment and to support its indemnity obligations to City under this Agreement. City has relied on each
3046 of these factors, among others, in choosing Contractor to perform the services to be rendered by
3047 Contractor under this Agreement.

3048 **A. City Consent Required.** Contractor shall not assign its rights or delegate or otherwise transfer any
3049 or all of its obligations under this Agreement to any other Person without the prior written
3050 consent of City which may be withheld with or without cause at City’s sole discretion. City may
3051 refuse to consent to a proposed assignment unless it is satisfied that the proposed assignee is
3052 ready, willing and able to provide services in a manner equal to or better than Contractor. Any
3053 assignment made in violation of this Section 12.6.A shall be void and the attempted assignment
3054 shall constitute a Contractor default.

3055 **B. Assignment Defined.** For the purpose of this Section, “assignment” shall include, but not be
3056 limited to, (i) a documentary assignment of Contractor’s interest in, and obligations under, this
3057 Agreement; (ii) a sale, exchange or other transfer to a third Party of substantially all of
3058 Contractor’s assets dedicated to service under this Agreement; (iii) a sale, exchange or other
3059 transfer of over thirty percent (30%) of outstanding common stock of Contractor to a Person who
3060 is not a shareholder as of the Effective Date; (iv) any dissolution, reorganization, consolidation,
3061 merger, re-capitalization, stock issuance or reissuance, voting trust, pooling agreement, escrow
3062 arrangement, liquidation or other transaction which results in a change of ownership or control
3063 of Contractor (defined as more than thirty percent (30%) of the outstanding common stock); (v)
3064 any assignment by operation of law, including insolvency or bankruptcy, an assignment for the
3065 benefit of creditors, a writ of attachment for an execution being levied against this Agreement,
3066 appointment of a receiver taking possession of Contractor’s property, or transfer occurring in the
3067 event of a probate proceeding; and (vi) any combination of the foregoing (whether or not in

3068 related or contemporaneous transactions) which has the effect of any such transfer or change of
3069 ownership, or change of control of Contractor.

3070 **C. Consent Requirements.** No request by Contractor for consent to an assignment need be
3071 considered by City unless and until Contractor has met the following requirements:

3072 1. Contractor shall pay City its reasonable expenses for attorneys' fees, consultants' fees and
3073 other costs of investigation necessary to investigate the suitability of any proposed assignee,
3074 and to review and finalize any documentation required as a condition for approving any such
3075 assignment. With its written request for consideration of assignment, Contractor shall
3076 submit a non-refundable deposit to City in the amount of \$250,000 to provide City funding
3077 for its review of the assignment;

3078 2. Contractor shall be granted no opportunity to review or approve proposed agents of the City
3079 associated with assignment process;

3080 3. Contractor shall furnish City with audited financial statements of the proposed assignee's
3081 operations for the immediately preceding three (3) operating years. City, following review of
3082 financial health of the assignee, may require provision of additional performance surety, or
3083 insurance;

3084 4. Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at
3085 least ten (10) years of Solid Waste Transfer and Disposal management experience on a scale
3086 equal to or exceeding the scale of operations conducted by Contractor under this
3087 Agreement; (ii) that in the last five (5) years, the proposed assignee has not been the subject
3088 of any administrative or judicial proceedings initiated by a federal, State or local agency
3089 having jurisdiction over its operations due to an alleged failure to comply with federal, State
3090 or local laws or that the proposed assignee has provided City with a complete list of such
3091 proceedings and their status; (iii) that the proposed assignee conducts its operations in a
3092 safe and environmentally conscientious manner; (iv) that the proposed assignee conducts its
3093 operations in accordance with sound Solid Waste management practices in full compliance
3094 with all federal, State and local laws regulating the Transfer and Disposal of Solid Waste and
3095 all Environmental Laws; (v) of any other information required by City to ensure the proposed
3096 assignee can fulfill the terms of this Agreement in a timely, safe and effective manner; and

3097 5. Any permitted assignee must assume Contractor's responsibilities under this Agreement.

3098 6. Should City consent to the assignment, Contractor shall make an assignment payment to the
3099 City in the amount of 2% of the annual Gross Receipts for the services provided under this
3100 Agreement for the most recently completed calendar year.

3101 **D. No Obligation to Consider.** City will not be obligated to consider a proposed assignment if
3102 Contractor is in default.

3103 **E. Retention of Records.** Assignment of the Agreement in no way relieves Contractor of its record
3104 retention responsibilities under Section 6.1, nor of any and all other Contractor obligations that
3105 survive the Agreement.

3106 **12.7 No Third Party Beneficiaries**

3107 This Agreement is not intended to, and will not be construed to, create any right on the part of any third
3108 party to bring an action to enforce any of its terms.

3109 **12.8 Waiver**

3110 The waiver by either Party of any breach or violation of any provisions of this Agreement shall not be
3111 deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach of
3112 violation of the same or any other provision. The subsequent acceptance by either Party of any monies
3113 which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach
3114 or violation by the other Party of any provision of this Agreement.

3115 **12.9 Notice Procedures**

3116 All notices, demands, requests, proposals, approvals, consents, and other communications, which this
3117 Agreement requires, authorizes or contemplates, shall be in writing and shall either be personally
3118 delivered to a representative of the Parties at the address below or deposited in the United States mail,
3119 first class postage prepaid, addressed as follows:

3120 If communications to the City are notices of legal action or request for public information, such
3121 communication shall be directed to:

3122 City Clerk
3123 City of Milpitas
3124 455 East Calaveras Boulevard
3125 Milpitas, CA 95035

3126 All other communications shall be directed to:

3127 Director of Engineering/City Engineer
3128 City of Milpitas
3129 455 East Calaveras Boulevard
3130 Milpitas, CA 95035

3131
3132 If to Contractor:

3133 Louie Pellegrini, President
3134 Milpitas Sanitation, Inc.
3135 1080 Walsh Avenue
3136 Santa Clara, CA 95050

3137 The address to which communications may be delivered may be changed from time to time by a notice
3138 given in accordance with this Section. Notice shall be deemed given on the day it is personally delivered
3139 or, if mailed, three (3) calendar days from the date it is deposited in the mail.

3140 **12.10 Representatives of the Parties**

3141 References in this Agreement to the "City" shall mean the City's elected body and all actions to be taken
3142 by City except as provided below. The City may delegate, in writing, authority to the City Contract Manager
3143 and/or to other City officials and may permit such officials, in turn, to delegate in writing some or all of
3144 such authority to subordinate officers. The Contractor may rely upon actions taken by such delegates if
3145 they are within the scope of the authority properly delegated to them.

3146 The Contractor shall, by the Effective Date, designate in writing a responsible officer who shall serve as
3147 the representative of the Contractor in all matters related to the Agreement and shall inform City in
3148 writing of such designation and of any limitations upon his or her authority to bind the Contractor. City
3149 may rely upon action taken by such designated representative as actions of the Contractor unless they
3150 are outside the scope of the authority delegated to him/her by the Contractor as communicated to City.

3151 **ARTICLE 13. MISCELLANEOUS AGREEMENTS**

3152 **13.1 Entire Agreement**

3153 This Agreement is the entire agreement between the Parties with respect to the subject matter hereof
3154 and supersedes all prior and contemporaneous oral and written agreements and discussions. Each Party
3155 has cooperated in the drafting and preparation of this Agreement and this Agreement shall not be
3156 construed against any Party on the basis of drafting. This Agreement may be amended only by an
3157 agreement in writing, signed by each of the Parties hereto.

3158 **13.2 Section Headings**

3159 The article headings and section headings in this Agreement are for convenience of reference only and
3160 are not intended to be used in the construction of this Agreement nor to alter or affect any of its
3161 provisions.

3162 **13.3 References to Laws**

3163 All references in this Agreement to laws and regulations shall be understood to include such laws as they
3164 may be subsequently amended or recodified, unless otherwise specifically provided herein.

3165 **13.4 Amendments**

3166 This Agreement may not be modified or amended in any respect except in writing signed by the Parties.

3167 **13.5 Severability**

3168 If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable,
3169 the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this
3170 Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained
3171 herein.

3172 **13.6 Counterparts**

3173 This Agreement may be executed in counterparts, each of which shall be considered an original.

3174 **13.7 Exhibits**

3175 Each of the Exhibits identified as Exhibit "A" through "N" is attached hereto and incorporated herein and

3176 made a part hereof by this reference. In the event of a conflict between the terms of this Agreement and
3177 the terms of an Exhibit, the terms of this Agreement shall control.

3178 IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first
3179 above written.

3180

3181

3182

3183 ATTEST:

3184

3185 City CLERK

City of Milpitas ("City")

3186

3187 By _____

By _____

3188 City Clerk

City Manager

3189

3190 Date: _____

Date: _____

3191

3192

3193 APPROVED AS TO FORM:

3194

3195

3196 _____

3197 City Attorney

3198

3199 Date: _____

3200

3201

3202

3203

3204 APPROVED AS TO FORM:

Milpitas Sanitation, Inc. ("Contractor")

3205

3206 _____

By: _____

3207 Contractor Attorney

Louie Pellegrini

3208

President

3209

3210 Date: _____

Date: _____

EXHIBIT A: DEFINITIONS

1

2

EXHIBIT A DEFINITIONS

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

7 **“AB 341”** means the California Jobs and Recycling Act of 2011 (Chapter 476, Statutes of 2011 [Chesbro, AB
8 341]), also commonly referred to as **“AB 341”**, as amended, supplemented, superseded, and replaced
9 from time to time.

10 **“AB 939”** means the California Integrated Waste Management Act of 1989 (Division 30 of the California
11 Public Resources Code), also commonly referred to as **“AB 939,”** as amended, supplemented, superseded,
12 and replaced from time to time.

13 **“AB 1594”** means the 2014 act to amend Sections 40507 and 41781.3 of the Public Resources Code,
14 relating to solid waste (Chapter 719, Statutes of 2014 [Williams, AB 1594]), also commonly referred to as
15 **“AB 1594”**, as amended, supplemented, superseded, and replaced from time to time.

16 **“AB 1826”** means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 [Chesbro, AB
17 1826]), also commonly referred to as **“AB 1826”**, as amended, supplemented, superseded, and replaced
18 from time to time.

19 **“Accept”** or **“Acceptance”** (or other variations thereof) means the transfer of ownership of Solid Waste
20 intended for Disposal from the Contractor to the Disposal Contractor upon Delivery to an Approved
21 Disposal Facility, transfer of ownership of Discarded Materials other than Solid Waste from the Contractor
22 to the owner of an Approved Facility for the purposes of Processing, and transfer of ownership of Solid
23 Waste from the Contractor to the owner of an Approved Solid Waste Processing Facility with City direction
24 and for the purposes of Solid Waste Processing as provided in Section 4.8.J.

25 **“Affiliate”** means all businesses (including corporations, limited and general partnerships and sole
26 proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect
27 Ownership interest or common management. They shall be deemed to be **“Affiliated with”** Contractor
28 and included within the term **“Affiliates”** as used herein. An Affiliate shall include: (i) a business in which
29 Contractor has a direct or indirect Ownership interest, (ii) a business, which has a direct or indirect
30 Ownership interest in Contractor and/or (iii) a business, which is also Owned, controlled or managed by
31 any business or individual which has a direct or indirect Ownership interest in Contractor. For the
32 purposes of this definition, **“Ownership”** means ownership as defined in the constructive ownership
33 provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date here, provided
34 that ten percent (10%) shall be substituted for fifty percent (50%) in Section 318(a)(2)(C) and in Section
35 318(a)(3)(C) thereof; and Section 318(a)(5)(C) shall be disregarded. For purposes of determining
36 ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership
37 interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined
38 on the basis of the percentage of voting interest of value which the ownership interest represents.

39 **“Agreement”** means this Agreement between City and Contractor, including all exhibits, and any future
40 amendments hereto.

41 **“Alternative Daily Cover (ADC)”** means CalRecycle-approved materials other than soil used as a
42 temporary overlay on an exposed landfill face. Generally, these materials must be processed so that they
43 do not allow gaps in the face surface, which would provide breeding grounds for insects and vermin.

44 **“Alternative Facility(ies)”** means the Transfer and/or Processing facility(ies) proposed by Contractor and

EXHIBIT A DEFINITIONS

45 approved by City for use in the event that an Approved Facility is unavailable for use. City-Approved
46 Alternative Facilities as of the Effective Date include: Aladdin Street Materials Recovery Facility for single-
47 stream Recyclables Processing, with Transfer through the Mission Trails Waste Systems MRF / Transfer
48 Station and the Blue Line Material Recovery Facility and Anaerobic Digestion System (Blue Line MRF) for
49 Food Scraps Processing at 500 East Jamie Ct, South San Francisco, CA 94080, which is owned and operated
50 by Blue Line Transfer.

51 **“Alternative Intermediate Cover (AIC)”** means CalRecycle-approved materials other than soil used at a
52 landfill on all surfaces of the fill where no additional Solid Waste will be deposited within one hundred
53 eighty (180) days. Generally, these materials must be processed so that they do not allow gaps in the face
54 surface, which would provide breeding grounds for insects and vermin.

55 **“Applicable Law”** means all Federal, State, County, and local laws, regulations, rules, orders, judgments,
56 degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over
57 the Collection, Transportation, and Processing of Solid Waste, Recyclable Materials, Organic Materials,
58 and C&D, and of street sweeping that are in force on the Effective Date and as may be enacted, issued or
59 amended during the Term of this Agreement.

60 **“Approved Alternative Solid Waste Processing Facility”** means the SMaRT Station at 301 Carl Road,
61 Sunnyvale, CA 94089, which is owned and operated by the City of Sunnyvale.

62 **“Approved C&D Processing Facility(ies)”** means the facility(ies) pre-approved by City as provided in
63 Section 4.8.E of the Agreement.

64 **“Approved Disposal Facility”** means the Guadalupe Landfill a 15999 Guadalupe Mines Road, San Jose, CA,
65 which is owned and operated by the Disposal Contractor.

66 **“Approved Facility(ies)”** means any one of or any combination of the: Approved C&D Processing Facility;
67 Approved Disposal Facility; Approved Food Scraps Processing Facility; Approved Recyclable Materials
68 Processing Facility; Approved Transfer Facility; and/or, Approved Yard Trimmings Processing Facility.

69 **“Approved Food Scraps Processing Facility(ies)”** means the facility(ies) pre-approved by City as provided
70 in Section 4.8.D of the Agreement.

71 **“Approved Recyclable Materials Processing Facility”** means the facility(ies) pre-approved by City as
72 provided in Section 4.8.C of the Agreement.

73 **“Approved Transfer Facility”** means the Mission Trail Waste Systems MRF / Transfer Station at 1313
74 Memorex Drive, Santa Clara, CA 95050, which is owned by Mission Trail Waste Systems (MTWS).

75 **“Approved Yard Trimmings Processing Facility”** means the facility(ies) pre-approved by City as provided
76 in Section 4.8.D of the Agreement.

77 **“Beneficial Reuse”** means use of material for beneficial reuse which shall include, but not be limited to,
78 the following: Alternative Daily Cover, Alternative Intermediate Cover, final cover foundation layer, liner
79 operations layer, leachate and landfill gas collection system, construction fill, road base, wet weather
80 operations pads and access roads, and soil amendments for erosion control and landscaping.

81 **“Bin”** means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid,
82 and with wheels (where appropriate), that is serviced by a front end-loading Collection vehicle.

83 **“Bulky Item”** means discarded appliances, furniture, tires, carpets, mattresses, and similar large items
84 that require special Collection due to their size or nature, but can be Collected without the assistance of

EXHIBIT A DEFINITIONS

85 special loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not
86 include abandoned automobiles, large auto parts, or trees.

87 **“Business Days”** mean days during which the City offices are open to do business with the public.

88 **“Cart”** means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-
89 automated Collection vehicle. A Cart has capacity of 45, 64 or 96 gallons (or similar volumes). A “split-
90 Cart” refers to Carts with vertical dividers designed to provide for separate placement in the Cart of two
91 types of materials, as further described in Section 4.1 and Exhibit H Cart Specifications. Contractor
92 provides Residential split-Carts for Solid Waste and Food Scraps, and for Recyclable Materials separating
93 fibers and containers. **Should Council act to add 20 gallon cart option for solid waste, a 38 gallon split-cart
94 will be added to this definition.**

95 **“Change in Law”** means any of the following events or conditions that has a material and adverse effect
96 on the performance by the Parties of their respective obligations under this Agreement (except for
97 payment obligations):

98 a. The enactment, adoption, promulgation, issuance, modification, or written change in
99 administrative or judicial interpretation of any Applicable Law on or after the Effective Date; or,

100 b. The order or judgment of any governmental body, on or after the Effective Date, to the extent
101 such order or judgment is not the result of willful or negligent action, error or omission or lack of
102 reasonable diligence of City or of the Contractor, whichever is asserting the occurrence of a Change in
103 Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such
104 order or judgment shall not constitute or be construed as such a willful or negligent action, error or
105 omission or lack of reasonable diligence.

106 **“City”** means the City of Milpitas, a municipal corporation, and all the territory lying within the municipal
107 boundaries of the City as presently existing or as such boundaries may be modified during the Term.

108 **“City Contract Manager”** means the City representative specified in Section 5.8, who is the main point of
109 contact for this Agreement.

110 **“Collect or Collection (or any variation thereof)”** means the act of collecting Solid Waste, Recyclable
111 Materials, Organic Materials, C&D, Bulky Items, and other material at the place of generation in City.
112 **Should Council act to retain non-exclusive construction and demolition material (C&D) system, “C&D” will
113 be deleted from this definition.**

114 **“Commencement Date”** means the date specified in Section 2.1 when Collection, Transportation,
115 Processing, and Composting services required by this Agreement shall be provided.

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

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

EXHIBIT A DEFINITIONS

- 125 **“Composting or Compost** (or any variation thereof)” includes a controlled biological decomposition of
126 Organic Materials yielding a safe and nuisance free compost product.
- 127 **“Construction and Demolition Debris”, “C&D Debris”, “C&D”** includes discarded building materials,
128 packaging, debris, and rubble resulting from construction, alteration, remodeling, repair or demolition
129 operations on any pavements, excavation projects, houses, Commercial buildings, or other structures,
130 excluding Excluded Waste. Source Separated Recyclable C&D is a subset of C&D. Mixed C&D is C&D that
131 is not Source Separated.
- 132 **“Container(s)”** mean Bins, Carts, Compactors, and Drop Boxes.
- 133 **“Contractor”** means Milpitas Sanitation, Inc. and is organized and operating under the laws of the State
134 and its officers, directors, employees, agents, companies, related-parties, affiliates, subsidiaries, and
135 Subcontractors.
- 136 **“Contractor’s Compensation”** means the monetary compensation received by Contractor in return for
137 providing services in accordance with this Agreement as described in Article 8.
- 138 **“Contractor’s Proposal”** means the proposal submitted to City by Contractor on October 27, 2015 for
139 provision of Solid Waste, Recyclables, and Organic Materials services and certain supplemental written
140 materials, which are included as Exhibit I to this Agreement and are incorporated by reference.
- 141 **“County”** means the County of Santa Clara.
- 142 **“Curb or Curbside** (or any variation thereof)” means the location of a Collection Container for pick-up,
143 where such Container is placed on the street or alley against the face of the Curb, or where no Curb exists,
144 the Container is placed not more than five (5) feet from the outside edge of the street or alley nearest the
145 property’s entrance.
- 146 **“Customer”** means the Person whom Contractor submits its billing invoice to and collects payment from
147 for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the
148 Premises provided that the Owner of the Premises shall be responsible for payment of Collection services
149 if an Occupant of a Premises, which is identified as the Customer of Owner’s Premises, fails to make such
150 payment.
- 151 **“Customer Type”** means the Customer’s sector category including, but not limited to, Single-Family,
152 Multi-Family, Commercial, C&D, Drop Box, and City.
- 153 **“Delivered”** or **“Delivery”** (or other variations thereof) means the action of the Contractor in Delivering
154 Discarded Materials or street sweepings to an Approved Facility.
- 155 **“Designated Waste”** means non-Hazardous Waste which may pose special Disposal problems because of
156 its potential to contaminate the environment and which may be Disposed of only in Class II Disposal
157 Facilities or Class III Disposal Facilities pursuant to a variance issued by the California Department of Health
158 Services. Designated Waste consists of those substances classified as Designated Waste by the State, in
159 California Code of Regulations Title 23, Section 2522 as may be amended from time to time.
- 160 **“Discarded Materials”** means Solid Waste, Recyclable Materials, Organic Materials, and C&D placed by a
161 Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding
162 Excluded Waste.
- 163 **“Disposal or Dispose”** (or any variation thereof) means the final disposition of Solid Waste at a Disposal
164 Facility.

EXHIBIT A DEFINITIONS

165 **“Disposal Contractor”** means Waste Management of the South Bay, Inc., the party separately contracted
166 by the City for provision of Disposal services, and compensated by Contractor.

167 **“Disposal Facility”** means a facility for ultimate Disposal of Solid Waste.

168 **“Diversion”** (or any variation thereof) means activities which reduce or eliminate the amount of Solid
169 Waste to be Disposed including, but not limited to, Recycling and Composting, and to Processing of Solid
170 Waste for recovery of Recyclable or Organic Materials.

171 **“Drop Box”** means an open-top Container with a capacity of ten (10) to fifty (50) cubic yards that is
172 serviced by a roll-off Collection vehicle.

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

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

184 **“Exclusive Right”** is the right and privilege granted by City to Contractor to be the only Franchisee that
185 Collects, Transports, and Processes Solid Waste, Recyclable Materials, Organic Materials, and C&D in the
186 City.

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

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

194 **“Food Scraps”** means those Discarded Materials that will decompose and/or putrefy including: (i) all
195 kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the
196 storage, preparation, cooking or handling of food stuffs; (iii) discarded paper that is contaminated with
197 Food Scraps; (iv) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (v) non-Recyclable paper
198 or contaminated paper. Food Scraps are a subset of Organic Materials. For Residential Customers with
199 Cart service, Food Scraps are Collected with Solid Waste using a split-Cart.

200 **“Franchise Fee”** means the fee paid by Contractor to City for the privilege to hold the rights granted by
201 this Agreement.

202 **“Generator”** means any Person whose act or process produces Solid Waste, Recyclable Materials, Organic
203 Materials, or C&D as defined in the Public Resources Code, or whose act first causes Solid Waste to
204 become subject to regulation.

EXHIBIT A DEFINITIONS

205 **“Gross Receipts”** shall mean total cash receipts collected from Customers by the Contractor for the
206 provision of services pursuant to this Agreement, without any deductions. Gross Receipts do not include
207 revenues from the sale of Recyclable Materials, Organic Materials, or C&D.

208 **“Hazardous Substance”** means any of the following: (a) any substances defined, regulated or listed
209 (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic
210 waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the
211 environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and
212 Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation
213 Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv)
214 the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8,
215 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050;
216 (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts
217 currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material,
218 chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law
219 currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated
220 biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

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

227 **“Holidays”** are defined as New Year's Day, Thanksgiving Day and Christmas Day.

228 **“Household Hazardous Waste”** or **“HHW”** means Hazardous Waste generated at Residential Premises
229 within the City. HHW includes, but is not limited to: paint, stain, varnish, thinner, adhesives, auto products
230 such as old fuel, Used Motor Oil, Used Oil Filter, batteries, household batteries, fluorescent bulbs, tubes,
231 cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and lancets.

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

236 **“Liquidated Damages”** means the amounts due by Contractor for failure to meet specific quantifiable
237 standards of performance as described in Section 10.6 and Exhibit E.

238 **“Maximum Rate”** means the maximum amount, expressed as a dollar unit, approved by the City that the
239 Contractor may bill a Customer for providing services under this Agreement.

240 **“Multi-Family”** means any Residential Premises, other than a Single-Family Premises, with five (5) or more
241 dwelling units used for Residential purposes (excluding units used for temporary residential purposes such
242 as hotels) that receive centralized Collection service for all units on the Premises which are billed to one
243 (1) Customer at one (1) address. Multi-Family residences are further defined in terms of relative density
244 and type of service as provided in Section 4.2.

245 **“Occupant”** means the Person who occupies a Premises.

EXHIBIT A DEFINITIONS

- 246 **“Organic Materials”** means those Yard Trimmings and Food Scraps that are specifically accepted at the
247 applicable Approved Facilities. No Discarded Material shall be considered to be Organic Materials,
248 however, unless it is separated from Solid Waste, Recyclable Material, and C&D.
- 249 **“Owner”** means the Person(s) holding legal title to real property and/or any improvements thereon, and
250 shall include the Person(s) listed on the latest equalized assessment roll of the County Assessor.
- 251 **“Party or Parties”** refers to the City and Contractor, individually or together.
- 252 **“Permits”** means all federal, State, county, City, other local and any other governmental unit permits,
253 orders, licenses, approvals, authorizations, consents and entitlements that are required under Applicable
254 Law to be obtained or maintained by any Person with respect to services performed under this
255 Agreement, as renewed or amended from time to time.
- 256 **“Person(s)”** means any individual, firm, association, organization, partnership, corporation, trust, joint
257 venture, or public entity.
- 258 **“Per-Ton Rate”** means the per-unit compensation owed Disposal Contractor by Contractor for each ton
259 of Solid Waste Delivered by Contractor, as initially specified in Exhibit N and as adjusted annually as
260 provided in Article 8.
- 261 **“Personal Recycling Bin”** or **“PRB”** refers to a small easily portable Container with a capacity of at least
262 three (3) gallons to be included by Contractor in the Multi-Family Move-in kit to facilitate convenient
263 accumulation of Recyclable Materials within a Multi-Family dwelling unit.
- 264 **“Premises”** means any land or building in the City where Solid Waste, Recyclable Materials, Organic
265 Materials, or C&D are generated or accumulated.
- 266 **“Processing”** means to prepare, treat, or convert through some special method. Processing of Solid Waste
267 requires prior City-approval as provided in Section 4.8.J of the Agreement.
- 268 **“Processing Facility”** means any plant or site used for the purpose of sorting, cleansing, treating or
269 reconstituting Recyclable Materials, Organic Materials, or Source Separated Recyclable C&D for the
270 purpose of making such material available for Recycling or reuse or the facility for the Processing and/or
271 Composting of Organic Materials.
- 272 **“Rate”** means the amount, expressed as a dollar unit, that the Contractor bills a Customer for providing
273 services under this Agreement. Contractor may, in its sole discretion, charge any amount up to and
274 including the Maximum Rate approved by the City, but in no case exceeding the Maximum Rate.
- 275 **“Rate Period”** means a twelve (12) month period, commencing January 1 and concluding December 31,
276 with the exception that Rate Period One shall be longer than twelve (12) months, commencing on the
277 Commencement Date and concluding December 31 of the next succeeding year, and Rate Period Fifteen
278 may be shorter than twelve (12) months, commencing on December 31 of the year preceding the fifteenth
279 anniversary of the Commencement Date and ending on such fifteenth anniversary.
- 280 **“Recyclable Materials”** means those Discarded Materials that Generators set out in Recyclables
281 Containers for Collection for the purpose of Recycling by the Contractor, and that are at least ninety
282 percent (90%) Recyclable and that exclude Excluded Waste. No Discarded Materials shall be considered
283 Recyclable Materials unless such material is separated from Solid Waste, Organic Materials, and C&D.
284 Recyclable Materials to be Collected from Single-Family and Multi-Family Premises include, at a minimum,
285 magazines, catalogs, phone books, shredded paper (placed in paper bags for collection), envelopes, junk

EXHIBIT A DEFINITIONS

286 mail, corrugated cardboard, brown paper grocery bags, mixed or colored paper, paperboard, paper egg
287 cartons, office ledger paper, white plastic grocery bags, glass bottles and jars, food (bimetal) and
288 aluminum cans, newspaper, and plastic containers #1-7 excluding #6, polystyrene in all forms. Recyclable
289 Materials to be Collected from Commercial Generators, includes at a minimum, white paper, computer
290 paper, copy paper, fax paper, carbonless forms, envelopes (with or without windows), colored, white, and
291 manila file folders, laser-printed paper, junk mail, newspapers, magazines, phone books, glossy paper,
292 corrugated cardboard, chipboard, shredded paper, bi-metal cans, aluminum, tin, glass bottles and jars,
293 and plastic containers #1 – 7 excluding polystyrene (#6) in all forms. For Residential and Commercial
294 Customers with Cart service, Recyclable Materials are Collected using a split-Cart that segregates fibers
295 and containers.

296 **“Recycle or Recycling”** means the process of sorting, cleansing, treating, and reconstituting at a Processing
297 Facility materials that would otherwise be Disposed of at a landfill for the purpose of returning such
298 materials to the economy in the form of raw materials for new, reused, or reconstituted products.

299 **“Residential”** shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises
300 including Single-Family homes, apartments, condominiums, townhouse complexes, mobile home parks,
301 cooperative apartments, and yacht harbors and marinas where residents live aboard boats.

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

305 **“Reusable Materials”** means items that are capable of being used again with no or minimal Processing.

306 **“SB 1016”** means Chapter 343, Statutes of 2008, Wiggins, also commonly referred to as “SB 1016”, as
307 amended, supplemented, superseded, and replaced from time to time.

308 **“SB 1383”** or the “Short-Lived Climate Pollutants Act of 2016” as signed into law in September 2016,
309 means an act to add Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and
310 to add Chapter 13.1 [commencing with Section 42652] to Part 3 of Division 30 of the Public Resources
311 Code, relating to methane emissions).

312 **“Senior”** means a Person sixty-two (62) years of age or older.

313 **“Service Area”** means the physical area encompassed by the jurisdiction of the City, in which the
314 Contractor provides Collection service.

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

316 **“Single-Family”** means, notwithstanding any contrary definition in City Code, any detached or attached
317 house or residence designed or used for occupancy by one (1) family, provided that Collection service
318 feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such
319 independent unit is billed directly for the Collection service. Single-Family includes Residential units of a
320 duplex, tri-plex, or four-plex Residential structure provided that each unit is separately billed for their
321 specific service level.

322 **“Solid Waste”** means solid waste as defined in California Public Resources Code, Division 30, Part 1,
323 Chapter 2, §40191 and regulations promulgated hereunder. Excluded from the definition of Solid Waste
324 are Excluded Waste, C&D, Source Separated Recyclable Materials, Source Separated Organic Materials,
325 and radioactive waste. Notwithstanding any provision to the contrary, Solid Waste may include de minimis
326 volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after

EXHIBIT A DEFINITIONS

327 implementation of programs for the safe Collection, Recycling, treatment, and Disposal of Household
328 Hazardous Waste in compliance with Section 41500 and 41802 of the California Public Resources Code as
329 may be amended from time to time. Solid Waste includes salvageable materials only when such materials
330 are included for Collection in a Solid Waste Container, or when Solid Waste is directed by City for
331 Processing as provided in Section 4.8.J. For Residential Customers with Cart service, Solid Waste is
332 Collected with Food Scraps using a split-Cart. Except as provided in Section 4.8., all Collected Solid Waste
333 is intended for Disposal.

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

336 **“Source Separated Recyclable C&D”** means C&D materials which are Source Separated by the Customer
337 or Generator and which have a Processing residue level of less than ten percent (10%) by weight.

338 **“Specialty Recyclable Material”** means material not specified in this Agreement that can be or will be
339 Collected for purposes of Recycling. Such Specialty Recyclable Material may include, but is not limited to,
340 scrap metal, high-grade paper (including office mixed paper), pallets, and plastic film.

341 **“State”** means the State of California.

342 **“Subcontractor”** means a Party, as approved by the City who has entered into a contract, express or
343 implied, with the Contractor for the performance of an act that is necessary for the Contractor’s fulfillment
344 of its obligations for providing service under this Agreement. Vendors providing materials and supplies,
345 and professional services to Contractor shall not be considered Subcontractors.

346 **“Term”** means the Term of this Agreement, including extension periods if granted, as provided for in
347 Article 2.

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

350 **“Transfer(ring)”** (or other variations thereof) means receipt, Acceptance and reloading of Discarded
351 Materials or street sweepings at an Approved Transfer Facility for Transport for Processing or Disposal.

352 **“Transfer Facility”** means a Facility that receives and temporarily stores materials, and then transfers the
353 materials into larger trailers for Transport to a Processing Facility or Disposal Facility.

354 **“Transfer Vehicle”** means a tractor and trailer designed to haul Discarded Materials or street sweepings
355 from the Approved Transfer Facility to an Approved Processing Facility or Approved Disposal Facility.

356 **“Transport”, “Transportation”** means the act of transporting or state of being transported.

357 **“Used Motor Oil and Filter”** means motor oil and the subsequent oil filter that has been used in a vehicle
358 and cannot be reused.

359 **“Used Oil Recovery Kit”** means a kit containing: one (1) reusable plastic jug of at least one (1) gallon
360 capacity with a watertight screw-on top to contain Used Motor Oil; one (1) plastic disposable resealable
361 bag of sufficient capacity to accommodate one (1) Used Motor Oil Filter; and, a flyer, brochure, or other
362 informational media approved by the City intended to educate Customers about the Used Motor Oil and
363 Filter Collection program and the benefits resulting from the proper handling of Used Motor Oil and
364 Filters. The Used Oil Recovery Kit is to be provided to Customers by Contractor to recover Used Motor Oil
365 and Filters from Single-Family and Multi-Family residents.

EXHIBIT A DEFINITIONS

366 **“Universal Waste (U-Waste)”** means all wastes as defined by Title 22, Subsections 66273.1 through
367 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent
368 light bulbs, mercury switches, and E-Waste.

369 **“Yard Trimmings”** means those Discarded Materials that will decompose and/or putrefy, including, but
370 not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree
371 trimmings, dead trees, small pieces of unpainted and untreated wood, and other types of organic waste.
372 Yard Trimmings are a subset of Organic Materials. Yard Trimmings placed for Collection may not exceed
373 six (6) inches in diameter and three (3) feet in length and must fit within the Contractor-provided
374 Container. Yard Trimmings are a subset of Organic Materials.

375

EXHIBIT B:

376

PUBLIC OUTREACH

377

REQUIREMENTS

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

Contractor understands and recognizes the importance of effective outreach and promotion as the key to helping residents and businesses understand more about source reduction, reuse, Recycling, and Composting. In addition to, and in coordination with the requirements of Section 4.9 of the Agreement, Contractor shall include, at a minimum, the following services as part of its public outreach program.

1. STAFFING PLAN AND STAFF ROLES

Contractor shall at all times maintain the minimum levels of staffing specified below.

To best achieve the highest possible level of public outreach and awareness, Contractor shall designate one (1) full-time Public Relations/Outreach Manager to supervise, coordinate and implement all public outreach activities in the City and oversee the one (1) full-time Recycling Coordinator. Both the Public Relations/Outreach Manager and the Recycling Coordinator shall be assigned to support the City for a minimum of 40 hours per week and shall perform the following tasks in the following four principal areas of responsibility:

A. Government and Community Relations

1. Serve as a liaison between the City and Contractor
2. Represent Contractor at City Council, City staff, City strategy development meetings and quarterly coordination meetings
3. Work with the City in partnership to develop and incorporate municipal activities into Contractor activities, and vice versa
4. Participate and represent Contractor in community activities
5. Oversee customer satisfaction of all program services
6. Ensure compliance with City and regulatory agencies
7. Support local community service organizations

B. Media Relations

1. Develop relationships with news media outlets, including online services
2. Track media coverage

C. Contract Compliance

1. Coordinate and produce annual outreach plan required by Section 4.9 of the Agreement
2. Coordinate implementation of the annual public outreach plan

The Recycling Coordinator shall provide field marketing for the Multi-family and Commercial Recycling Programs.

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

2. SINGLE-FAMILY OUTREACH PROGRAMS

A. Initial Start-Up Public Outreach Activities

1. Lead development, writing and design of an initial mailing to Single-Family Customers explaining the change from the existing hauler to the new Contractor; changes from the existing Collection programs to new programs, with emphasis on the changes in Solid Waste options regarding use of Cart and customer-owned containers, availability of on-call Collection, use of split-Carts for Solid Waste and Food Scraps, and use of split-Carts for Recyclable Materials; date of change, etc.
2. Lead development of a “how-to” flyer describing use of the Solid Waste and Food Scraps split-Cart and the split-Carts for Recyclable Materials. Directions for proper sorting of Food Scraps, Recyclables and Yard Trimmings for Collection will be included on the flyer and describe the acceptable materials that can be included in the Containers. The flyer should emphasize any new Recyclable Materials to be included in the Recycling Cart.
3. Lead development of a “how-to” flyer describing the proper set out procedures for Collection Containers.
4. Prepare drafts and distribute public service announcements (PSA) for local radio and cable television broadcast, as well as door hangers and print advertising including editorial content for local newspapers.
5. Otherwise promote the new Food Scraps program to Single-Family Customers through appropriate methods including distribution of kitchen Food Scraps pails to all Single-Family Customers prior to the Commencement Date.

B. Continuing Programs Throughout Agreement

1. Visit homeowner associations and other groups to promote and explain the program, as requested by the associations or as scheduled by the City.
2. Lead development of annual newsletters that creatively inform residents about topics such as availability of free on-call curbside Bulky Item pick-ups, home Composting, proper handling of Household Hazardous Waste, E-Waste, and U-Waste, and environmental conservation.
3. Lead development of an annual bill insert, brochure, and/or feature quarterly newsletter articles describing how to properly sort Food Scraps, Recyclable Materials, and Yard Trimmings for Collection. Contractor shall inform residents as to the acceptable materials that can be included in the Containers and any common contaminants to be excluded from Collection to customers.
4. Produce and implement corrective actions notices for use in instances where the Resident sets out inappropriate materials.
5. Two weeks prior to Christmas tree Collection events provide written notification to each Single-Family Customer specifying event details and tree Collection schedule as

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

provided by Sections 4.1.C and 4.2.C of this Agreement. Notifications include preparation of local newspaper advertising, banners for the City web page and information flyers.

6. On each bill, Contractor shall include a brief statement to Customers providing service-related announcements such as messages about new services, the on-call clean-up and Bulky Item pick-up services, proper handling of Household Hazardous Waste, Food Scraps Collection, Christmas tree Collection, etc.
7. Prepare and make available through Contractor's website "how-to" information on Recycling, Composting, and proper Container set-outs in Adobe Acrobat PDF and video format, and provide Single-Family Customers with links for additional resources.
8. Enable Single-Family Customers to access information regarding Collection days by address, as well as other Customer- or City-specific information, through its website including access to Adobe Acrobat PDF copies of newsletters and other outreach materials required herein.
9. Regularly promote the Single-Family Organic Materials programs (Food Scraps and Yard Trimmings) to Customers through the methods described in items 1 through 8 above and, at the direction of the City Contract Manager, through direct postcard mailings or door-hangers to targeted Customers on specific routes or route segments that appear to be under-participating or creating excess contamination.

3. MULTI-FAMILY OUTREACH PROGRAMS

A. Initial Start-Up Public Outreach Activities

1. Lead development of an initial mailing to Multi-Family Customers explaining the change from the existing hauler to the new Contractor; changes from the existing Collection programs to new programs; date of change, etc.
2. Lead development of a "how-to" flyer describing how to properly sort Recyclable and Organic Materials for Collection and describe the acceptable materials that can be included in the Recyclable and Organic Materials Containers. The flyer should emphasize the requirements of AB 341 and AB 1826 and how to comply as well as identify any new Recyclable or Organic Materials to be included in the applicable cart.
3. Lead development of a "how-to" flyer describing the Recyclable and Organic Materials Collection program for distribution to tenants and distribute to Multi-Family property managers for distribution to tenants.
4. Lead development of posters describing Collection programs and distribute to Multi-Family property managers for on-site use.

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

B. Continuing Programs Throughout Agreement

1. Visit apartment managers and apartment units or home owners' association meetings or other groups to promote and explain the Contractor's Collection programs and the requirements of AB 341, and AB 1826 throughout the Term of the Agreement, as requested by the associations or as scheduled by the City.
2. Prepare annual public outreach material on Recycling, the requirements of AB 341 and AB 1826, and how to comply, and proper handling of Household Hazardous Waste, E-Waste, and U-Waste and distribute (or arrange for distribution of) materials directly to tenants of Multi-family Premises.
3. Conduct site visits and provide technical assistance as specified in Section 4.10 of this Agreement.
4. Prepare reporting of AB 341 achievements including a list of complexes out of compliance, and actions taken to improve recycling.
5. Offer and respond to requests for on-site meetings and workshops. Contractor will conduct workshops (when requested) that will show property managers and residents, in a hands-on interactive format, how to use the Recyclable and Organic Materials program and will provide resources for additional information and support.
6. Lead development of and distribute "move-in" kits for property managers and owners of Multi-Family complexes to provide new tenants. Move-in kits shall provide Recycling information and Contractor's Customer service phone number where questions can be answered.
7. Prepare and distribute at least two bill inserts annually for Multi-Family Owners and Property Managers that are each focused on a key subject (e.g., Recycling procedures, AB 341 and AB 1826 compliance, technical assistance, on-call Bulky Item collection, etc.).
8. Two weeks prior to Christmas tree Collection event, provide written notification to each Multi-Family Customer specifying event details and schedule as provided by Section 4.2.F of this Agreement.
9. On each bill, include a brief statement to Customers providing service-related announcements such as messages about new services, complying with the requirements of AB 341 and AB 1826, the on-call Bulky Item pick-up services, proper handling of Household Hazardous Waste, Christmas tree Collection, etc.
10. As part of Contractor's website, provide tenants and property managers with access to a dedicated multi-family page which will present "how-to" information in Adobe Acrobat PDF and video formats for tenants and property managers as well as links to other resources.
11. Develop and use a corrective actions notice for use in situations where residents set out inappropriate materials.

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

12. For the Multi-Family Yard Trimmings program implemented as required by AB 1826, conduct the following activities, at a minimum:
 - Provide a starter kit to inform Multi-Family property owners and managers of the Multi-Family Yard Trimmings Collection program;
 - Place Yard Trimmings presentation posters in highly trafficked areas of Multi-Family complexes; and,
 - Produce and distribute periodically, but at Contractor’s discretion not more than quarterly, newsletters informing Multi-Family property owners and managers about the Multi-Family Yard Trimmings Collection program.
13. At least semi-annually, prepare and distribute notices to Customers that are not compliant with the requirements of AB 341 and/or AB 1826, which identify why the Customer is not compliant and what actions Customer can take to be compliant.

4. COMMERCIAL OUTREACH PROGRAMS

A. Initial Start-Up Public Outreach Activities

1. Lead development of a flyer and/or “how-to” brochure to businesses explaining the services provided to each general business type (restaurants, office/commercial buildings, strip malls, and large commercial businesses). The brochure should emphasize the requirements of AB 341 and AB 1826 and how to comply.
2. Prepare and distribute a flyer and/or “how-to” brochure describing the Food Scraps and Organic Materials Collection services available to each business type and how to prepare Food Scraps and Organic Materials for Collection.
3. Meet with up to four (4) business associations (Chamber of Commerce, Rotary Club, etc.) in separate venues to inform businesses of the Recyclable and Organic Materials Collection programs, the requirements of AB 341 and AB 1826, answer questions, and provide service and Rate information.

B. Continuing Programs Throughout Agreement

1. Prepare and distribute a quarterly newsletter to all Commercial Customers promoting and explaining Food Scraps, Recyclable Materials and Organic Materials Collection programs and the requirements of AB 341 and AB 1826. The newsletter shall be distributed to Commercial Customers at the same time bills are issued.
2. Prepare brochures, flyers, and articles for the quarterly newsletter related to non-franchise-related programs such as source reduction, reuse and non-Contractor Recyclable Materials programs (e.g., the requirements of AB 341 and AB 1826, green business recognition, Hazardous Waste management, buy-recycled policies, etc.). These materials shall be available upon request, and articles shall be published annually in the quarterly newsletter.
3. Conduct site visits and provide technical assistance as specified in Section 4.10 of this Agreement.

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

4. For the Commercial Food Scraps program implemented as required by AB 1826, conduct the following activities, at a minimum:
 - Lead development of a starter kit to inform businesses of the Commercial Food Scraps Collection program;
 - Conduct initial site visits to all schools, institutions, restaurants, bakeries, grocery stores, and other food scrap generators in the City to encourage participation in the program and customize the program to fit the Customer's needs;
 - Place Food Scraps presentation posters in highly trafficked areas in the City; and,
 - Produce and distribute periodically, but at Contractor's discretion not more than quarterly, newsletters or bill inserts that inform customers about the Commercial Food Scrap Collection program.
5. Attend business associations' meetings to promote and explain the Collection programs and the requirements of AB 341 and AB 1826 throughout the Term of the Agreement, as requested by the associations or as scheduled by the City.
6. Provide employee training to businesses that participate in Food Scraps, Recyclable Materials and Organic Materials Collection programs, annually upon the Customer's request.
7. Develop and use a corrective actions notice for use in situations where businesses set out inappropriate materials.
8. On each bill, Contractor shall include a brief statement to Customers providing service-related announcements such as messages about new services, Food Scraps, Recyclable Materials and Organic Materials Collection services, complying with AB 341 and AB 1826, proper handling of Hazardous Waste, etc.
9. Prepare and make available through Contractor's website "how-to" information for Commercial Generators on Recycling, Composting, and Disposal in Adobe Acrobat PDF and video format.
10. Distribute outreach materials describing the requirements of AB 341 and AB 1826.
11. At least semi-annually, prepare and distribute notices to Customers that are not compliant with the requirements of AB 341 and/or AB 1826, which identify why the Customer is not compliant and what actions Customer can take to be compliant.

5. STREET SWEEPING

Contractor shall at all times comply with the minimum outreach provisions specified in Section 4.15.E of the Agreement.

6. SCHOOL OUTREACH

Develop and implement an annual "Mini-Grants" Program to assist teachers with materials needed for instruction of how to Recycle and Compost at school and at home. Educational mini-grants in total of up to \$10,000 per year shall be offered, up to \$5,000 at beginning of fall semesters and up to \$5,000 at beginning of spring semesters, to all elementary and middle school principals and science teachers. City

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

and Contractor shall collaborate to determine mini-grant scope, amount of per classroom to per school awards, notification and award schedule. Contractor shall support a curriculum of City's choosing with a minimum of six (6) presentations to schools in the City or provide on-site tours for classes from schools in the City to promote Recycling and Composting and provide age appropriate materials pertaining to Recycling and Composting. In addition, Contractor shall provide visits to schools upon request, including a recycling truck and knowledgeable driver to demonstrate equipment for school children.

7. SPECIAL EVENTS

- A. Arrange and provide staff for a booth or table at City events to promote source reduction, reuse, Recycling, Composting, and proper handling of E-Waste, U-Waste, and Hazardous Waste and answer questions about Collection services. Contractor will develop a stand-alone and table-top professional display for use at the City events and will provide corresponding informational components that can be used to inform Customers and the general public about Recycling in general, and Milpitas Food Scraps, Recyclable Materials and Organic Materials programs. At a minimum, Contractor shall provide this outreach service at up to six (6) events annually to be determined with input from the City.
- B. Inform any event sponsor or venue organizer on the requirements of AB 2176 for large events and venues, which are required to comply with AB 2176, and assist the sponsor or organizer in preparation of a recycling plan, which shall include all information required by AB 2176.

8. ADDITIONAL YARD TRIMMINGS PROGRAMS

Contractor shall, at a minimum provide the following programs:

- A. Compost for vermicomposting activities delivered free to designated school sites.
- B. Planning and implementation for up to two annual special events intended to promote Yard Trimmings programs, including:
 - i. One event targeting the schools.
 - ii. One event targeting Milpitas single family residents for free giveaway of up to two (2) bags of Compost in one (1) cubic foot bags per household, and including an annual "Second Chance Giveaway" with the same offer within two weeks from the scheduled free giveaway event. Contractor shall provide convenient pick-up location within or near Milpitas and shall provide a safe method to line-up and place compost into cars.
- C. Speaking engagements reaching homeowners, community and civic organizations.

9. ALL SECTORS

- A. Produce press releases and advertisements tied to specific community events at intervals determined by the City. Press releases shall be developed and reviewed by the City regarding new or enhanced services as needed. Advertisements shall be developed in conjunction with workshops, training programs, etc.
- B. Conduct informational tours of the Approved Facilities to familiarize residents, businesses, and school children with each facility's activities.

EXHIBIT B

PUBLIC OUTREACH REQUIREMENTS

- C. Provide public outreach materials that address the multi-lingual diversity of the City through use of visual images and/or other techniques.
- D. Attend community workshops as requested by City to explain Collection services and respond to questions from the community.
- E. Develop and maintain a website describing services provided in the City as required by Section 4.9 of the Agreement.
- F. Social Media will focus on community involvement activities, program announcements, service trips and will refer to the website for general program information. Social Media outlets may include, but are not limited to: Facebook, Instagram and/or Snapchat. Due to the ever-changing social media landscape, Contractor will collaborate with the City Contract Manager annually, or more frequently if requested to determine the relevance of social media outlets in use and make changes if appropriate.

EXHIBIT C: REPORTING REQUIREMENTS

1

2

3

EXHIBIT C REPORTING REQUIREMENTS

5 Should Council act to retain non-exclusive construction and demolition material (C&D) system, reference
6 to C&D will be removed from this exhibit.

7 **Report Format**

8 Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them
9 to structure reports, as needed. City reserves right to review, and to require changes to Contractor
10 reporting formats. At City's request, Contractor shall use standardized reporting forms provided by City.
11 Reports are intended to compile recorded data into useful forms of information that can be used to,
12 among other things:

- 13
- 14 1. Determine and set Maximum Rates and evaluate the financial efficacy of operations.
- 15 2. Evaluate past and expected progress towards achieving the Diversion requirements
- 16 specified in Section 4.14 and Exhibit E.
- 17 3. Provide concise and comprehensive program information and metrics for use in
- 18 fulfilling reporting requirements under AB 939, AB 341 AB 1826 and AB 1594.
- 19 4. Determine needs for adjustment to programs.
- 20 5. Evaluate Customer service and

21 **Monthly City Report Content**

22 The monthly tonnage reports shall be presented by Contractor to show the following information for each
23 month. In addition, each monthly report shall show the monthly data for the past twelve (12) months.
24

25 **1. Tonnage Report**

- 26 • Total tonnages collected for the month by route by material type.
- 27 • Tonnage delivered to each Approved Facility by Customer and Material Type, subtotalling and
- 28 clearly identifying those Tons that are Disposed and those that are Diverted.
- 29 • Total Units of Used Oil, Used Oil Filters, E-Waste, U-Waste, and Bulky Items Collected by Customer
- 30 Type and Units Recycled and Disposed.
- 31 • Tonnage of Recyclable Materials Marketed (by commodity and including average commodity
- 32 value for each) and Processing Residue Tonnage Disposed.
- 33 • Tonnage of Organic Materials Marketed and Processing Residue Tonnage Disposed, provided and
- 34 separately and combined for Food Scraps and Yard Trimmings.
- 35 • Tonnage of C&D Marketed and Processing Residue Tonnage Disposed.
- 36 • Total Tonnage of Solid Waste, showing Tons Disposed as provided in Sections 4.5 and 4.6 and total
- 37 net of such Tons.
- 38
- 39

EXHIBIT C REPORTING REQUIREMENTS

40 **2. Revenue Report**

- 41 • Provide a statement detailing Gross Receipts from all operations conducted or permitted
42 pursuant to this Agreement as required by Section 8.1.
- 43 • Maintain a list of Customers that are forty five (45) or more calendar days past due and include
44 the following information for each delinquent account: name; service address; contact
45 information; number of days the account is delinquent; method(s) the Contractor has used to
46 attempt collection of the bad debt including date of such attempt(s); and, identification, if, and
47 when the Contractor plans to or did stop service to a delinquent account. Provide this list only
48 upon request of the City.

49 **Quarterly City Report Content**

50 Quarterly reports shall be presented by Contractor showing the monthly information requested above
51 plus the following information for each quarter.

52 **1. Customer Report**

- 53 • Number of Customers by Customer Type.
- 54 • Number of Containers at each Service Level by Customer Type and program summarizing the type
55 of material Collected, total gallons of Cart service, cubic yards of Bin service, and pulls and cubic
56 yards or Tons of Drop Box and Compactor service by Customer Type. Report should calculate the
57 average volume of service received per: Single-Family Customer; Multi-Family dwelling unit;
58 Commercial Customer; and, C&D Customer.
- 59 • Number of free and for-fee On-Call Bulky Item Collections by Customer Type.
- 60 • Participation percentage by program and Customer Type where the participation percentage is
61 calculated as the number of Customers who have subscribed to or requested service under the
62 program relative to the number of Customers of that Customer Type subscribing to Solid Waste
63 service. Contractor shall not be required to submit participant Customer names and addresses as
64 part of the regular reporting; however, such information shall be provided to the City Contract
65 Manager upon request.
- 66 • Detailed Customer account data in Microsoft Excel format including, but not limited to: customer
67 name, service location address, Solid Waste, Recyclable Materials, Organic Materials, and C&D
68 Service Level information, contact name, address, and phone number. Such detail shall be
69 sufficient for the City to verify Customers' compliance/non-compliance with the requirements of
70 AB 341 and/or AB 1826. If necessary for compliance purposes, information shall be submitted on
71 a monthly basis at the City's request.
- 72 • Other reports required by the State or as may be required in the future related to the
73 requirements of AB 341 and AB 1826. If City necessary for compliance purposes, information
74 shall be submitted on a monthly basis at City request.

EXHIBIT C

REPORTING REQUIREMENTS

75 **2. Customer Service Report**

76 Customer service reporting requirements apply to both Collection and street sweeping services.

- 77 • Number of Customer calls listed separately by complaints and inquiries (where inquiries include
78 requests for Recycling information, Rate information, etc.) listed separately by month. For
79 complaints, list the number of calls separately by category (e.g., missed pickups, scheduled
80 cleanups, billing concerns, damage claims, etc.) and provide details regarding complaint
81 resolution.
- 82 • Number of new service requests and Service Level changes for each Customer Type and program
83 listed separately by month.
- 84 • Number of technical assistance requests and/or onsite services provided, listed by month.
- 85 • Number of events of Discarded Materials being tagged for non-Collection summarized by the
86 reason for tagging (e.g., inclusion of non-Recyclable or non-Compostable materials, improper
87 setout, Hazardous Waste, etc.) listed by month.
- 88 • Call center and web analytics such as hold times, number of hits and unique visitors to the
89 Contractor's website listed by month.

90
91 **3. Outreach**

92 Outreach reporting requirements apply to both Collection and street sweeping services.

- 93
94 • Provide a status report of Contractor's actual activities completed compared to the annual public
95 outreach plan. For each completed item, document the results including what date the activity
96 was performed, how many Customers were targeted or participated, and what methods were
97 used to accomplish the task, if different from the plan.
- 98 • Summarize the Recycling opportunity assessments/on-site meetings provided to Customers
99 (reporting Multi-Family separately from Commercial) by identifying the number of Recycling
100 opportunity assessments conducted each month in the most-recently completed quarter, and
101 contact information including address, contact names, telephone number of Persons contacted,
102 number of units (for Multi-Family), and the Solid Waste, Recyclable Materials, and Organic
103 Materials Service Level (separately for Food Scraps and Yard Trimmings, as applicable). Include
104 any Service Level changes resulting from such site visits.
- 105 • Dates, times, and group names of meetings and events attended.

106
107 **4. Diversion Compliance**

- 108 • Contractor's Diversion percentage rate for the quarter, calculated as total tons Delivered for
109 Processing minus Residue tons divided by total tons Collected.
- 110 • Contamination and Residue rates.
- 111 • Listing of Multi-Family and Commercial Customers that are not in compliance with the
112 requirements of AB 341 and/or AB 1826. Such list shall include, at a minimum, Customer name,
113 service location address, Solid Waste, Recyclable Materials, and Organic Materials Service Level

EXHIBIT C REPORTING REQUIREMENTS

114 information, contact name, address, and phone number, and the date(s) Contractor provided a
115 notice of non-compliance, and a complete description of Contractor efforts to inform, and to gain
116 compliance by each listed Customer.

117 **5. Pilot and New Programs (If applicable)**

118 For each pilot and/or new program, provide activity related and narrative reports on goals, milestones,
119 and accomplishments. Describe problems encountered, actions taken and any recommendations to
120 facilitate progress. Describe vehicles, personnel, and equipment utilized for each program.

121 **6. Public Outreach Plan**

122 Pursuant to Section 4.9, as part of the Contractor's third quarterly report for the Rate Period, Contractor
123 shall submit a plan outlining its public outreach efforts for the coming Rate Period.

124 **Annual City Report Content**

125 The annual report shall include all the monthly and quarterly report information plus the following
126 additional information.

127 **1. Summary Assessment**

128 Provide a summary assessment of the programs performed under this Agreement from Contractor's
129 perspective relative to the financial and physical status of the program. The physical status assessment
130 shall reflect how well the program is operating in terms of efficiency, economy, and effectiveness in
131 meeting all the goals and objectives of this Agreement, particularly the Contractor's Diversion goals.
132 Provide recommendations and plans to improve. Highlight significant accomplishments and problems.
133 Results shall be compared to other similar size communities served by the Contractor in the State, if
134 applicable.

135 **2. Vehicle Inventory**

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

139 **3. Recyclables, Organics, and C&D Markets**

140 Contractor shall include a listing of markets for Recyclable Materials, Organic Materials (separately for
141 Food Scraps and Yard Trimmings), and C&D and the end use of these materials. This type of information
142 is intended to help the City gauge the sustainability of Recycling and Organics markets.

143 **4. Cost-Based Rate Adjustment Data**

144 Provide the following information **only if Maximum Rates are to be determined for the upcoming Rate**
145 **Period using a cost-based adjustment process** pursuant to Exhibit D2. With the exception of the
146 "Financial Information" listed below, all other items listed may be requested by the City Contract Manager
147 at any time during the Term of the Agreement and Contractor shall comply with that request in a timely
148 fashion.

149 A. **Financial Information.** Within one hundred twenty (120) calendar days after the close of the
150 Rate Period, Contractor shall deliver to the City two (2) hard copies and one (1) electronic copy

EXHIBIT C REPORTING REQUIREMENTS

151 of the audited consolidated financial statements and profit and loss statements of Contractor
152 for the preceding Rate Period. Financial statements shall include a supplemental combining
153 schedule showing Contractor's results of operations, including the specific revenues and
154 expenses in connection with the operations provided for in this Agreement from others
155 included in such financial statements. The financial statements and footnotes shall be prepared
156 in accordance with Generally Accepted Accounting Principles (GAAP) consistently applied and
157 fairly reflecting the results of operation and Contractor's financial condition. Annual financial
158 statements shall be audited, in accordance with Generally Accepted Auditing Standards (GAAS)
159 by a Certified Public Accountant (CPA) licensed (in good standing) to practice public accounting
160 in the State as determined by the State Department of Consumer Affairs Board of Accountancy,
161 and that the CPA's opinion on Contractor's annual financial statements shall be unqualified, and
162 shall contain the CPA's conclusions regarding the Contractor's accounting policies and
163 procedures, internal controls, and operating policies. The CPA shall perform an evaluation and,
164 if necessary, shall cite recommendations for improvement.

165 **B. Related Party Entities.** As part of the annual reporting requirement, Contractor shall provide
166 the City with a copy of each related party entity's (whose cost of services are not pre-
167 determined in this Agreement on a unit price basis or by a governmental contractor) audited
168 annual financial statements and management letter for that fiscal year, or within ninety (90)
169 calendar days of each related party entity's fiscal year-end, if timing does not coincide with the
170 annual report date. Financial statements shall be prepared in accordance with GAAP and
171 audited, in accordance with GAAS, by a CPA licensed in the State, and that the CPA's opinion on
172 each related party entity's annual financial statements shall be unqualified, and that the CPA
173 make available to the City (or the City's designated representative) such CPA's working papers
174 related to the audit.

175 Contractor agrees that all financial transactions with all related party entities shall be approved
176 in advance in writing and disclosed in a separate disclosure letter to the City, upon request. This
177 letter shall include, but not be limited to, the following information:

- 178 • A general description of the nature of each related party entity transaction, or type of
179 transaction (if many similar transactions exist) shall be provided, as applicable. Such
180 description shall include for each (or similar) transaction, amounts, specific related party
181 entity, basis of amount (how amount was determined), description of the allocation
182 methodology used to allocate any common costs, and profit amount. Amounts shall be
183 reconciled to the related party entity disclosures made in Contractor's annual audited
184 financial statements referred to in this Exhibit.
- 185 • At the City's request, Contractor shall provide the City with copies of working papers or
186 other documentation deemed relevant by the Contractor relating to information shown in
187 the annual disclosure letter.

188 **C. Operational Information:** Provide the following operational information:

- 189 1. **Routes by Customer Type**
 - 190 a. Number of routes per day for each line of business.
 - 191 b. Types of vehicles.
 - 192 c. Crew size per route.
 - 193 d. Number of full time equivalent (FTE) routes.

EXHIBIT C REPORTING REQUIREMENTS

- 194 e. Number of accounts and cubic yards scheduled per route.
195 f. Total route hours per Customer Type per year.
196 g. Average cost per route.
197 h. Percentage of Drop Box routes attributable to C&D Collection
- 198 2. **Personnel**
199 a. Organizational chart.
200 b. Job classifications and number of employees (e.g., administrative, Customer
201 service representatives, drivers, supervisors, outreach staff).
202 c. Wages by job classification.
203 d. Number of FTE positions for each job classification.
204 e. Number of hours per job classification per year.
- 205 3. **Productivity Statistics**
206 a. Average number of accounts per route per day by Customer Type.
207 b. Average number of setouts per route per day by Customer Type.
208 c. Average Tons per route per day by vehicle type (e.g. side-loader, front-loader, roll-
209 off).
210 d. Average cubic yards of Collection scheduled per route.
211 e. Analysis of Drop Box Collection service and calculation of the percentage of Drop
212 Box route time attributable to C&D Collection.
- 213 4. **Vehicles**
214 a. List of collection vehicles including year purchased and mileage.
215 b. Average age of mobile equipment with oldest and newest.
216 c. List of major maintenance and/or replacement events, including costs.
- 217 5. **Operational Changes**
218 a. Number of routes.
219 b. Staffing.
220 c. Supervision.
221 d. Collection services.
222 e. Other data as applicable related to any programmatic or operational changes
223 implemented within the Agreement.
224
- 225 D. **Variance Analysis.** Provide the following variance analysis for each Customer Type. For any
226 variances greater than five (5) percent annually, Contractor shall provide sufficient rationale to
227 support variance:
228 1. Variance analysis comparing the current Rate Period to each of the prior Rate Periods of
229 Agreement.
230 2. Variance analysis comparing the current Rate Period to each of the future projected Rate
231 Periods.
232
- 233 E. **Allocations.** Provide the following allocation data:
234 1. Provide a concise general explanation of the various allocation methodologies used for
235 each Rate application line item.
236 2. Provide specific examples of each type of allocation used showing how an entry is
237 reported in the general ledger and ties to the Rate application

EXHIBIT C REPORTING REQUIREMENTS

- 238 3. Provide a statement indicating whether there have been any changes in allocation
239 methods used since the last Rate application. If any allocation methods have changed
240 clearly identify those changes.
241
- 242 F. **Projections.** Provide the following projection data:
- 243 1. Provide support for the basis for projected Gross Receipts and line item expenses, clearly
244 indicate the supporting calculations and assumptions
- 245 2. Provide support for the most-recent twelve (12) months of Tonnage data for the Rate
246 Period. Clearly indicate the supporting calculations and assumptions.

247 **Event-Specific Requirements**

- 248 A. **Special Events.** Within fourteen (14) calendar days of the end of a special event, Contractor
249 shall submit a report to the City Contract Manager and event organizer documenting at a
250 minimum: the number of event collection stations deployed at the event, the number of
251 collection station monitors, the Tonnage of each material type (e.g., Solid Waste, Recyclable
252 Materials, and Organic Materials) Collected, and a description of the public outreach conducted
253 at the event.
- 254 B. **Litter/Spillage of Materials.** Pursuant to Sections 5.3.B. and 5.3.C, Contractor shall discuss
255 instances of repeated spillage not caused by it directly with the Generator responsible and
256 report such instances to City.
- 257 C. **Notice of Non-Collection.** Pursuant to Sections 5.3.H Contractor notify the City Contract
258 Manager via email of Premises where materials are tagged by Contractor and not picked up,
259 describing the type of material(s) and reason.

260 **Required State Reporting**

261 Contractor shall be solely responsible for anticipating and understanding State reporting requirements for
262 AB 341 and AB 1826, except that it shall take direction as relates to such reporting if and as provided by
263 the City. Contractor shall develop and submit each report for City review and comment no less than forty
264 five (45) days prior to its required submittal date.
265

This page intentionally left blank

1

EXHIBIT D:

2

RATE ADJUSTMENT

3

METHODOLOGY

4

EXHIBIT D

RATE ADJUSTMENT METHODOLOGY

6 Adjustment Process

7 General

8 Subject to the terms herein, the City shall adjust all Rates on an annual basis. Contractor shall submit its
9 application for a Rate adjustment to the City Contract Manager on or before October 1 of each Rate Period
10 where Rates shall be adjusted using the index-based methodology described in Exhibit D1. Contractor
11 shall submit its application on or before August 1 for any Rate Period where Rates shall be adjusted using
12 the cost-based methodology described in Exhibit D2. Contractor's Rate application shall document all
13 calculations and include all supporting schedules, documentation of per-Ton charges for Approved
14 Facilities, documentation of changes in governmental fees at Approved Facilities (if applicable), and any
15 other documentation or evidence determined by the City Contract Manager to be reasonably necessary
16 to ensure that the calculation of Rate adjustments has been performed in strict conformance to the
17 requirements of this Exhibit D.

18 The City shall make a good faith effort to approve Rates by December 1 of each year, and such Rates shall
19 be effective on each subsequent January 1. If Rates are not effective by January 1 due to a delay caused
20 solely by City, City shall allow Contractor to retroactively bill Customers for the amount of the Rate
21 increase for any period of said delay that is solely caused by City (subject to the City's approval of how the
22 retroactive adjustment is billed) or the City may compensate the Contractor for lost Gross Rate Revenues.
23 In the case of a delayed Rate adjustment, the Contractor may bill the Customer during the next billing
24 cycle to recoup the deferred Rate increase. If Rates are not effective by January 1 as a result of
25 Contractor's delay in submitting the Rate application in a complete and accurate form, then prior Rates
26 remain in effect until such adjustment is made and Contractor shall not be entitled to a retroactive
27 adjustment for lost Gross Rate Revenues.

28 **Table 1 - Schedule of Rate Periods**

Rate Period	Dates
1	September 6, 2017 - December 31, 2018
2	January 1, 2019 – December 31, 2019
3	January 1, 2020 – December 31, 2020
4	January 1, 2021 – December 31, 2021
5	January 1, 2022 – December 31, 2022
6	January 1, 2023 – December 31, 2023
7	January 1, 2024 – December 31, 2024
8	January 1, 2025 – December 31, 2025
9	January 1, 2026 – December 31, 2026
10	January 1, 2027 – December 31, 2027
11	January 1, 2028 – December 31, 2028
12	January 1, 2029 – December 31, 2029
13	January 1, 2030 – December 31, 2030
14	January 1, 2031 – December 31, 2031
15	January 1, 2032 – December 31, 2032

EXHIBIT D RATE ADJUSTMENT METHODOLOGY

29
30 All of such Rate Periods will be adjusted if the Commencement Date is later than September 6, 2017.

31 **Definitions**

32 Certain terms which are specific to this Exhibit (including Exhibits E1 and E2) are defined below:

33 A. **“Annual Percentage Change”** means the average value of an index for the 12-month period
34 ending June of the then-current Rate Period minus the average index value for the 12-month
35 period ending June of the most-recently completed Rate Period, divided by the average index
36 value for the 12-month period ending June of the most-recently completed Rate Period. The
37 Annual Percentage Change shall be rounded to the nearest thousandth (1,000th).

38 For example, if the Contractor is preparing its Rate application for Rates to be effective for Rate
39 Period 2, the Annual Percentage Change in CPI shall be calculated as follows: $[(\text{Average CPI for July 2017 through June 2018}) - (\text{Average CPI for July 2016 through June 2017})] / (\text{Average CPI for July 2016 through June 2017})$.

42 B. **“Average Index Value”** means the sum of the monthly index values during the 12-month period
43 ending in June divided by 12 (in the case of indices published monthly), the sum of the bi-monthly
44 index values divided by 6 (in the case of indices published bi-monthly), or the sum of the quarterly
45 index values divided by 4 (in the case of indices published based on a 3-month percent change).

46 C. **“CPI-U”** means the Consumer Price Index, All Urban Consumers, all items, not seasonally adjusted
47 San Francisco-Oakland-San Jose Metropolitan Area compiled and published by the U.S.
48 Department of Labor, Bureau of Labor Statistics.

49 D. **“ECI”** means the Employment Cost Index, Total Compensation, For Private Industry Workers, in
50 Service-Providing Industries, Service Occupations, not seasonally adjusted, compiled and
51 published by the U.S. Department of Labor, Bureau of Labor Statistics, Index Series ID:
52 CIU201S0003000001.

53 E. **“CNG Fuel Pricing Index”** means the per-therm price for Core Natural Gas Service for Compression
54 on Customer’s Premises, Schedule G-NGV1, compiled and published by the Pacific Gas and Electric
55 Company Analysis and Rate Department and reported monthly in its “Gas RateFinder” publication
56 (<http://www.pge.com/tariffs/GRF.SHTML>). The March 2015 CNG Fuel Pricing Index is \$0.51999
57 per therm, which reflects the sum of the customer charge, procurement charge, transportation
58 charge, and public purpose program (PPP) charge for natural gas service for compression on
59 customer’s premises as reported by Pacific Gas and Electric Company.

60 F. **“Motor Vehicle Maintenance and Repair Index”** means the Consumer Price Index, All Urban
61 Consumers, Motor Vehicle Maintenance and Repair, not seasonally adjusted U.S. city average,

EXHIBIT D RATE ADJUSTMENT METHODOLOGY

- 62 compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics.
- 63 G. **“Net Organic Materials Processing Cost”** means cost of Processing Organic Materials less
64 revenues earned from sale of Compost Product.
- 65 H. **“Net Recyclable Materials Processing Revenue”** means revenues earned from sale of Processed
66 Recyclable Materials, less the cost of Processing.
- 67 I. **“Total Calculated Costs”** means the total amount to be used as a basis for determining the Rate
68 Adjustment Factor. The Total Calculated Costs do not reflect or in any way guarantee the Gross
69 Rate Revenues that are to be generated by Rates or retained by the Contractor. Note that for
70 determining Rates for Rate Period Two, Total Proposal Costs for Rate Period One shall be used for
71 the calculations.

72 Table 2 provides additional information about the four indices defined above.

73 **Table 2* - Detailed Index Information**

	CPI-U	ECI	Fuel	Motor Vehicle Maintenance and Repair Index
Description	Consumer Price Index - All Urban Consumers	Employment Cost Index	Pacific Gas and Electric Company Schedule G-NGV1 Natural Gas Service for Compression On Customers Premise	Consumer Price Index – All Urban Consumers, Motor Vehicle Maintenance and Repair
Series ID	CUURA422SA0	CIU201S0003000001	Schedule G-NGV1	CUUR0000SETD
Adjusted	Not seasonally adjusted	Not seasonally adjusted	Seasonally adjusted	Not seasonally adjusted
Area	San Francisco-Oakland-San Jose Metropolitan Area	N/A	N/A	U.S. City average
Item	All items	All items	Compressed Natural Gas	Motor vehicle maintenance and repair
Base Period	1982-84=100	1982-84=100	N/A	1982-84=100
Periodicity	Bi-monthly	Monthly	12-month percent change	Monthly

74 *All indices except the fuel index are published by the U.S. Bureau of Labor Statistics.

75 **Cost of Rate Adjustment Process**

76 The City may incur costs, including consulting and legal fees, when determining adjustments to the Rates

EXHIBIT D RATE ADJUSTMENT METHODOLOGY

77 in accordance with this Exhibit and may require the Contractor to pay for such costs within sixty (60)
78 calendar days of receipt of the City's invoice for such costs. The Contractor shall recover such costs
79 through the Rates by treating the costs as an allowable Pass-Through Cost. Regardless of Contractor's
80 payment of costs associated with said review, the City shall retain full and unimpeded discretion in
81 selection of its agents to ensure, at a minimum, that no conflict of interest arises in the review of
82 Contractor's request. The City retains the right to select its agents on the basis of their qualifications and
83 experience and without regard to cost.

84

EXHIBIT D-1:

85

MULTIPLE INDEX-

86

BASED RATE

87

ADJUSTMENT

88

METHODOLOGY

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

The blanks shown in this exhibit will be completed using the applicable figures for the Council-selected option.

1. GENERAL

The purpose of this attachment is to describe and illustrate the method by which the City will calculate the annual adjustment to Rates to reflect changes in various cost indices and changes to Disposal and Processing costs based on Tonnages of materials Collected and changes in tipping fees. This index-based adjustment process shall be used to determine Rates for all Rate Periods beginning with Rate Period Two (FY January 1, 2019 through December 31, 2019) with the exception that the Rate adjustment process for Rate Periods Four and Eight, and, if the Term is extended, for Rate Period Twelve, shall involve a detailed review of actual costs, pursuant to Section 8.2 of the Agreement and Exhibit D2.

The index-based adjustment involves application of indices to various costs that comprise the total proposed annual costs for Rate Period One (and to Total Calculated Costs for future Rate Periods) to determine the Total Calculated Costs for the coming Rate Period. In addition, Processing and Disposal costs shall be adjusted to reflect actual Tonnage Collected during the most-recently completed Rate Period. The index-based Rate adjustments may be approved by the City Contract Manager.

The difference (measured as a percentage) between the Total Calculated Costs for the coming Rate Period and the Total Calculated Costs for the then-current Rate Period is the Rate Adjustment Factor. The Rate Adjustment Factor is applied to the current Rates to determine the Rates for the coming Rate Period.

The Rate Adjustment Factor calculated pursuant to this Exhibit D-1 may not exceed five percent (5%). In the event that the calculation results in a calculated increase exceeding five percent (5%), Contractor may elect to either: i) accept a Customer Rate increase of no more than five percent (5%); or, ii) require that a cost-based Rate adjustment be performed under the procedures described in Exhibit D2. In the event that Contractor requires a cost-based rate adjustment, Contractor shall pay City's costs of the cost-based rate adjustment review and may not influence or control the City's selection of professional service providers to perform such review. In the event that calculated increase exceeds five percent (5%), and Contractor accepts a Rate increase of no more than five percent (5%), Contractor shall have the ability to include the excess dollar amount as an adjustment to the Total Calculated Costs in Contractor's Rate adjustment application for the following year, as described in more detail in Section F.2 of this Exhibit. However, such adjustment to the following year shall not be granted to the extent that it results in exceeding the five percent (5%) limit in that year. Under no circumstances shall any amount disallowed during the term of the Agreement as a result of the five percent (5%) limit be considered due to the Contractor by the City or Customers upon the expiration or early termination of this Agreement.

In the event that the index-based adjustment as calculated by this Exhibit D-1 results in a negative Rate Adjustment Factor, the City reserves the right to "roll-under" the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Rate Adjustment Factor was calculated, but the calculated Rate reduction may be deferred to the following Rate Period, as a credit against future Rate increases.

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

2. ADJUSTMENT OF TOTAL CALCULATED COSTS

The cost categories of the main components of Total Calculated Costs are presented in detail in Exhibit N. Adjustments to these components to calculate costs for the coming Rate Period shall be calculated as follows:

A. Total Annual Cost of Operations

1. **Labor-Related Costs.** The Labor-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the ECI.

For example, in Rate Period Two when calculating the Labor-Related Costs for Rate Period Three, the Labor-Related Costs of Rate Period Two shall be multiplied by one plus the Annual Percentage change in the ECI.

2. **Vehicle-Related Costs (excluding Fuel).** The Vehicle-Related Costs component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the Motor Vehicle Maintenance and Repair Index.
3. **Fuel Costs.** The Fuel Cost component of Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the Fuel Index.
4. **Net Recyclables Processing Revenue.** Contractor retains Recyclables Processing Revenue.
5. **Net Organic Materials Processing Cost.** The Net Organic Materials Processing Costs component of Total Calculated Costs is calculated as follows:

Net Organic Materials Processing Cost = [(Per-Ton Organic Materials Processing Cost for the then-current Rate Period - All regulatory fees identified on Form 5 of Exhibit N, (Contractor's Proposal) and included in the then-current per-Ton cost) x (1 + Annual Percentage Change in the CPI-U) + (Then-current per-Ton regulatory fees)] x (Total Tons of Organic Materials Collected for the most-recently completed 12-month period ending June 30*)

* Note that Tonnage calculations for Rate Period Two will be based on the estimated total Tons for Rate Period One identified in Contractor's proposal, Exhibit I, adjusted to reflect Tons for a single, complete, 12-month period.

6. **Other Costs.** The Other Costs component of the Total Calculated Costs for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI-U.
7. **Direct Depreciation.** Direct Depreciation is \$ [REDACTED] per year for Rate Periods Two through Ten, and is not annually adjusted, with the exception that an adjustment shall be made when calculating Rate Period Two costs if the Contractor received grant monies to offset the capital

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

costs of compressed natural gas (CNG) Collection vehicles. In such case the direct depreciation cost shall be \$_____ less one ninth of the grant monies received. This adjusted depreciation amount shall remain fixed for Rate Periods Two through Ten. If the Agreement is extended beyond Rate Period Ten, direct depreciation shall be zero in any subsequent Rate Periods unless Parties mutually agree to a different amount.

8. **Allocated Costs (Labor, Vehicle, Fuel, and Other Costs).** The Allocated Costs (Labor, Vehicle, Fuel, and Other Costs) component for the then-current Rate Period is multiplied by one plus the Annual Percentage Change in the CPI-U.
9. **Allocated Depreciation and Start-Up Costs.** The Allocated Depreciation and Start-Up Costs shall be \$_____ per year for Rate Period Two through Ten, and are not annually adjusted. These costs shall be zero for all subsequent Rate Periods unless Parties mutually agree to a different amount.
10. **Total Annual Cost of Operations.** The Total Annual Cost of Operations for the coming Rate Period equals the sum of the costs calculated in subsections (1) through (9) above.

B. Profit

Profit for the coming Rate Period shall be calculated by dividing the Total Annual Cost of Operations for the coming Rate Period (the value calculated in Section 2.A.8 above) by an operating ratio (87%) and subtracting from the result the Total Annual Cost of Operations for the coming year.

$$\text{Profit} = \frac{\text{Total Annual Cost of Operations for Coming Rate Period}}{\text{Operating Ratio}} - \text{Total Annual Cost of Operations for Coming Rate Period}$$

C. Pass-Through Costs (Excluded from the Calculation of Profit)

1. **Disposal Costs.** The Disposal Costs shall be calculated by multiplying the per-Ton Disposal fee at the Designated Disposal Facility and Designated Transfer Facility (to be specified by the City) for the coming Rate Period by the total Tons of Solid Waste Collected for the most-recently completed Rate Period (with the exception of calculating Rates for Rate Period Two, which shall be based on the estimated total Tons for Rate Period One identified in Exhibit N).
2. **Interest Expense.** The Interest Expense amount is \$_____ in Rate Period Two through Ten, is not annually adjusted, and shall be zero in any subsequent Rate Period unless Parties mutually agree to a different amount.
3. **Direct Lease Costs.** The Direct Lease Costs amount is \$_____ in Rate Period Two through Ten, is not annually adjusted, and shall be zero in any subsequent Rate Period unless Parties mutually

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

agree to a different amount.

4. **Allocated Lease Costs.** The Allocated Lease Costs amount is \$_____ for Rate Period Two through Ten (including interest costs for Allocated General and Administrative of \$_____, Allocated Vehicle Maintenance costs of \$_____ and Allocated Container Maintenance of \$_____ is not annually adjusted, and shall remain unadjusted in any subsequent Rate Period unless Parties mutually agree to a different amount.
5. **Total Pass-Through Costs.** Total Pass-Through Costs for the coming Rate Period are the sum of the amounts in Sections 2.C.1 through 2.C.4 above.

D. Total Calculated Costs before City Fees

The Total Calculated Costs before City Fees shall be the sum of the Total Annual Cost of Operations, Profit, and Total Pass-Through Costs for the coming Rate Period.

E. City Fees/Payments (Pass-Through Fees)

1. **Franchise Fee.** Franchise Fees for the coming Rate Period shall equal _____ percent (____%) of Contractor's Total Calculated Costs.
2. **Rate Application Review Costs.** An amount determined by the City to reimburse the Contractor for payment of the City's costs, including consulting and legal fees associated with determination of Rates under this Exhibit. Such Rate application review costs may or may not be one-time costs and shall be included in subsequent Rate Periods if it is not a one-time cost.
3. **Total City Fees.** The Total City Fees for the coming Rate Period shall equal costs calculated in Section 2.E.1 and 2.E.2 above; provided, however, that any adjustment in any such fee shall be pass-through fees (which are excluded from the calculation of profit) and reflected in the Total City Fees/Payments.

F. Other Adjustments

1. **General.** From time to time during the Term of the Agreement, it may be necessary to make other adjustments to the compensation calculations. All such adjustments shall be subject to the approval of the City Contract Manager. For example, if the Contractor obtains grant funds or subsidies, the annual amount of funds Contractor received or is forecasted to receive shall be reflected as an adjustment. In such case, the adjustment would be a reduction to the Total Calculated Costs to reduce the Rates since Contractor has secured funds from other sources to cover a portion of the costs required to provide service to the City.
2. **Rate Period Three C&D Drop Box Adjustment.** The following adjustment applies only to Rate Period Three, and shall be determined as defined as follows:
 - a. As part of its application for Rate Period Three, for September 2018 through August 2019

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

- for Drop Box Service provided to C&D Customers, Contractor submits total actual monthly Rate revenue for services provided on a per-pull basis, and total actual monthly Rate revenue for services charged on a per-Ton basis.
- b. City adds the total per-pull revenues and per-Ton revenues from subsection a. for September – December 2018 to derive a total actual monthly Rate revenue for that period.
 - c. City adds the total per-pull revenues and per-Ton revenues from subsection a. for January through August 2019 to derive a total actual monthly Rate revenue for that period.
 - d. City applies the Rate Adjustment Factor for Rate Period Two to the figure from subsection b., and adds the resulting revenues to the January through August 2019 revenues from subsection c. to obtain one full year of “actual total revenues for Drop Box service provided to C&D Customers, adjusted for Rate Period Two”.
 - e. City derives the projected total initial annual revenue for Drop Box service provided to C&D Customers by multiplying each applicable Rate as provided in Exhibit L by the projected subscription levels and Tonnages contained in Form 13 of Exhibit N.
 - f. City applies the Rate Adjustment Factor for Rate Period Two to the figure from subsection e. to obtain one full year of “projected total revenues for Drop Box service provided to C&D Customers, adjusted for Rate Period Two”.
 - g. City calculates the ratio of the figure calculated in subsection d. to the figure calculated in subsection f. If this ratio equals 0.90 or less, the ratio is a “shortfall” and is represented as a positive dollar difference in revenues. If the ratio equals 1.10 or more, the ratio is a “surplus” and is represented as a negative dollar difference in revenues. If the ratio equals between 0.900 and 1.10 it is represented as \$0.00.
3. **“Roll-Over” of Dollars Exceeding Rate Cap.** In the event that the calculated Rate increase exceeds five percent (5%) in any Rate Period, and Contractor accepts a Rate increase of no more than five percent (5%), Contractor shall have the ability to include the excess dollar amount as an adjustment to the Total Calculated Costs in Contractor’s Rate adjustment application for the following year. Contractor’s ability to “roll-over” such excess calculated costs shall not expire until the expiration or early termination of the base Term of this Agreement. In the event that there are remaining excess (i.e. “rolled-over”) calculated costs which have not been included in the Rates for any Rate Period upon expiration or early termination of this Agreement, Contractor shall not be compensated for the excess costs.

G. Total Calculated Costs

The Total Calculated Costs for the coming Rate Period shall equal the sum of the Total Annual Cost of Operations, Profit, Total Pass-Through Costs, Total City Fees, and Other Adjustments (if applicable), for the coming Rate Period.

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

3. RATE ADJUSTMENT FACTOR

The Rate Adjustment Factor shall equal the Total Calculated Costs for the coming Rate Period divided by the Total Calculated Costs for the then-current Rate Period, which shall be rounded to the nearest thousandth. Note that when determining the Rate Adjustment Factor for Rate Period Two, the Rate Adjustment Factor shall equal the Total Calculated Costs for Rate Period Two divided by the Total Proposed Costs of \$ _____ for twelve (12) months of Rate Period One.

4. ADJUSTMENT OF RATES

Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period. The adjustment to each Rate shall be rounded to the nearest cent.

5. EXAMPLE CALCULATION

The following example illustrates the index-based adjustment method for determining Rates for Rate Period Three (January 1, 2020 through December 31, 2020). The dollar amounts shown are hypothetical amounts for Total Calculated Costs for Rate Period Two (January 1, 2019 through December 31, 2019) and the adjustment factors are based on assumed changes in the various indices between the average index values for the twelve (12) months ending June 2018 and for the twelve (12) months ending June 2019.

A. Assumptions for Example Adjustment to Contractor's Compensation:

Most-Recently Completed Rate Period = Rate Period One (September 6, 2017 through December 31, 2018)

Then-current Rate Period = Rate Period Two (January 1, 2019 through December 31, 2019)

Coming Rate Period = Rate Period Three (January 1, 2020 through December 31, 2020)

32-gallon Single-Family Rate for Rate Period Two = \$19.00

Net Recyclable Materials Processing Costs per Ton for the ten-current Rate Period = \$60.77 per ton

Net Yard Trimmings Processing Costs per Ton for the then-current Rate Period = \$62.34 per ton

Net Food Scraps Processing Costs per Ton for the then-current Rate Period = \$92.00 per ton

Total Solid Waste Processing and Transfer Costs per Ton for the then-current Rate Period = \$141.51 per ton.

Net C&D Materials Processing Costs per Ton for the ten-current Rate Period = \$87.50 per ton

Disposal cost for the coming Rate Period = \$42.78 per ton.

Each of such amounts to be adjusted by the relevant Index.

Annual Percentage Change in the CPI-U = 0.040

Annual Percentage Change in the ECI = 0.018

Annual Percentage Change in the Motor Vehicle Maintenance and Repair Index = 0.031

Annual Percentage Change in the Fuel Index = 0.075

Tonnages for the most-recently completed Rate Period:

Solid Waste – 43,219 Tons

C&D Materials – 13,185 Tons

EXHIBIT D-1
INDEX-BASED RATE ADJUSTMENT METHODOLOGY

Recyclable Materials – 14,449 Tons
Yard Trimmings Materials – 5,787 Tons
Food Scraps Materials – 5,052 Tons

EXHIBIT D-1 INDEX-BASED RATE ADJUSTMENT METHODOLOGY

**Table 2:
Example – Hypothetical Calculation of Total Calculated Costs for Rate Period Two**

The following table will calculate Rate Period Two adjustments based on actual Rate Period One figures for the Council-selected option and sample adjustment factors.

	Rate Period Two	Adjustment Factor*	Rate Period Three
Annual Cost of Operations			
Labor-related costs	\$2,000,000	1.018	\$2,036,000
Vehicle-related costs (excluding fuel)	\$400,000	1.031	\$412,400
Fuel costs	\$800,000	1.075	\$860,000
Net Recyclable Materials Processing Revenue	\$525,000	35,000 x \$15.48	\$541,800
Net Organic Materials Processing Costs	\$836,000	22,000 x \$39.40	\$866,800
Other Costs	\$250,000	1.040	\$260,000
Direct Depreciation	\$700,000	N.A.	\$700,000
Allocated Costs (Labor, Vehicle, Fuel, and Other Costs)**	\$1,000,000	1.040	\$1,040,000
Allocated Costs (Depreciation and Start- Up)	\$100,000	N.A.	\$100,000
Total Annual Cost of Operations	\$6,611,000	N.A.	\$6,817,000
Profit (assuming operating ratio of 0.92)	\$574,870	N.A.	\$592,782.61
Pass-Through Costs			
Solid Waste Disposal costs	\$1,720,000	50,000 x \$44.60	\$1,784,000
Interest expense	\$150,000	N.A.	\$150,000
Direct lease	\$200,000	N.A.	\$200,000
Allocated lease costs	\$25,000	N.A.	\$25,000
Total Pass-Through Costs	\$12,166,870	N.A.	\$12,535,583
Total Calculated Costs before City Fees	\$19,352,739	N.A.	\$19,945,365
City Fees/Payments*			
Franchise Fee**	\$2,642,014	N.A.	\$2,722,859
Rate Application Review Costs	\$35,000	N.A.	\$35,000
Total City Fees/Payments	\$2,677,014	N.A.	\$2,757,859
Other Adjustments (as needed from time to time)	N.A.	N.A.	N.A.
Total Calculated Costs	\$22,029,754		\$22,703,224

* Fuel costs included in allocated costs shall be adjusted using the CPI-U not the Fuel Index.

**Assumes current franchise fee of 12%.

EXHIBIT D-1

INDEX-BASED RATE ADJUSTMENT METHODOLOGY

B. Example Calculation of the Rate Adjustment Factor and Adjusted Rate for Rate Period Three

Rate Adjustment Factor = $\$22,703,224 / \$22,029,754 = 1.031$

35-gallon Single-Family Rate for Rate Period Three = $\$19.00 \times 1.031 = \19.59 , which shall be effective January 1, 2020.

6. OTHER

If an index described in in this Exhibit D is discontinued, the successor index with which it is replaced shall be used for subsequent calculations. If no successor index is identified by the Bureau of Labor Statistics or Pacific Gas and Electric Company, the index published by either organization which is most comparable shall be used.

1

EXHIBIT D-2:

2

COST-BASED RATE

3

ADJUSTMENT

4

METHODOLOGY

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

The blanks shown in this exhibit will be completed using the applicable figures for the Council-selected option.

1. GENERAL

The City shall use the cost-based Rate adjustment method described in this Exhibit D-2 to determine Rates for Rate Periods Four and Eight, and, if the Term is extended, for Rate Period Twelve. The cost-based adjustment involves review of the Contractor's actual cost of operations and operational statistics (staffing levels, routes, route hours, Customers and their service levels, etc.) to determine the Actual Allowable Total Annual Cost of Operations for the most-recently completed Rate Period and to forecast the Total Contractor's Compensation for the coming Rate Period. The difference (measured as a percentage) between the Total Contractor's Compensation for the coming Rate Period and the Projected Gross Rate Revenues (which is calculated based on most-recent Customer subscription levels at then-current Rates) is the "Rate Adjustment Factor". The Rate Adjustment Factor is applied to the then-current Rates to determine the Rates for the coming Rate Period.

The intent of performing the cost-based adjustment is to examine the actual impact of changes in inflation or deflation, the number of Customers, and the Service Level of Customers.

The City Contract Manager may approve Rate adjustments if the Rate Adjustment Factor is equal to or less than five percent (5%), calculated in accordance with this Exhibit D-2. If the Rate Adjustment Factor is greater than five percent (5%), the Rate adjustment shall be presented to the City Council for approval.

In the event that the cost-based adjustment calculated in accordance with this Exhibit D-2 results in a negative Rate Adjustment Factor, the City reserves the right to "roll-under" the Rate reduction, such that there is no Rate adjustment in the Rate Period for which the negative Rate Adjustment Factor was calculated, but the calculated Rate reduction may be deferred to the following Rate Period, as a credit against future Rate increases.

2. FORECASTING TOTAL CONTRACTOR'S COMPENSATION

The Total Contractor's Compensation for the coming Rate Period shall be forecasted in the manner described in this Section.

A. Forecasting Total Annual Cost of Operations

1. **Determine Actual Allowable Total Annual Cost of Operations.** Contractor's financial statement, books, and records shall be reviewed to determine Contractor's "Actual Allowable Total Annual Cost of Operations" for the most-recently completed Rate Period to perform all the services in the manner required by this Agreement for each of the following cost categories:
 - a. Actual labor-related costs
 - b. Actual vehicle-related costs (excluding fuel and depreciation)
 - c. Actual fuel costs
 - d. Actual Net Recyclable Materials Processing Revenues

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

- e. Actual Net Organic Materials Processing Costs
 - f. Actual other costs as specified in Exhibit N)
 - g. Direct depreciation costs (in the amount specified in Exhibit D1)
 - h. Actual allocated costs (labor, vehicle, general and administrative, and other costs)
 - i. Actual allocated costs (depreciation and start-up) (in the amount stated in Exhibit D1)
- 2. Non-Allowable Costs.** The following list of non-allowable costs shall be deducted from the Contractor's actual costs when determining the Actual Allowable Total Annual Cost of Operations.
- a. Labor, equipment, fuel, and start-up costs for personnel, vehicles, and facilities that are not specified in the operating statistics, staffing, and capital requirements proposal forms contained in Exhibit N.
 - b. Payments to directors and/or owners of Contractor unless the amount paid is reasonable compensation for services actually rendered and consistent with the corporate overhead allocation used in Exhibit N. Reasonableness shall be determined based on available market pricing for similar services and shall be in the reasonable discretion of the City.
 - c. Travel expenses and entertainment (above five thousand dollars (\$5,000) annually in total) expenses, unless authorized in advance by the City.
 - d. Payments to repair damage to public or private property for which Contractor is legally liable.
 - e. Fines or penalties of any nature.
 - f. Liquidated Damages assessed under this Agreement.
 - g. Federal or State income taxes.
 - h. Cash donations or value of in-kind services provided to charitable, political, youth, civic, or other community organizations unless such donation has been previously approved in writing as an allowable expense by the City Contract Manager.
 - i. Depreciation or interest expense for Collection vehicles, Containers, other equipment, offices and other facilities if such items are leased as specified in Exhibit N.
 - j. Attorney's fees and other expenses incurred by Contractor in any court proceeding in which the City and Contractor are adverse Parties.
 - k. Attorney's fees and other expenses incurred by Contractor arising from any act or omission in violation of this Agreement.

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

- l. Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrong doing are in issue and occasion, in whole or in part, the attorneys' fees and expenses claimed; and attorneys' fees and expenses incurred by Contractor in a court proceeding in which the legal theory or statute providing a basis of liability against Contractor also provides for separate potential liability for the City derived from the action of its citizens or Rate payers (such as in a CERCLA lawsuit) unless the Contractor is found not liable in such claims and such claims arise from acts or occurrences within the Term of the Agreement.
 - m. Payments to Related-Party Entities for products or services, in excess of the market value for those products or services.
 - n. Goodwill.
 - o. Unreasonable profit sharing distributions.
 - p. Replacement costs for Containers that need to be replaced because the useful life of such Container was less than the Term.
 - q. Administrative costs greater than the administrative costs contained in Exhibit N adjusted annually by one plus the Annual Percentage Change in the CPI-U.
 - r. Bad debt write-offs in excess of one percent (1%) of annual Rate revenues.
 - s. Transfer and Processing costs for Recyclable Materials.
- 3. Forecast Total Annual Cost of Operations.** Forecasted Total Annual Cost of Operations for the coming Rate Period shall be calculated based on Actual Allowed Total Cost of Operations for the most-recently completed Rate Period determined in accordance with Sections 2.A.1 and 2.A.2 above. The forecasts shall be performed in the following manner:
- a. **Forecasted labor-related costs** shall be calculated for the coming Rate Period by (i) multiplying the allowed labor-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the ECI, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the ECI.
 - b. **Forecasted vehicle-related costs** (excluding fuel and depreciation costs) shall be calculated for the coming Rate Period by (i) multiplying the allowed vehicle-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the Motor Vehicle Maintenance and Repair Index, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the Motor Vehicle Maintenance and Repair Index.

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

- c. **Forecasted fuel costs** shall be calculated for the coming Rate Period by (i) multiplying the allowed fuel costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in the Fuel Index, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the Fuel Index.
- d. **Forecasted Net Recyclables Processing Revenue.** Contractor retains Recyclables Processing Revenue revenues.
- e. **Forecasted Net Organic Materials Processing Costs** shall be calculated for the coming Rate Period in the following manner:

$$\text{Forecasted Net Organic Materials Processing Cost} = (\text{Net Organic Materials Processing Cost per Ton for the then-current Rate Period}) \times (1 + \text{Annual Percentage Change in the CPI-U}) \times (\text{total Tons of Organic Materials Collected for the most-recently completed 12-month period ending June 30})$$
- f. **Forecasted other costs** shall be calculated for the coming Rate Period by (i) multiplying the allowed other-related costs, both direct and allocated, for the most-recently completed Rate Period by one plus the Annual Percentage Change in CPI-U, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in the CPI-U.
- g. **Forecasted direct depreciation expense** shall be the amount specified in Exhibit D1 for vehicles, Containers, and facilities. Direct depreciation expense is a fixed cost and is not subject to inflation.
- h. **Forecasted allocated labor-related, vehicle-related, general and administrative, and other costs** shall be calculated for the coming Rate Period by (i) multiplying the allowed other-related costs for most-recently completed Rate Period by one plus the Annual Percentage Change in CPI-U, and (ii) multiplying the result of step one once more by one plus the Annual Percentage Change in CPI-U.
- i. **Forecasted allocated depreciation and start-up expense** shall be the amount specified in Section 2.A.7 of Exhibit D1 for vehicles, Containers, and facilities.
- j. **Forecasted Total Annual Cost of Operations** for the coming Rate Period shall equal the sum of the following costs, which shall have been calculated in accordance with the procedures in this Exhibit D-2:
 - (1) Forecasted labor-related costs
 - (2) Forecasted vehicle-related costs (excluding fuel and depreciation costs)
 - (3) Forecasted fuel costs
 - (4) Forecasted Net Recyclable Materials Processing Revenues
 - (5) Forecasted Net Organic Materials Processing Costs

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

- (5) Forecasted other costs
- (6) Forecasted direct depreciation expense
- (7) Forecasted allocated labor-related, vehicle-related, general and administrative, and other costs
- (8) Forecasted allocated costs for depreciation and start-up

B. Forecast Profit

Contractor shall be entitled to Profit on Forecasted Total Annual Cost of Operations. Profit shall be calculated using an operating ratio of eighty seven percent (87%) as proposed by Contractor and specified in Exhibit N. Profit shall be calculated using the following formula:

$$\text{Profit} = (\text{Forecasted Total Annual Cost of Operations} / \text{Operating Ratio}) - \text{Forecasted Total Annual Cost of Operations}$$

For example:

- 1. Assuming an operating ratio of 92%
- 2. Assuming a Forecasted Total Annual Cost of Operations of \$1,000,000
- 3. Profit = $(\$1,000,000 / 0.92) - \$1,000,000 = \$86,956.52$

C. Forecast Pass-Through Costs

Pass-Through Costs for the coming Rate Period shall be forecasted in the following manner:

- 1. **Disposal Costs.** The Disposal Costs shall be calculated by multiplying the per-Ton Disposal fee at the Designated Disposal Facility and Designated Transfer Facility (to be specified by the City) for the coming Rate Period by the total Tons of Solid Waste Collected for the most-recently completed Rate Period.
- 2. **Forecasted Interest Expense.** Interest Expense is \$ _____ per year and shall not be adjusted over the Term of the Agreement.
- 3. **Forecasted Direct Lease Costs.** Direct Lease Costs are \$ _____ per year and shall not be adjusted over the Term of the Agreement.
- 4. **Forecasted Allocated Lease Costs.** Allocated Lease Costs are \$ _____ per year and shall not be adjusted over the Term of the Agreement.
- 5. **Cost of Rate Adjustment Process.** Costs incurred by the City related to the review of the Rate adjustment process, including consulting and legal fees. Such amounts shall be provided by the City.

EXHIBIT D-2

COST-BASED RATE ADJUSTMENT METHODOLOGY

D. Forecast City Fees

City fees shall be calculated in the manner described in Section 2.E of Exhibit D1.

E. Other Adjustments

1. **General.** From time to time during the Term of the Agreement, it may be necessary to make other adjustments to the compensation calculations. All such adjustments shall be subject to the approval of the City Contract Manager. For example, if the Contractor obtains grant funds or subsidies, the annual amount of funds Contractor received or is forecasted to receive shall be reflected as an adjustment. In such case, the adjustment would be a reduction to the Total Calculated Costs to reduce the Rates since Contractor has secured funds from other sources to cover a portion of the costs required to provide service to the City.
2. **“Roll-Over” of Dollars Exceeding Rate Cap.** In the event that the calculated Rate increase exceeds five percent (5%) in any Rate Period, and Contractor accepts a Rate increase of no more than five percent (5%), Contractor shall have the ability to include the excess dollar amount as an adjustment to the Total Calculated Costs in Contractor’s Rate adjustment application for the following year. Contractor’s ability to “roll-over” such excess calculated costs shall not expire until the expiration or early termination of the base Term of this Agreement. In the event that there are remaining excess (i.e. “rolled-over”) calculated costs which have not been included in the Rates for any Rate Period upon expiration or early termination of this Agreement, Contractor shall not be compensated for the excess costs.

3. PROJECTED GROSS RATE REVENUE

Projected Gross Rate Revenue at then-current Rates shall reflect projected annual Gross Rate Revenues from all Customers based on then-current Rates and then-current Customer Service Levels.

4. RATE ADJUSTMENT FACTOR

The Rate Adjustment Factor shall equal the Forecasted Total Calculated Costs for the coming Rate Period divided by the Projected Gross Rate Revenues calculated in accordance with Section 2 herein. The Rate Adjustment Factor shall be rounded to the nearest thousandth.

5. ADJUSTMENT OF RATES

Each then-current Rate shall be multiplied by the Rate Adjustment Factor to calculate the effective Rate for the coming Rate Period.

1 **EXHIBIT E:**
2 **PERFORMANCE**
3 **STANDARDS AND**
4 **LIQUIDATED**
5 **DAMAGES**

EXHIBIT E PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES

7 City wishes to establish standards of performance under the Agreement in each of the “Performance
8 Areas” listed below. The City Contract Manager may monitor Contractor’s performance in each of those
9 areas based on the “Overall Performance Indicator” listed below for each area. In the event that
10 Contractor fails to meet the performance standard established for any “Overall Performance Indicator,”
11 City Contract Manager may review Contractor’s performance relative to the “Specific Performance
12 Measures” within that performance area. In the event that the City Contract Manager determines that
13 Contractor has failed to meet the performance standard established for any “Specific Performance
14 Measure,” the City may assess Liquidated Damages pursuant to Section 10.6 of the Agreement.
15 Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other measure
16 in excess of the acceptable performance level.

17 **Defined Terms**

18 Certain terms that are specific to this Exhibit are defined below:

19 **“Complaint”** shall mean each written or orally communicated statement made by any Person,
20 whether to City or Contractor, alleging: (1) non-performance, or deficiencies in Contractor’s
21 performance, of its duties under this Agreement; or, (2) a violation by Contractor of this Agreement.
22

23 **“Service Opportunity”** shall mean each individual scheduled opportunity the Contractor has to
24 Collect from a Container at a Customer’s location. For example, a Multi-Family or Commercial
25 Customer receiving Solid Waste Collection service three (3) times per week from two (2) Containers
26 and Recyclable Materials Collection service two (2) times per week from two (2) Containers would
27 have a total of ten (10) Service Opportunities each week. Service Opportunities shall be calculated
28 based on the subscription levels presented in Contractor’s most recent Quarterly Report to City.
29 For a Single-Family Customer with three Carts for Collection of Solid Waste, Recyclable Materials,
30 and Organic Materials, the Customer would have a total of three (3) Service Opportunities each
31 week.
32

33 **“Total Service Opportunities”** shall mean the sum of all Service Opportunities in a given time period
34
35
36

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

37 **Performance Area No. 1: Service Quality and Reliability**

38 Overall Performance Indicator: Contractor’s service quality and reliability shall be considered acceptable
 39 by the City if the total number of calls and emails (including, without limitation: Complaints, inquiries,
 40 billing questions, service requests, and compliments) received by Contractor from Customers served
 41 under this Agreement does not exceed twenty (20) per one thousand (1,000) Total Service Opportunities
 42 in any calendar quarter. If the number exceeds this level, City may assess Liquidated Damages for the
 43 specific performance measures identified in the following table.

44

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Missed Collections	Each Service Opportunity where Contractor fails to Collect a Container from a Customer who properly placed said Container for Collection.	Less than fifteen (15) per one thousand (1,000) Service Opportunities	\$50/Event
Failure to Correct Missed Collections	Each “Missed Collection” as defined above which is not Collected by the end of the Business Day following the receipt of the Customer Complaint about the Missed Collection.	Less than five (5) per one hundred (100) Missed Collections	\$50/Event
Failure to Clean-Up Spillage	Each failure by Contractor to clean up: (1) any items or materials spilled during the Collection of a Container; or, (2) any fluids spilled or leaked from a Container or Collection vehicle prior to leaving the Collection location.	Less than fifteen (15) per one thousand (1,000) Service Opportunities	\$100/Event
Damage to Property	Each event of damage to either public or private property as a result of Collection activity, including without limitation curbs, sidewalks, landscapes, Container enclosures and gates, signs, light fixtures, and overhead wires and cables.	Less than five (5) per one thousand (1,000) Service Opportunities	\$250/Event
Excessive Noise or Discourteous Behavior	Each Complaint received that is related to either noise during Collection activity or the behavior of Contractor’s employees.	Less than five (5) per one thousand (1,000) Service Opportunities	\$250/Event

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Inaccurate Billing	Each Complaint received where the Contractor billed a Customer in error. Inaccurate billing may include, but is not limited to: (i) either over- or under-charging of the Customer relative to the approved Maximum Rates for services, (ii) charging the Customer a Rate that is not the same as other Customers with the same Service Level; (iii) charging a Customer for an increased Service Level prior to providing the service; (iv) not charging a Customer for reduced Service Level within seven (7) of the date Customer requested the change regardless of whether or not Contractor delivers the appropriate Containers or modifies the Service Level within that timeframe.	Less than fifteen (15) per one thousand (1,000) bills issued.	\$100/Event
Failure to Perform Other Requirement	Each failure to perform any obligation of the Agreement not specifically stated above.	No acceptable failure level	\$100/Event

45

46

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

47 **Performance Area No. 2: Customer Service**

48 Overall Performance Indicator: The level of Customer service provided by Contractor shall be considered
 49 acceptable if the total number of Complaints received by City regarding Contractor does not exceed five
 50 (5) per one thousand (1,000) Total Service Opportunities in any calendar quarter. If the number exceeds
 51 this level, City may assess Liquidated Damages for the specific performance measures identified in the
 52 following table.
 53

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Failure to Commence Service	Any failure by Contractor to deliver a Container and begin providing Collection to a Customer, at the Service Level requested by said Customer, within seven (7) calendar days of receiving such request. This may include a new Customer receiving new service or an existing Customer requesting a change in or addition to existing Service Levels. This may also include delivering Used Oil Recovery Kits to Customers upon request.	Less than one (1) per 100 Service Requests	\$50/Event
Failure to Replace Container or Remove Graffiti	Any failure by Contractor to replace or repair a damaged Container within seven (7) calendar days of receiving such a request from a Customer, or any failure by Contractor shall remove graffiti from Containers within forty-eight (48) hours of identification by Contractor or notice by City or Customer if such graffiti includes any written or pictorial obscenities and otherwise within five (5) Business Days.	No acceptable failure level	\$100/Event
Failure to Resolve Complaint	Any failure by Contractor to resolve or remedy a Complaint within seven (7) calendar days of receiving such Complaint.	Less than one (1) per 100 Complaints	\$250/Event
Failure to Answer Phones	Any failure by Contractor to answer a telephone call from a Customer during normal business hours. A call is not considered to be answered if the Customer does not speak with a live operator. A call is considered to be answered if the Customer hangs-up or abandons the call following a hold time of less than three (3) minutes.	Less than five (5) per 1,000 Calls Received Under this Agreement	\$50/Event

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Excessive Call Center Hold Time	Each occurrence of a call being placed “on hold” for more than two (2) minutes.	Less than two (2) per 1,000 Calls Received Under this Agreement	\$50/Event
Unauthorized Hours of Operation	Each occurrence of Contractor Collecting from Customers during unauthorized hours.	Less than two (2) per 1,000 Service Opportunities	\$250/Event

54 **Performance Area No. 3: Outreach**

55 Overall Performance Indicator: Contractor’s street sweeping shall be considered acceptable if service
56 meets the requirements of Section 4.9, Exhibit C and the following table.

57

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Failure to Perform Public Outreach Activities	Each individual failure by Contractor to develop, produce, and distribute public outreach material or perform community outreach activities in the form and manner required under Exhibit B to this Agreement.	No acceptable failure level	\$500/Activity
Failure to Provide Targeted Technical Assistance	Each individual failure to provide targeted technical assistance to a Commercial or Multi-Family Customer in the manner required under Exhibit B to this Agreement.	No acceptable failure level	\$50/Customer

58

59

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

60 **Performance Area No. 4: Diversion**

61 Overall Performance Indicator: Contractor’s Diversion performance shall be considered acceptable if
 62 based on monthly report data, Contractor Diverts the minimum amounts described in Section 4.14.B.1 of
 63 the Agreement. If the calculated percentage is less, City may assess Liquidated Damages for the specific
 64 performance measures identified in the following table.

65

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Failure to Maintain the Contractor’s Minimum Required Diversion Level	Failure to meet minimum Diversion percentage in any month.	No acceptable failure level	\$100/Ton of material that would have needed to be Diverted to meet the requirement for the given month

66 **Performance Area No. 5: Facilities**

67 Overall Performance Indicator: Contractor’s performance relative to facilities shall be considered
 68 acceptable when one hundred percent (100%) of all material types Collected by Contractor shall be
 69 Delivered to the appropriate Approved Facility as required under Sections 4.7 and 4.8 of this Agreement.
 70 If Contractor fails to meet this level of performance, City may assess Liquidated Damages for the specific
 71 performance measures identified in the following table.

72

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Delivery to Non-Approved Facility	Each individual occurrence of delivering materials to a facility other than the Approved Facility designated for each material type under Sections 4.7 and 4.8 of this Agreement.	No acceptable failure level	\$100/Ton
Disposal of Material Targeted Diversion	Each individual occurrence of Disposal rather than Processing of Recyclable Materials, Organic Materials, C&D, or Reusable Materials set out for Collection by the Customer.	No acceptable failure level	\$500/Ton

EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Mixing Material Types During Collection	Each individual Container that is Collected by Contractor in a vehicle intended or designated for the purpose of Collecting a different material type (e.g. Recyclable Materials Collected in Solid Waste vehicle, Solid Waste Collected in Organic Materials vehicle, etc.)	No acceptable failure level	\$100/Container

73 **Performance Area No. 6: Reporting**

74 Overall Performance Indicator: Contractor’s reporting shall be considered acceptable if Reports required
75 under Exhibit C and record requests allowed under Article 6 to this Agreement are received, complete,
76 and accurate within seven (7) calendar days after the date due or date of requested. If Contractor fails to
77 meet this level of performance, City may assess Liquidated Damages for the specific performance
78 measures identified in the following table.
79

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Late Report	Each occurrence of a report, as required under Exhibit C to this Agreement, being submitted after the due date. Reports shall be considered late until they are submitted in a complete and accurate format.	Less than seven (7) calendar days after report due date	\$250/Day
Failure to Maintain or Provide Access to Records	Each occurrence of City Contract Manager requesting information required to be maintained by Contractor where Contractor fails to provide such information.	Less than seven (7) calendar days after report due date	\$500/Event
Misleading/ Inaccurate Reporting	Each occurrence of Contractor providing misleading or otherwise inaccurate information or reporting to City under or in regard to this Agreement. Typographical, cell reference, mathematical, and/or logic errors shall not be considered legitimate excuses from this requirement, nor shall ignorance.	No acceptable failure level	\$500/Event

80
81

**EXHIBIT E
PERFORMANCE STANDARDS AND
LIQUIDATED DAMAGES**

82 **Performance Area No. 7: Street Sweeping**

83 Overall Performance Indicator: Contractor’s street sweeping shall be considered acceptable if service
84 meets the requirements of Section 4.15, Exhibit O and the following table.
85

Specific Performance Measure	Definition	Acceptable Performance Level	Liquidated Damage Amount
Service	Two or more callbacks for substandard service within a thirty (30) day period	One (1) callback for substandard service within a thirty (30) day period	\$500/Each Callback after the Second
Complaints	Failure to report action taken on complaints within three (3) working days	No acceptable failure level	\$250/Event

86
87
88 By placing Designee’s initials at the places provided, each Party specifically confirms the accuracy of the
89 statements made above and the fact that each Party has had ample opportunity to consult with legal
90 counsel and obtain an explanation of Liquidated Damage provisions of the time that the Agreement was
91 made.

92 Contractor _____ City
93 Initial Here: _____ Initial Here: _____

94
95

This page intentionally left blank

**EXHIBIT F:
LIST OF FACILITIES
AND CITY
CONTAINERS**

1

2

3

4

EXHIBIT F

LIST OF CITY FACILITIES AND PUBLIC CONTAINERS

6 **City Facilities**

- 7 • City Hall complex
- 8 • Community Center
- 9 • Senior Center
- 10 • City Public Works Corporation Yard
- 11 • Police stations
- 12 • Fire stations
- 13 • Sports Center
- 14 • Vehicle Maintenance Facility
- 15 • Milpitas Public Library
- 16 • Santa Clara County Library
- 17 • Midtown Parking Garage
- 18 • Higuera Adobe Park

19

20 Contractor shall provide Collection service to other similar facilities which City may acquire during the
21 term of the Agreement.

22

23 **Public Containers**

24

25 {Final list to be inserted prior to execution.}

This page intentionally left blank

1

EXHIBIT G: RESERVED

2

4

5

6

EXHIBIT H: CART SPECIFICATIONS

EXHIBIT H CART SPECIFICATIONS

8 This exhibit will be revised as needed should Council select an option for a 20 gallon equivalent solid waste
9 cart.

10
11 The Cart specifications provided in this Exhibit H shall pertain to all Carts provided by the Contractor
12 to Customers on the Commencement Date of this Agreement and during the Term of the Agreement.

13 **1. CART DESIGN REQUIREMENTS**

14 **A. General**

15 The Carts shall be manufactured by injection molding and meet the Cart design and performance
16 requirements as specified below. Contractor shall purchase Carts that contain 30% post-consumer
17 recycled plastic content. Contractor must submit Cart orders (including material and design specifications,
18 colors and identification marks) to City for City's written approval prior to submitting the order to the
19 manufacturer.

20 Split-Carts will be provided to separately collect Solid Waste and Food Scraps and Recyclables (fibers
21 separate from containers).

22 Solid Waste / Food Scraps Split-Carts: 64-, or 96-Gallon split-carts will be provided to collect solid waste
23 and food scraps. 64-gallon carts will be the default cart size for solid waste and food scraps and the divider
24 to separate the two commodities will be inserted to separate approximately 70/30. A 64-gallon split-cart
25 will provide 45-gallons of solid waste capacity and 19-gallons of food scraps capacity. A 96-gallon split-
26 cart will provide 67-gallons of solid waste capacity and 29-gallons of food scraps capacity. A 45-gallon
27 "insert" can be placed inside the solid waste portion of the 64-gallon cart to provide customers with a
28 smaller garbage capacity (26-gallons), leaving 19-gallons of food scraps capacity. The graphic below
29 depicts the solid-waste and food scraps split-cart sizes and capacities.

30 Recyclable Materials Split-Carts: 64-, or 96-Gallon split-carts will be provided to collect recyclables. The
31 recyclables split-cart will be split 50/50 to separate fibers from containers. The graphic in Section 4 of the
32 Agreement depicts the recyclables split-cart capacity.

33 **B. Materials Identification and Decals**

34 Carts or their lids must be in bright, readily identifiable colors to facilitate Customer's ready recognition
35 of Solid Waste, Food Scraps, Recyclable Materials, and Yard Trimmings, subject to City's written approval
36 and available space on the Container lid/body as described in this Exhibit. Subject to City approval,
37 Contractor shall display Contractor's name and telephone number using labels, decals, or other acceptable
38 method. Contractor shall provide and attach decals or emboss the Cart number and information
39 describing correct materials and methods for Collection; forbidding disposal therein of Hazardous Waste
40 and describing proper disposal thereof; and forbidding scavenging (through words and international
41 symbols) and describing the penalties therefore under California law or City Municipal Code.

EXHIBIT H CART SPECIFICATIONS

42 C. Cart Handles

43 The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part
44 of the lid. The Cart handles shall provide comfortable gripping area for pulling or pushing the Cart or
45 lifting the lid. Pinch points are unacceptable.

46 D. Cart Lid

47 Each single material Cart and each split-Cart shall be provided with a lid(s) that continuously overlaps and
48 comes in contact with the Cart body or otherwise causes an interface with the Cart body that
49 simultaneously:

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

62 E. Cart Colors

63 The Solid Waste and Food Scraps split-Cart, Recyclable Materials Cart, and Yard Trimmings Cart shall be
64 differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or
65 ultraviolet degradation. Color of lids and Cart bodies must be uniform for each Cart type (e.g., Solid Waste,
66 Food Scraps, Recyclable Materials, and Yard Trimmings). Solid Waste split-Cart bodies and lids shall be
67 black. Recyclable Materials Cart bodies and/or lids shall be blue/gray. Yard Trimmings Cart bodies and
68 lids shall be green. Contractor may propose other colors for Cart lids or Cart bodies, which are subject to
69 written approval by the City. For all colors including those prescribed in this paragraph, the Contractor
70 shall obtain written approval from the City for the Cart colors before Contractor's purchase of the Carts.

71 F. Identification Markings

72 All markings on the Carts shall be approved by the City in advance of ordering Carts. Information specific
73 to the Contractor (e.g., name, phone number, etc.) may not be hot stamped or otherwise permanently
74 affixed such that such markings cannot be easily covered by decals. An arrow hot stamped in white color
75 shall be placed on the lid indicating the direction of Cart placement along with the phrase:

76 PLACE CART WITH ARROW FACING

EXHIBIT H CART SPECIFICATIONS

77 STREET FOR COLLECTION

78

79 The same phrase shall also be provided in Spanish, Vietnamese and Chinese. Additional markings on the
80 Container lid and/or body will be subject to City approval and available space.

81 **2. CART PERFORMANCE REQUIREMENTS**

82 **A. General**

83 All Carts shall be designed and manufactured to meet the minimum performance requirements described
84 below.

85 **B. Cart Load Capacity**

86 Depending on the capacity, the Carts shall have a minimum load capacity as noted on the following table
87 without Cart distortion, damage, or reduction in maneuverability or any other functions as required
88 herein.

89

90 Cart Size (Gallons)	Minimum Load Capacity (Pounds)
91 96	200
92 64	130
93 45-gallon insert (inside 64-gallon cart)	70

94 **C. Cart Durability**

95 Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy
96 its intended use and performance, for the Term of this Agreement:

97

- 98 • Maintain its original shape and appearance;
- 99 • Be resistant to kicks and blows;
- 100 • Require no routine maintenance and essentially be maintenance free;
- 101 • Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that shall interfere
102 with its intended use;
- 103 • Resist degradation from ultraviolet radiation;
- 104 • Be incapable of penetration by biting or clawing of household pets (e.g., dogs and cats);
- 105 • The bottoms of Cart bodies must remain impervious to any damage, that would interfere with the
106 Cart's intended use after repeated contact with gravel, concrete, asphalt, or any other rough and
107 abrasive surface;
- 108 • All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally
109 designed and intended; and,
- 110 • Resist degradation by other airborne gases or particulate matter currently present in the ambient air
111 of the City.

EXHIBIT H CART SPECIFICATIONS

112 **D. Chemical Resistant**

113 Carts shall resist damage from common household or Residential products and chemicals. Carts, also,
114 shall resist damage from human and animal urine and feces.

115 **E. Stability and Maneuverability**

116 The Carts shall be stable and self-balancing in the upright position, when either empty or loaded to its
117 maximum design capacity with an evenly distributed load, and with the lid in either a closed or an open
118 position. The Carts shall be capable of maintaining its upright position in sustained or gusting winds of up
119 to 25 miles per hour as applied from any direction. The Carts shall be capable of being easily moved and
120 maneuvered, with an evenly distributed load equal in weight to its maximum design capacity on a level,
121 sloped or stepped surface.

122 **F. Lid Performance**

123 Cart lid assemblies shall meet the following minimum requirements:

- 124 • Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and
125 closing of the lid by residents or in the dumping process as intended;
- 126 • Remain closed in winds up to 25 miles per hour from any direction. All lid hinges must remain fully
127 functional and continually hold the lid in the original designed and intended positions when either
128 opened or closed or any position between the two extremes; and,
- 129 • Lid shall be designed and constructed such that it prevents physical injury to the user while opening
130 and closing the Cart.

131 **G. Serviceability**

132 Minor cracks, holes, and other damages to hinges, wheels, axle, hardware, and other component parts
133 shall be readily serviceable by the contractor personnel. All repairs must restore the Cart to its full
134 functionality to meet the design and performance requirements as set for herein.

135

EXHIBIT I:

136

CONTRACTOR'S

137

PROPOSAL

138

I-1. Contractor's Proposal

139

I-2. Contractor's Responses During Clarification

141

EXHIBIT I-1:

142

CONTRACTOR'S

143

PROPOSAL

EXHIBIT I-1
CONTRACTOR'S PROPOSAL

145 This Exhibit shall be prepared based on Contractor's Proposal and included with the final Agreement:

This page intentionally left blank

1 **EXHIBIT I-2:**
2 **CONTRACTOR'S**
3 **RESPONSES DURING**
4 **CLARIFICATION**

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

City of Milpitas
Evaluation Team – Collection Proposals
Garden City Sanitation Interview Questions
May 20, 2016

Garden City Sanitation welcomes the opportunity to provide further clarification to the City of Milpitas Evaluation Team Collection Proposals Interview Questions. The Evaluation Team's questions are provided below in *italic font* and are followed by GCS' responses in **bold font**.

1. Management and Related Functions

- a. *What are the roles of each of your proposed key management and supervisory staff prior to and after commencement of services under the new agreement?*

Section 1, Page 27 of the Proposal describes the key personnel that will be instrumental prior to and throughout the term of the Agreement. There have been a few staffing changes since our Proposal was submitted in October of 2015. Below is a summary of our updated Transition Team key personnel and their specific category they are responsible for during the transition:

- [Louie Pellegrini & Doug Button](#) | Implementation & Contract Matters
- [Don Arata](#) | Equipment Procurement
- [Kent Kenney & Abigail Loveless](#) | Financial Planning & Accounting Operations
- [David Calegari & Brian Jones](#) | Driver Training, Supervision & Operations
- [Deanna Halleck Ventura](#) | Information & Database Systems
- [Alex Button](#) | Route Development & Customer Service
- [Kelli Pellegrini](#) | Public Education, Outreach & Technical Assistance
- [Jillian Hogan](#) | Facility Design, Development & Environmental Compliance
- [Sandra Suess](#) | Human Resources
- [Jerry Nabhan & Jeff Nabhan](#) | SMaRT Station Operations

- b. *What other responsibilities do each of these individuals have?*

As briefly mentioned above and detailed beginning on Page 29 of Section 1 of the Proposal, Garden City's partners (L. Pellegrini, D. Button, D. Arata, J. Nabhan, and K. Kenney), along with their highly-motivated staff, will dedicate their time, expertise and knowledge to the transition of new services and throughout the term of the Agreement.

- c. *How much time (percent of an FTE) will each individual devote to Milpitas, both prior to and after commencement of services?*

See the revised chart that follows for a detailed organization chart of the transition and ongoing operations team and the percent that will be dedicated to the City of Milpitas.

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

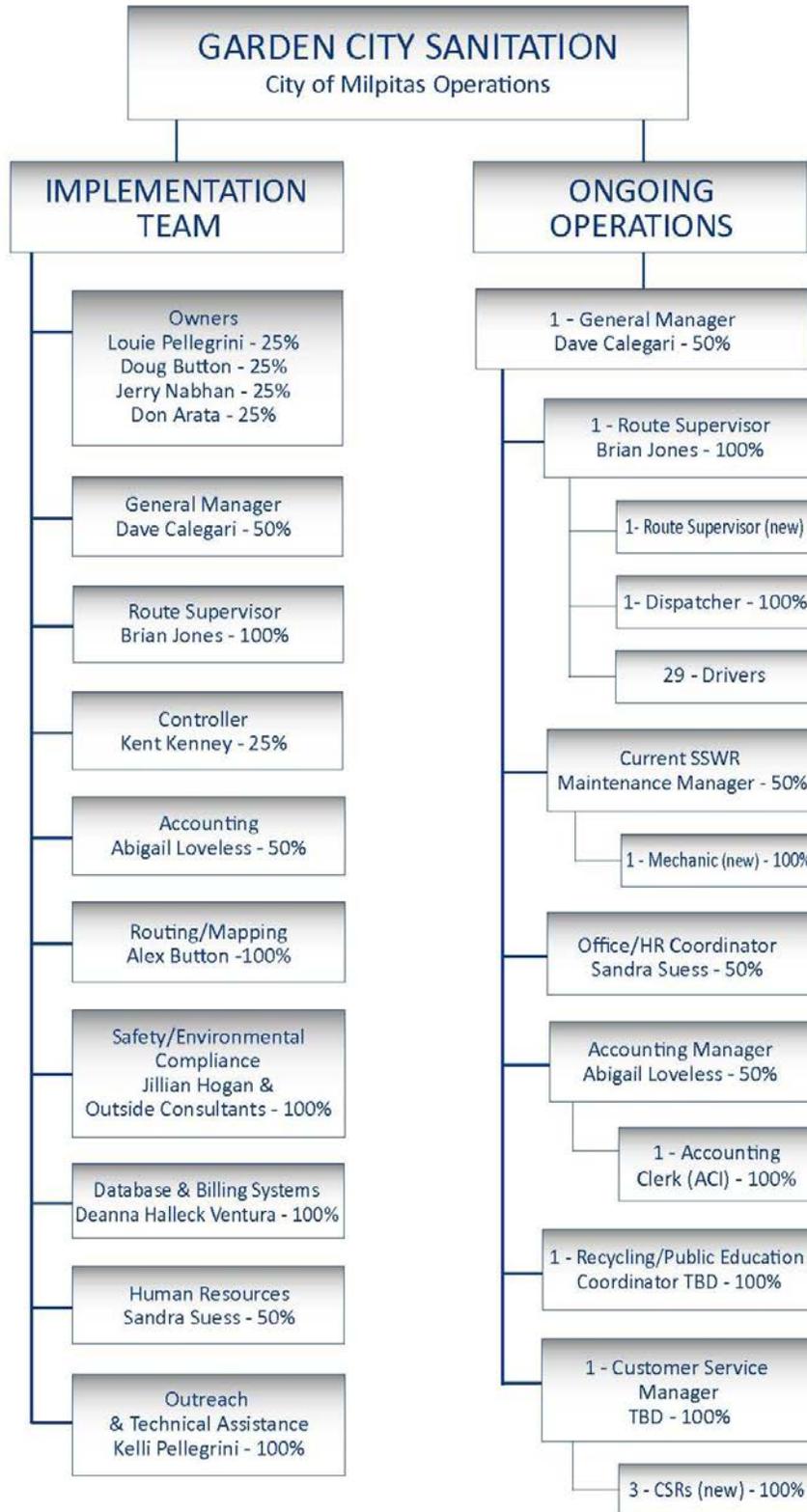


EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

48 2. Routes/Vehicles/Crew Count

49 a. *Describe your process for determining the number and type of routes, number of*
50 *vehicles, and required number of crew.*

51
52 **Routes, collection vehicles and number of drivers were selected using our decades of**
53 **experience in operating numerous types of collection systems in diverse communities**
54 **throughout the Bay Area. Collection and processing technology continues to advance,**
55 **and we are early implementers of fully automated, containerized collection systems**
56 **utilizing split-carts. We strive to implement fully-automated collection systems in order**
57 **to increase collection efficiencies while reducing driver-related injuries.**

58
59
60 b. *Describe how you decided on your proposed approach to cart collection, including choice*
61 *of truck type, method of collection, and why you believe it will be more effective than*
62 *other approaches.*

63
64 **Our affiliate companies South San Francisco Scavenger Company (SSFSC) and Specialty**
65 **Solid Waste and Recycling (SSWR) both use split-cart containers for recyclables**
66 **collection and more recently, the City of San Jose and City of Sunnyvale have rolled out**
67 **our own patented automated collection system for residential food waste pilots, which**
68 **include a split-cart serviced by a split-hopper fully-automated collection vehicle. Refer**
69 **to handouts for additional details and successes of the food waste collection and**
70 **processing pilot programs designed by our affiliate company, Sustainable Alternative**
71 **Feed Enterprises (SAFE)/Sustainable Organic Solutions (SOS).**

72
73
74 c. *How many residential accounts will have a change in day of service?*

75
76 **Our goal is to minimize service day changes and disruption to customers; however, in**
77 **order to effectively balance our routes, there could potentially be a change in service**
78 **day. This is unknown at this point, until further data and route design/balancing is**
79 **analyzed to determine specific routes.**

80
81
82 3. Base Services - *Discuss your proposed Base Services in general, with regard to:*

83 a. *How they differ from current services.*

84
85 **Although our base proposal in general is very similar to the current services provided,**
86 **we believe this base service to be outdated and counterproductive to the enhanced**
87 **Hybrid-Alternative automated collection system described previously.**

88

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

89 **The base serviced are counterproductive to the automated collection system described**
90 **previously and is why we instead proposed a Hybrid Alternative System that maximizes**
91 **efficiencies, produces achievable and recordable diversion while reducing the carbon**
92 **footprint of collection and processing operations. Our Hybrid Alternative System**
93 **mandates that all materials be processed, significantly reducing the amount of residue**
94 **disposed of in the landfill, while encouraging separation at the source.**

95
96
97 *b. Whether your proposed Base Services exceed the requirements of the RFP, and if yes,*
98 *how.*

99
100 **Our Base Services proposal is consistent with the requirements of the RFP.**

101
102
103 4. Single Family Solid Waste – Discuss:

104 *a. The proposed approach to continued use of customer containers, and why you selected*
105 *it.*

106
107 **We proposed in the base proposal to use customer provided containers because it was**
108 **a requirement of the RFP. Our intent and desire is to not propagate this any longer,**
109 **simply because the system is outdated and does not maximize efficiencies, and does**
110 **not produce achievable and recordable diversion while reducing the carbon footprint**
111 **of collection and processing systems like our Hybrid Alternative Proposal does.**

112
113
114 *b. The proposed approach to a cart-only system, and why you selected it.*

115
116 **Our preferred method to achieve collection efficiencies, provide consistent services and**
117 **uniformity throughout the City, and promote and achieve significant diversion is to**
118 **implement a cart-only collection system.**

119
120
121 *c. Whether the City selects to continue or change collection practices, how will you address*
122 *customers that may not like the decision?*

123
124 **In past transitions, we have reached out to the communities and held informational**
125 **community meetings where residents were encouraged to attend and ask questions.**
126 **Our owners and management personnel are readily available to answer any questions**
127 **and provide information.**

128
129
130 *d. Customer options for overages under each approach.*

131
132 **Overages will be collected from customers who purchase additional garbage “tags”.**

EXHIBIT I-2

CONTRACTOR'S RESPONSES DURING CLARIFICATION

133 Customer-purchased tags will be affixed to extra garbage (placed at the curb in a bag).
134 Customers will be able to purchase these bag tags from local stores (like 7-11, Safeway,
135 etc.), similar to what is currently done in San Jose. Residents will be allowed to set out
136 additional recyclables and yard trimmings for free and can be provided additional
137 recycling and/or yard trimmings carts, upon request.

138
139
140 e. *Proposed on-call and "bin for a day" options.*

141
142 Section 3, page 21 of our Proposal describes our approach to provide "on-call bin for a
143 day" service. Containers will be delivered, picked up and processed at the SMaRT
144 Station, where a minimum of 50% diversion will be achieved through their "High
145 Diversion Floor Sort" operations.

146
147
148 5. *Alternative Services – Food Scraps Collection/Processing and "Other" Alternatives Discuss:*

149 a. *The proposed approach(es) to food scrap collection and processing, including why you*
150 *have selected the approach(es) and other communities in which you have used it.*

151
152 Currently the Cities of San Jose and Sunnyvale have implemented a pilot SAFE/SOS
153 patented collection and processing system for residential food scraps, collected in split-
154 carts by a specially designed split-hopper side-loader collection vehicle. The system
155 effectively diverts food scraps from the landfill while creating an animal feed product,
156 as well as FOG and water by-products. Please refer to the SAFE/SOS handout provided
157 during the tour/interview for additional details on the split-cart collection system.

158
159
160 b. *Any "Other" services you have proposed.*

161
162 Bulky Bags are a unique process to collect and divert bulky items from residential
163 customers. Section 2, page 13 of our Proposal describes our approach to provide bulky
164 bags. The goal of our Bulky Bag program is to provide bulky item collection that deters
165 illegal dumping, maintains a neat neighborhood appearance, and maximizes the
166 reusability of unwanted items. By teaming up with the SMaRT Station to accept all
167 materials generated in Milpitas, we offer the residents of Milpitas the SMaRT Station's
168 Reuse Trailer, where bulky items are reused and salvaged by the public, in addition to
169 participation in the PaintCare Program, sharps disposal and CRV buyback.

170
171
172 c. *Proposer's recommendations for phasing-in, or not phasing-in programs.*

173
174 All services will be implemented at the beginning of the Franchise Agreement.

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

176 6. "Single-Family Style"

177 a. *What does "Single-Family Style" mean to you in the context of collection in Milpitas?*

178
179 **Single-family customers are separately billed for their service level and typically consist**
180 **of one unit, duplex, triplex and/or fourplex dwelling units.**

181
182
183 b. *How does the concept influence the selected services and service approaches?*

184
185 **Fully-automated collection vehicles servicing wheeled carts are the preferred method**
186 **to provide the most efficient services to single-family style customers. As discussed in**
187 **our response to Question 2.a, fully-automated collection is the most technically and**
188 **environmentally-sound method of collection because it reduces injuries/accidents,**
189 **increases routing efficiencies (reducing collection costs), reduces litter, and allows for a**
190 **uniform aesthetic in the community.**

191
192
193 c. *How does the concept inform service implementation initially, and over time?*

194
195 **All services will be implemented at the beginning of the Franchise Agreement.**

196
197
198 7. "Multi-Family Style"

199 a. *What does "Multi-Family Style" mean to you in the context of collection in Milpitas?*

200
201 **Multi-family customers consist of 5 or more dwelling units and receive centralized**
202 **collection services that are billed to one customer at one address.**

203
204
205 b. *How does the concept influence the selected services and service approaches?*

206
207 **Higher density housing typically require larger, front-load bins in centralized collection**
208 **areas that are serviced by front-loader collection vehicles. In order to simplify collection**
209 **operations, we will offer multi-family complexes a mixed waste collection and**
210 **processing system that encourages separation of wet materials from dry materials,**
211 **allowing for back-end processing occurring at the SMaRT Station, where organics will**
212 **be recovered from the waste stream. This also allows us to reduce the total number of**
213 **containers at a MFD complex, simplifying collection operations at facilities with space**
214 **constraints.**

215
216
217 c. *How does the concept inform service implementation initially, and over time?*

218
219 **All services will be implemented at the beginning of the Franchise Agreement.**

EXHIBIT I-2

CONTRACTOR'S RESPONSES DURING CLARIFICATION

220 8. Hard-to-Serve

221 a. *What does "Hard-to-Serve" mean to you in the context of collection in Milpitas?*

222
223 **Hard-To-Serve are collection services that are difficult to serve, reduce route**
224 **productivity and take more time to collect materials. Often times hard-to-serve areas**
225 **require specialized equipment (like semi-automated and smaller collection vehicles**
226 **that typically require the driver to exit the vehicle to retrieve the containers). Large**
227 **housing developments, cul-de-sacs, narrow street, large hills, steep terrain,**
228 **underground facilities are some examples where fully-automated collection vehicles**
229 **will have difficulty safely and effectively servicing containers. Smaller, specialized**
230 **vehicles are required and routing efficiencies are adjusted to reflect the additional time**
231 **needed to service the customers. Semi-automated vehicles are equipped with controls**
232 **on the outside of the truck to quickly empty the container into the hopper, however,**
233 **additional time is required to retrieve and set back the containers.**

234
235
236 b. *How does the concept influence the selected services and service approaches?*

237
238 **Productivity is lowered as drivers are required to exit the vehicle, retrieve the container,**
239 **use controls on the outside of the vehicle to empty the contents into the hopper, and**
240 **then return the container back to the setout location, which can be yards away, as done**
241 **in some backyard service scenarios and large, underground parking structures in Multi-**
242 **Family complexes. We also anticipate that some large MFD complexes may not**
243 **generate yard trimmings, so these complexes will be provided with food scraps, solid**
244 **waste and recyclables collection containers that will be serviced by the appropriate**
245 **collection vehicle.**

246
247
248 c. *How does the concept inform service implementation initially, and over time?*

249
250 **All services will be implemented at the beginning of the Franchise Agreement.**

251
252
253 9. Street Sweeping – *Please describe:*

254 a. *Your proposed approach to street sweeping.*

255
256 **In most cases, street sweeping will be conducted on a day after residential collection**
257 **services to minimize traffic impacts and capture litter and other street debris twice per**
258 **month. Industrial and commercial areas of Milpitas will be swept weekly, as indicated**
259 **in Section 2, Page 79 of the Proposal.**

260
261
262 b. *How does your approach meet, or exceed RFP and technical contract requirements?*

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

264 Our approach to street sweeping meets the contract requirements of the RFP and
265 Section 4.15 of the Franchise Agreement.

266
267

268 10. Outreach – Please describe:

269 a. *Your proposed approach to outreach.*

270

271 We are committed to designing, implementing, and maintaining public outreach
272 programs that are compatible with customer needs, will successfully achieve diversion
273 goals, and are effectively integrated with our collection and processing operations.
274 Throughout the term of the Franchise Agreement, we will assess, review, modify and
275 adapt our outreach to keep it fresh and current, and to have it complement the
276 outreach efforts of Santa Clara County. Our outreach approach is to develop and evolve
277 as the needs and capabilities of our customers change, as State legislation and diversion
278 goals continually progress, and as collection and processing systems advance.

279

280 b. *How does your approach meet, or exceed RFP and technical contract requirements?*

281

282 All public education, outreach and technical assistance aspects of the Proposal (as
283 described in Section 2, page 17) meet the contract requirements of the RFP and Sections
284 4.9 and 4.10 of the Franchise Agreement.

285

286

287 11. Technical Assistance – Please describe:

288 a. *Your proposed approach to technical assistance.*

289

290 We are dedicated to provide commercial businesses and MFDs with the tools needed
291 for achieving compliance with both AB341 and AB1826 and our goal is to provide a
292 technical assistance program that ensures each customer has the information, tools,
293 resources and support to reach their diversion potential that is practical and best suits
294 their needs and assists the City in meeting their requirements of AB341 and AB1826.

295

296 In order to guarantee compliance with AB1826, AB341 and upcoming legislation, we
297 have already begun to determine the businesses affected in Milpitas. Included in our
298 Proposal (Attachment D) and provided during the tour and interview, is our detailed
299 Compliance Plan for specifically for the City of Milpitas. Our AB1826 Compliance Plan
300 includes the methodology and calculations used to determine eligible businesses based
301 on historical data, waste characterizations and NAICS codes. We determined that this
302 year, 22 businesses in the City of Milpitas generate more than 8 cubic yards of organic
303 waste and are required to subscribe to organics collection services, by 2017, this
304 number more than doubles to 58 businesses. Because we have already conducted our
305 due diligence and determined a compliance plan for the City of Milpitas, we are already
306 a step ahead of other proposers, guaranteeing proven collection systems that
307 effectively divert organics from landfill.

EXHIBIT I-2
CONTRACTOR'S RESPONSES DURING CLARIFICATION

308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331

b. *How does your approach meet, or exceed RFP and technical contract requirements?*

All technical assistance aspects of the Proposal (as described in Section 2, page 37 and detailed in our MFD and Commercial Recycling and Organics Plan beginning on page 53 of Section 2) meet the contract requirements of the RFP and Section 4.10 of the Franchise Agreement.

12. Summary Diversion Table - Provide a summary table for all collection programs, by material, that addresses:

- a. *Initial (1st year) tonnages collected.*
- b. *Projected increases/decreases in tonnages collected over the term.*
- c. *The effect of AB 1826 on the multi-family and commercial sectors.*
- d. *Diversion rates for each processed stream, and in total.*
- e. *Residue rates for each processed stream.*
- f. *Estimates of increased diversion over time by program/stream.*
- g. *Addition of food scrap collection and processing (assumed to be an initial service).*
- h. *Addition of any "Other" proposed alternatives.*
- i. *Any other relevant information.*

See Summary Diversion Table provided below.

Summary Diversion Table - Garden City Sanitation - Milpitas Proposal								
	solid waste	recyclables	yard trimmings	food scraps	C&D	TOTALS		
1st year tonnages	47,513	14,294	6,604	5,342	8,592	82,345	<i>with exclusive C&D</i>	
NON-EXCLUSIVE						73,753	<i>without C&D</i>	
Diversion Rates	32%	88%	95%	70%	90%	56%	<i>with exclusive C&D</i>	
NON-EXCLUSIVE						51%	<i>without C&D</i>	
Residue Tonnage	32,074	1,762	342	1,603	859	36,640	<i>with exclusive C&D</i>	
NON-EXCLUSIVE						5,781	<i>without C&D</i>	

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

Assumptions Over Term of Franchise Agreement	reduced tonnage as programs are implemented and outreach programs start to achieve desired outcomes	potential increase in tonnage as programs are implemented and outreach programs achieve desired behavior change	lower tonnages as new developments require Low Impact Development, Native/Drought Tolerant plants, reducing yard waste generation	goal is to increase food waste recovery throughout the term as more and more customers familiarize themselves with our successful food waste programs	Exclusive Franchise System encourages diversion, transparency, compliance with local, state and federal regulations, reduces GHG emissions, ensures customer satisfaction and consistent containers/trucks/out reach
<p>All programs (if C&D is included in the exclusive franchise), will be an initial service and provided to all customers from the start of services.</p> <p>Commercial/MFD generators will be targeted based on generation threshold as established by AB1826. We anticipate food waste tonnages will increase overtime as the thresholds target specific generators.</p>					

332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355

13. Billing Services – Please describe:

a. *Your proposed approach to billing.*

Billing services will be provided by our team of experienced accounting professionals that have successfully transitioned new billing services in jurisdictions similar to Milpitas. It has been our experience that even with cooperation from the current contractor, some of the account data is not current and/or incomplete, so we allow for sufficient time and allocate resources to conduct thorough site audits based off of the previous contractor's data and county parcel maps. We also use business license data, real estate data, mailings, and site audits to compile our commercial database system.

b. *How will you ensure a smooth transition to contractor-provided single family billing?*

Single-family account data will be audited by our experienced team of operations and accounting personnel to make sure all information is updated and accurate. Like mentioned in the previous question, we will use contractor provided information along with County parcel maps and site audits. In past experiences, we have found that visiting the site and confirming it with parcel maps has been successful in minimizing billing errors during the first few billing cycles.

EXHIBIT I-2

CONTRACTOR'S RESPONSES DURING CLARIFICATION

356 c. *How does your approach meet, or exceed RFP and technical contract requirements?*

357
358 **Section 2, page 50 describes our approach to dealing with past due accounts in an effort**
359 **to minimize delinquent bills, as currently done in similar jurisdictions.**

360
361

362 14. Customer Service – *Please describe:*

363 a. *Your proposed approach to customer service.*

364
365 **Three (3) new Customer Service Representatives (CSRs) will be hired to handle all calls**
366 **regarding the Milpitas contract and will dedicate 100% of their time to Milpitas. As**
367 **discussed in Section 2, page 43 of the Proposal, our approach to providing excellent**
368 **customer service is to do things right the first time and to train our CSRs to think like**
369 **customers. This philosophy instills a sense of pride and professionalism, resulting in**
370 **high customer satisfaction and minimizes complaints.**

371
372

373 b. *How does your approach meet, or exceed RFP and contract requirements?*

374
375 **All customer service aspects of the Proposal (as described in Section 2, page 43) meet**
376 **the contract requirements of the RFP and Section 4.12 of the Franchise Agreement.**

377
378

379 15. Materials Processing

380 a. *How will you ensure that each type of collected material meets the necessary*
381 *specifications for processing?*

382
383 **Utilizing effective outreach and technical assistance programs coupled with a working**
384 **relationship with the processor (SMaRT Station). The SMaRT station has equipment in**
385 **place to effectively sort any non-hazardous type of material, including Residential and**
386 **Commercial MSW, C&D, Mixed Recycling, and Dual Stream Recycling. Through the use**
387 **of Disk Screens, Trommel Screens, 2D/3D Screens, Magnets, Eddy Current Separators,**
388 **Optical Sorters, and Manual Sorters, all material can be efficiently and effectively be**
389 **processed at the SMaRT station.**

390
391

392 16. Temporary Debris Box Service - *Please describe:*

393 a. *Your proposed approach to exclusive provision of temporary debris box service.*

394
395 **Our approach to providing exclusive debris box service is to maximize diversion and**
396 **assist customers with meeting the State's 2013 Green Building Code and diversion**
397 **requirements. We will deliver all debris boxes (temporary and/or permanent) to the**
398 **SMaRT Station for recycling utilizing their "High Diversion Floor Sort". The sorting**
399 **processes maximizes recoverability of material through the use of floor sorters placing**

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

400 items in dedicated bins, ensuring that all materials are sorted and recovered.

401
402
403 *b. Why do you believe a shift to exclusive service would, or would not be beneficial?*

404
405 **Under the exclusive franchise system, the services and associated rates are guaranteed**
406 **for the hauler and eventually the City. Also, the City will have control over the flow of**
407 **materials and eventual diversion of materials to certified recycling facilities. Customers**
408 **receive consistent services, collection operations, rates, and transparency. Compliance**
409 **with State mandates is easier to achieve, monitor and maintain under the exclusive**
410 **franchise.**

411
412 **The City can achieve higher diversion, generate franchise fees, and hold the hauler**
413 **accountable under an exclusive system; no longer will fly-by-night operations set up in**
414 **Milpitas and relocate fees to other parts of the State. Environmental benefits of**
415 **reduced GHG emissions and alternative fuel requirements can be easily achieved in the**
416 **exclusive franchise as well as economies of scale for long-term franchise agreements**
417 **and routing efficiencies, significantly improving local air quality.**

418
419
420 *17. Transition*

421 *a. Provide an overview of your approach to the transition, should you be selected as the*
422 *new service provider.*

423
424 **Section 2, Page 81 of the Proposal contains our Implementation Plan that is designed to**
425 **deliver consistent service, prioritize customer and City needs, and cooperatively work**
426 **with the outgoing contractor with the overall goal of minimizing disruption to residents**
427 **and customers.**

428
429
430 *b. What are the three largest challenges you will face during the transition, and how will*
431 *you address each?*

- 432
433 **1. Cooperation with the Current Contractor to Obtain Complete & Accurate**
434 **Service Data: It is extremely important that accurate and complete account**
435 **information and service data is provided by the previous contractor. If**
436 **incomplete and inaccurate data is provided, we must develop the customer**
437 **service, billing and routing database using public records, parcel maps, site**
438 **audits, mailings and real estate databases. Dedicating sufficient time and**
439 **labor to obtain a complete and accurate database will ensure our transition is**
440 **as smooth as possible.**
- 441
442 **2. Container Distribution & Rollout: Container distribution and rollout is another**
443 **challenging aspect of the transition and prior planning and preparation is**

EXHIBIT I-2 CONTRACTOR'S RESPONSES DURING CLARIFICATION

444 essential to ensure minimal disruption to customers. Coordination and
445 cooperation during the container distribution process is dependent upon the
446 current contractor's willingness to gather old containers or sell used
447 containers for refurbishing, the removal of old containers must coincide with
448 the delivery of new containers, so customers always have containers.
449 We have conducted and successfully rolled out new programs in Livermore, Los
450 Altos, Alameda and San Jose with little to no interruption in services and very
451 few complaints. The reason these transitions were so successful is due in large
452 part to our team of owners, managers and staff that place a high priority on
453 providing excellent service.

454
455 3. **Startup Logistics & Displaced Workers:** Displaced workers might have years of
456 experience while working for the previous contractor; however, we still
457 provide hours of training on the new equipment and GCS procedures to all
458 drivers and staff. We strive to provide a workplace that instills a sense of
459 family. In San Jose when GCS transitioned as the new hauler, the former
460 employees had worked for at least 4 different companies and felt they only
461 had consistency with the union; we strive to provide a safe and happy
462 workplace for all employees and experience little to no employee turnover.

463
464
465
466 6-3-16 Q and A

This page intentionally left blank

**EXHIBIT J:
PERFORMANCE
BOND**

1

2

3

EXHIBIT J PERFORMANCE BOND

5 *Performance bond to be provided by Contractor following final award as specified in Section 9.3 and*
6 *inserted here for final fully executed agreement.*

This page intentionally left blank

**EXHIBIT K:
LABOR
AGREEMENT(S)**

1

2

3

EXHIBIT K LABOR AGREEMENT(S)

5 The following memorandum of understanding will be replaced with the final agreement following
6 execution and provision to City by Contractor.

This page intentionally left blank

MEMORANDUM OF UNDERSTANDING

BETWEEN

GARDEN CITY SANITATION INC. OF SANTA CLARA COUNTY AND
SANITARY TRUCK DRIVERS AND HELPERS
TEAMSTERS LOCAL UNION 350

This Memorandum of Understanding is entered into between Garden City Sanitation Inc. of Santa Clara County (GCS) and Sanitary Truck Drivers and Helpers, Teamsters Local Union 350 (Union) in anticipation of an award to GCS by the City of Milpitas of a contract for collection services for the collection and disposition of Residential and Commercial recyclable materials, waste, organics and the processing of recyclables within the areas for which the City has responsibility. The purpose of the parties in entering into this Memorandum of Understanding is to record in writing their agreement with respect to the labor relations issues affected by such an award and thereby avoid problems or disputes that might otherwise affect the stability and continuity of the services provided for in the event the aforesaid award is made to GCS.

It is accordingly understood and agreed as follows:

1. The work covered by this Memorandum is coterminous with that covered by the anticipated award, except work performed by supervisors, management and guards as defined in the National Labor Relations Act. More specifically, the work classifications involved include Drivers, Helpers, Utility, Sweepers, Equipment Operators, Scale-house Operators, Maintenance, Mechanics, Clerical and Sorters. The parties are in agreement that these classifications, and any additional related classifications hereafter created that are incidental to the work covered by the award constitute an appropriate bargaining unit.

2. In the event GCS is awarded the franchise for the aforesaid services, it will offer employment to the number of employees currently performing the work it determines it needs, as follows: GCS will offer employment according to the seniority lists in effect at the existing provider to employees it needs who are currently employed (which includes employees who are out on workers compensation/disability) in the above described bargaining units, who have been on the job for at least 120 days as of GCS's start-up date. GCS shall only be required to offer employment to those employees who are fully capable of performing work in their regular classification on the start-up date. Following the start-up date and continuing for one (1) year thereafter, should any of the existing provider's employees who were not hired by GCS on the start-up date because they were temporarily disabled, provide medical certification demonstrating that said employee is able to return to active duty in his or her regular classification, GCS shall return that employee to active duty and displace the least senior employee in his/her regular classification. Nothing in this paragraph shall require GCS to employ more persons than it deems are needed. It is also understood no individual shall be hired from any other source prior to one (1) year from the start-up date for work within the above stated work classifications, until all displaced workers holding seniority under the previous providers shall have been offered employment.

3. It is recognized by the parties that most, if not all employees now performing the work covered by this Memorandum are currently represented by the Union and are working under collective bargaining agreements between the Union and the current provider.

a) In the event GCS becomes the successor to the current provider, GCS will upon evidence that the Union continues to represent a majority of such employees in the

bargaining unit hereinbefore described, will formally recognize the Union as their bargaining representative.

b) Such evidence shall consist of a showing that a majority of the employees are members of the Union, and/or have signed cards designating the Union as the signatory's bargaining representative.

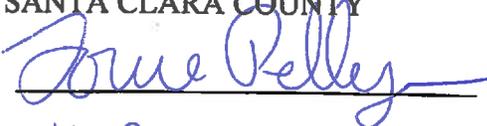
c) GCS shall, upon the presentation of such evidence and recognition, will be bound by the terms and conditions of its existing collective bargaining agreement for the remainder of its term then in effect between the Union and the current provider (Republic Services). In the event the most recent collective bargaining agreement covering such employees has expired, the Company shall initially apply and be bound by the terms and conditions of the expired agreement, but shall concurrently meet with the Union for the purpose of negotiating in good faith to agree upon a successor agreement, which will be retroactive for wages and economic benefits to the date on which the Company begins operations under its franchise.

In the event GCS plans that the newly hired employees will work out of its existing Garden City Sanitation yard and for those employees GCS agrees to be bound by the existing collective bargaining agreements at its Santa Clara County yards, and any negotiated extensions or revisions to those existing agreements.

All employees hired in accordance with this Memorandum shall retain their City of San Jose/Milpitas union seniority held as of GCS's start-up date.

Executed this 23rd day of October 2015, in the County of Santa Clara, California.

GARDEN CITY SANITATION INC,
OF SANTA CLARA COUNTY

By: 

Date: 10-23-2015

SANITARY DRIVERS AND HELPERS
TEAMSTERS LOCAL UNION 350

By: 

Date: 10-22-15

This page intentionally left blank

1 **EXHIBIT L:**
2 **MAXIMUM RATES**
3 **APPROVED BY CITY**
4 **FOR RATE PERIOD**
5 **ONE**

EXHIBIT L

MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

7 Exhibit L now contains four sets of rates, one each for Options 1-4. The final agreement will include just
 8 the rates for the Council-selected option.

9 **Option 1: Exclusive Debris Box Without 20-Gallon Cart**

Single-Family Collection Rates			
Service Level	Solid Waste	Recycling	Organics
32 Gal	\$34.39	Included	Included
64 Gal	\$40.44	Included	Included
96 Gal	\$46.45	Included	Included
32 Gal Senior	\$17.21	Included	Included
64 Gal Senior	\$20.24	Included	Included
32 Gal Mobile Home	\$10.49	Included	N/A
64 Gal Mobile Home	\$15.56	Included	N/A
SFD No Organics Discount	N/A	N/A	-\$6.77
Senior No Organics Discount	N/A	N/A	-\$3.40

Multi-Family Solid Waste Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$20.33	\$35.57	\$50.82	\$66.06	\$81.31	\$96.55
64-Gal	\$24.68	\$43.19	\$61.71	\$80.22	\$98.73	\$117.24
96-Gal	\$29.04	\$50.82	\$72.60	\$94.38	\$116.15	\$137.93
1-YD	\$82.77	\$137.98	\$189.53	\$234.22	\$284.43	\$334.61
1.5-YD	\$106.24	\$189.49	\$251.74	\$324.53	\$397.26	\$470.01
2-YD	\$129.68	\$234.22	\$334.61	\$434.99	\$535.34	\$635.79
3-YD	\$186.29	\$342.42	\$492.94	\$643.52	\$794.13	\$944.67
4-YD	\$216.43	\$397.01	\$562.34	\$727.74	\$893.09	\$1,058.48
6-YD	\$297.97	\$553.62	\$810.91	\$1,047.19	\$1,304.49	\$1,561.78
8-YD	\$387.87	\$718.65	\$1,038.39	\$1,358.24	\$1,678.01	\$1,997.85

Multi-Family Recycling Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$5.08	\$8.89	\$12.70	\$16.52	\$20.33	\$24.14
64-Gal	\$6.17	\$10.80	\$15.43	\$20.05	\$24.68	\$29.31
96-Gal	\$7.26	\$12.70	\$18.15	\$23.59	\$29.04	\$34.48
1-YD	\$20.69	\$34.49	\$47.38	\$58.55	\$71.11	\$83.65
1.5-YD	\$26.56	\$47.37	\$62.93	\$81.13	\$99.31	\$117.50
2-YD	\$32.42	\$58.55	\$83.65	\$108.75	\$133.83	\$158.95
3-YD	\$46.57	\$85.60	\$123.23	\$160.88	\$198.53	\$236.17
4-YD	\$54.11	\$99.25	\$140.58	\$181.93	\$223.27	\$264.62
6-YD	\$74.49	\$138.40	\$202.73	\$261.80	\$326.12	\$390.45
8-YD	\$96.97	\$179.66	\$259.60	\$339.56	\$419.50	\$499.46

10

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Multi-Family Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$16.26	\$28.46	\$40.65	\$52.85	\$65.05	\$77.24
64-Gal	\$19.75	\$34.56	\$49.37	\$64.18	\$78.98	\$93.79
96-Gal	\$23.23	\$40.65	\$58.08	\$75.50	\$92.92	\$110.35
1-YD	\$66.22	\$110.38	\$151.63	\$187.37	\$227.54	\$267.69
2-YD	\$103.74	\$187.37	\$267.69	\$347.99	\$428.27	\$508.64
3-YD	\$149.03	\$273.93	\$394.35	\$514.81	\$635.30	\$755.73

Commercial Solid Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$25.25	\$44.19	\$63.12	\$82.06	\$101.00	\$119.93
64-Gal	\$29.69	\$51.96	\$74.23	\$96.50	\$118.77	\$141.04
96-Gal	\$34.11	\$59.70	\$85.28	\$110.86	\$136.45	\$162.03
1-YD	\$96.27	\$172.36	\$237.07	\$293.66	\$356.75	\$419.87
1.5-YD	\$124.09	\$236.91	\$316.36	\$408.05	\$499.70	\$591.34
2-YD	\$151.90	\$293.66	\$419.87	\$545.96	\$672.11	\$798.32
3-YD	\$218.63	\$429.67	\$618.91	\$808.16	\$997.39	\$1,186.61
4-YD	\$256.58	\$502.69	\$713.61	\$924.58	\$1,135.48	\$1,346.42
6-YD	\$355.00	\$703.72	\$1,030.96	\$1,333.63	\$1,660.84	\$1,988.05
8-YD	\$462.39	\$914.68	\$1,323.68	\$1,732.83	\$2,141.87	\$2,550.97

Commercial Recycling Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$6.31	\$11.05	\$15.78	\$20.51	\$25.25	\$29.98
64-Gal	\$7.42	\$12.99	\$18.56	\$24.13	\$29.69	\$35.26
96-Gal	\$8.53	\$14.92	\$21.32	\$27.72	\$34.11	\$40.51
1-YD	\$24.07	\$43.09	\$59.27	\$73.42	\$89.19	\$104.97
1.5-YD	\$31.02	\$59.23	\$79.09	\$102.01	\$124.93	\$147.84
2-YD	\$37.97	\$73.42	\$104.97	\$136.49	\$168.03	\$199.58
3-YD	\$54.66	\$107.42	\$154.73	\$202.04	\$249.35	\$296.65
4-YD	\$64.14	\$125.67	\$178.40	\$231.14	\$283.87	\$336.60
6-YD	\$88.75	\$175.93	\$257.74	\$333.41	\$415.21	\$497.01
8-YD	\$115.60	\$228.67	\$330.92	\$433.21	\$535.47	\$637.74

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Commercial Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$20.20	\$35.35	\$50.50	\$65.65	\$80.80	\$95.95
64-Gal	\$23.75	\$41.57	\$59.39	\$77.20	\$95.02	\$112.83
96-Gal	\$27.29	\$47.76	\$68.22	\$88.69	\$109.16	\$129.62
1-YD	\$77.01	\$137.89	\$189.65	\$234.93	\$285.40	\$335.90
2-YD	\$121.52	\$234.93	\$335.90	\$436.77	\$537.69	\$638.65
3-YD	\$174.91	\$343.74	\$495.13	\$646.53	\$797.91	\$949.29

Roll-off/Compactor Collection Rates				
Service Level	Solid Waste	Recycling	Organics	C&D
Roll-off up to 15 CY (per pull)	\$434.02	\$217.01	\$347.22	\$390.62
Roll-off 16-24 CY (per pull)	\$607.76	\$303.88	\$486.21	\$546.98
Roll-off 26-34 CY (per pull)	\$765.06	\$382.53	\$612.05	\$688.56
Roll-off over 34 CY (per pull)	\$934.28	\$467.14	\$747.42	\$840.85
Compactor up to 15 CY (per pull)	\$499.12	\$249.56	\$399.30	N/A
Compactor 16-24 CY (per pull)	\$698.92	\$349.46	\$559.14	N/A
Compactor 26-34 CY (per pull)	\$879.82	\$439.91	\$703.86	N/A
Compactor over 34 CY (per pull)	\$1,074.42	\$537.21	\$859.54	N/A
Roll-off/Compactor (per ton)	\$42.78	-\$15.00	\$92.00	\$70.00

13

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

14 **Option 2: Exclusive Debris Box With 20-Gallon Cart**

Single-Family Collection Rates			
Service Level	Solid Waste	Recycling	Organics
20 Gal	\$32.22	Included	Included
32 Gal	\$35.02	Included	Included
64 Gal	\$41.19	Included	Included
96 Gal	\$47.32	Included	Included
20 Gal Senior	\$16.11	Included	Included
32 Gal Senior	\$17.53	Included	Included
64 Gal Senior	\$20.61	Included	Included
20 Gal Mobile Home	\$9.83	Included	N/A
32 Gal Mobile Home	\$10.69	Included	N/A
64 Gal Mobile Home	\$15.85	Included	N/A
SFD No Organics Discount	N/A	N/A	-\$6.77
Senior No Organics Discount	N/A	N/A	-\$3.40

Multi-Family Solid Waste Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$20.70	\$36.23	\$51.76	\$67.29	\$82.82	\$98.35
64-Gal	\$25.14	\$44.00	\$62.85	\$81.71	\$100.56	\$119.42
96-Gal	\$29.58	\$51.76	\$73.94	\$96.13	\$118.31	\$140.49
1-YD	\$84.31	\$140.54	\$193.05	\$238.57	\$289.71	\$340.83
1.5-YD	\$108.21	\$193.01	\$256.41	\$330.56	\$404.63	\$478.74
2-YD	\$132.09	\$238.57	\$340.83	\$443.07	\$545.28	\$647.60
3-YD	\$189.74	\$348.78	\$502.09	\$655.47	\$808.88	\$962.21
4-YD	\$220.45	\$404.39	\$572.78	\$741.26	\$909.68	\$1,078.14
6-YD	\$303.51	\$563.90	\$825.97	\$1,066.64	\$1,328.72	\$1,590.79
8-YD	\$395.07	\$732.00	\$1,057.67	\$1,383.46	\$1,709.17	\$2,034.95

Multi-Family Recycling Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$5.18	\$9.06	\$12.94	\$16.82	\$20.70	\$24.59
64-Gal	\$6.29	\$11.00	\$15.71	\$20.43	\$25.14	\$29.86
96-Gal	\$7.39	\$12.94	\$18.49	\$24.03	\$29.58	\$35.12
1-YD	\$21.08	\$35.14	\$48.26	\$59.64	\$72.43	\$85.21
1.5-YD	\$27.05	\$48.25	\$64.10	\$82.64	\$101.16	\$119.69
2-YD	\$33.02	\$59.64	\$85.21	\$110.77	\$136.32	\$161.90
3-YD	\$47.44	\$87.19	\$125.52	\$163.87	\$202.22	\$240.55
4-YD	\$55.11	\$101.10	\$143.19	\$185.31	\$227.42	\$269.53
6-YD	\$75.88	\$140.98	\$206.49	\$266.66	\$332.18	\$397.70
8-YD	\$98.77	\$183.00	\$264.42	\$345.87	\$427.29	\$508.74

15

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Multi-Family Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$16.56	\$28.99	\$41.41	\$53.83	\$66.25	\$78.68
64-Gal	\$20.11	\$35.20	\$50.28	\$65.37	\$80.45	\$95.54
96-Gal	\$23.66	\$41.41	\$59.16	\$76.90	\$94.65	\$112.40
1-YD	\$67.45	\$112.43	\$154.44	\$190.85	\$231.77	\$272.66
2-YD	\$105.67	\$190.85	\$272.66	\$354.46	\$436.22	\$518.08
3-YD	\$151.80	\$279.02	\$401.67	\$524.37	\$647.10	\$769.77

Commercial Solid Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$25.72	\$45.01	\$64.30	\$83.58	\$102.87	\$122.16
64-Gal	\$30.24	\$52.93	\$75.61	\$98.29	\$120.98	\$143.66
96-Gal	\$34.75	\$60.80	\$86.86	\$112.92	\$138.98	\$165.04
1-YD	\$98.06	\$175.57	\$241.47	\$299.12	\$363.38	\$427.67
1.5-YD	\$126.39	\$241.32	\$322.24	\$415.63	\$508.98	\$602.33
2-YD	\$154.72	\$299.12	\$427.67	\$556.10	\$684.59	\$813.14
3-YD	\$222.69	\$437.65	\$630.41	\$823.17	\$1,015.91	\$1,208.65
4-YD	\$261.34	\$512.02	\$726.86	\$941.75	\$1,156.57	\$1,371.42
6-YD	\$361.59	\$716.79	\$1,050.11	\$1,358.40	\$1,691.69	\$2,024.97
8-YD	\$470.98	\$931.67	\$1,348.26	\$1,765.01	\$2,181.65	\$2,598.35

Commercial Recycling Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$6.43	\$11.25	\$16.07	\$20.90	\$25.72	\$30.54
64-Gal	\$7.56	\$13.23	\$18.90	\$24.57	\$30.24	\$35.92
96-Gal	\$8.69	\$15.20	\$21.72	\$28.23	\$34.75	\$41.26
1-YD	\$24.51	\$43.89	\$60.37	\$74.78	\$90.84	\$106.92
1.5-YD	\$31.60	\$60.33	\$80.56	\$103.91	\$127.25	\$150.58
2-YD	\$38.68	\$74.78	\$106.92	\$139.02	\$171.15	\$203.29
3-YD	\$55.67	\$109.41	\$157.60	\$205.79	\$253.98	\$302.16
4-YD	\$65.34	\$128.01	\$181.71	\$235.44	\$289.14	\$342.86
6-YD	\$90.40	\$179.20	\$262.53	\$339.60	\$422.92	\$506.24
8-YD	\$117.75	\$232.92	\$337.07	\$441.25	\$545.41	\$649.59

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Commercial Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$20.57	\$36.01	\$51.44	\$66.87	\$82.30	\$97.73
64-Gal	\$24.20	\$42.34	\$60.49	\$78.64	\$96.78	\$114.93
96-Gal	\$27.80	\$48.64	\$69.49	\$90.34	\$111.18	\$132.03
1-YD	\$78.44	\$140.45	\$193.18	\$239.29	\$290.70	\$342.14
2-YD	\$123.78	\$239.29	\$342.14	\$444.88	\$547.67	\$650.52
3-YD	\$178.15	\$350.12	\$504.32	\$658.53	\$812.73	\$966.92

Roll-off/Compactor Collection Rates				
Service Level	Solid Waste	Recycling	Organics	C&D
Roll-off up to 15 CY (per pull)	\$443.67	\$221.83	\$354.94	\$399.30
Roll-off 16-24 CY (per pull)	\$621.43	\$310.72	\$497.15	\$559.29
Roll-off 26-34 CY (per pull)	\$782.45	\$391.23	\$625.96	\$704.21
Roll-off over 34 CY (per pull)	\$955.60	\$477.80	\$764.48	\$860.04
Compactor up to 15 CY (per pull)	\$510.22	\$255.11	\$408.18	N/A
Compactor 16-24 CY (per pull)	\$714.65	\$357.32	\$571.72	N/A
Compactor 26-34 CY (per pull)	\$899.82	\$449.91	\$719.86	N/A
Compactor over 34 CY (per pull)	\$1,098.95	\$549.47	\$879.16	N/A
Roll-off/Compactor (per ton)	\$42.78	-\$15.00	\$92.00	\$70.00

18

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

19 **Option 3: Non-Exclusive Debris Box Without 20-Gallon Cart**

Single-Family Collection Rates			
Service Level	Solid Waste	Recycling	Organics
32 Gal	\$36.41	Included	Included
64 Gal	\$42.82	Included	Included
96 Gal	\$49.19	Included	Included
32 Gal Senior	\$18.22	Included	Included
64 Gal Senior	\$21.43	Included	Included
32 Gal Mobile Home	\$11.11	Included	N/A
64 Gal Mobile Home	\$16.48	Included	N/A
SFD No Organics Discount	N/A	N/A	-\$6.77
Senior No Organics Discount	N/A	N/A	-\$3.40

Multi-Family Solid Waste Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$21.52	\$37.67	\$53.81	\$69.95	\$86.10	\$102.24
64-Gal	\$26.14	\$45.74	\$65.34	\$84.94	\$104.54	\$124.15
96-Gal	\$30.75	\$53.81	\$76.87	\$99.93	\$122.99	\$146.05
1-YD	\$87.65	\$146.10	\$200.69	\$248.01	\$301.18	\$354.31
1.5-YD	\$112.50	\$200.65	\$266.56	\$343.64	\$420.65	\$497.69
2-YD	\$137.31	\$248.01	\$354.31	\$460.60	\$566.86	\$673.23
3-YD	\$197.25	\$362.58	\$521.96	\$681.41	\$840.88	\$1,000.29
4-YD	\$229.17	\$420.39	\$595.45	\$770.59	\$945.68	\$1,120.80
6-YD	\$315.52	\$586.22	\$858.65	\$1,108.85	\$1,381.30	\$1,653.74
8-YD	\$410.71	\$760.96	\$1,099.53	\$1,438.21	\$1,776.81	\$2,115.48

Multi-Family Recycling Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$5.38	\$9.42	\$13.45	\$17.49	\$21.52	\$25.56
64-Gal	\$6.53	\$11.43	\$16.34	\$21.24	\$26.14	\$31.04
96-Gal	\$7.69	\$13.45	\$19.22	\$24.98	\$30.75	\$36.51
1-YD	\$21.91	\$36.53	\$50.17	\$62.00	\$75.29	\$88.58
1.5-YD	\$28.12	\$50.16	\$66.64	\$85.91	\$105.16	\$124.42
2-YD	\$34.33	\$62.00	\$88.58	\$115.15	\$141.71	\$168.31
3-YD	\$49.31	\$90.64	\$130.49	\$170.35	\$210.22	\$250.07
4-YD	\$57.29	\$105.10	\$148.86	\$192.65	\$236.42	\$280.20
6-YD	\$78.88	\$146.55	\$214.66	\$277.21	\$345.33	\$413.43
8-YD	\$102.68	\$190.24	\$274.88	\$359.55	\$444.20	\$528.87

20

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Multi-Family Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$17.22	\$30.13	\$43.05	\$55.96	\$68.88	\$81.79
64-Gal	\$20.91	\$36.59	\$52.27	\$67.95	\$83.64	\$99.32
96-Gal	\$24.60	\$43.05	\$61.50	\$79.95	\$98.39	\$116.84
1-YD	\$70.12	\$116.88	\$160.55	\$198.41	\$240.94	\$283.45
2-YD	\$109.85	\$198.41	\$283.45	\$368.48	\$453.49	\$538.58
3-YD	\$157.80	\$290.06	\$417.57	\$545.12	\$672.71	\$800.23

Commercial Solid Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$26.74	\$46.79	\$66.84	\$86.89	\$106.94	\$127.00
64-Gal	\$31.44	\$55.02	\$78.60	\$102.18	\$125.77	\$149.35
96-Gal	\$36.12	\$63.21	\$90.30	\$117.39	\$144.48	\$171.57
1-YD	\$101.94	\$182.51	\$251.03	\$310.95	\$377.76	\$444.59
1.5-YD	\$131.39	\$250.86	\$334.99	\$432.08	\$529.12	\$626.16
2-YD	\$160.84	\$310.95	\$444.59	\$578.10	\$711.68	\$845.32
3-YD	\$231.50	\$454.97	\$655.35	\$855.74	\$1,056.11	\$1,256.48
4-YD	\$271.69	\$532.28	\$755.62	\$979.01	\$1,202.33	\$1,425.69
6-YD	\$375.90	\$745.16	\$1,091.66	\$1,412.16	\$1,758.63	\$2,105.10
8-YD	\$489.62	\$968.54	\$1,401.62	\$1,834.85	\$2,267.98	\$2,701.17

Commercial Recycling Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$6.68	\$11.70	\$16.71	\$21.72	\$26.74	\$31.75
64-Gal	\$7.86	\$13.76	\$19.65	\$25.55	\$31.44	\$37.34
96-Gal	\$9.03	\$15.80	\$22.58	\$29.35	\$36.12	\$42.89
1-YD	\$25.48	\$45.63	\$62.76	\$77.74	\$94.44	\$111.15
1.5-YD	\$32.85	\$62.72	\$83.75	\$108.02	\$132.28	\$156.54
2-YD	\$40.21	\$77.74	\$111.15	\$144.53	\$177.92	\$211.33
3-YD	\$57.88	\$113.74	\$163.84	\$213.94	\$264.03	\$314.12
4-YD	\$67.92	\$133.07	\$188.91	\$244.75	\$300.58	\$356.42
6-YD	\$93.97	\$186.29	\$272.92	\$353.04	\$439.66	\$526.27
8-YD	\$122.41	\$242.13	\$350.40	\$458.71	\$567.00	\$675.29

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Commercial Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$21.39	\$37.43	\$53.47	\$69.51	\$85.55	\$101.60
64-Gal	\$25.15	\$44.02	\$62.88	\$81.75	\$100.61	\$119.48
96-Gal	\$28.90	\$50.57	\$72.24	\$93.91	\$115.58	\$137.26
1-YD	\$81.55	\$146.01	\$200.82	\$248.76	\$302.21	\$355.67
2-YD	\$128.67	\$248.76	\$355.67	\$462.48	\$569.34	\$676.26
3-YD	\$185.20	\$363.98	\$524.28	\$684.59	\$844.89	\$1,005.18

Roll-off/Compactor Collection Rates			
Service Level	Solid Waste	Recycling	Organics
Roll-off up to 15 CY (per pull)	\$464.61	\$232.31	\$371.69
Roll-off 16-24 CY (per pull)	\$651.10	\$325.55	\$520.88
Roll-off 26-34 CY (per pull)	\$820.19	\$410.09	\$656.15
Roll-off over 34 CY (per pull)	\$1,001.88	\$500.94	\$801.51
Compactor up to 15 CY (per pull)	\$534.30	\$267.15	\$427.44
Compactor 16-24 CY (per pull)	\$748.77	\$374.38	\$599.01
Compactor 26-34 CY (per pull)	\$943.21	\$471.61	\$754.57
Compactor over 34 CY (per pull)	\$1,152.17	\$576.08	\$921.73
Roll-off/Compactor (per ton)	\$42.78	-\$15.00	\$92.00

22
23
24
25

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

26 **Option 4: Non-Exclusive Debris Box With 20-Gallon Cart**

Single-Family Collection Rates			
Service Level	Solid Waste	Recycling	Organics
20 Gal	\$34.17	Included	Included
32 Gal	\$37.14	Included	Included
64 Gal	\$43.68	Included	Included
96 Gal	\$50.18	Included	Included
20 Gal Senior	\$17.09	Included	Included
32 Gal Senior	\$18.59	Included	Included
64 Gal Senior	\$21.86	Included	Included
20 Gal Mobile Home	\$10.43	Included	N/A
32 Gal Mobile Home	\$11.33	Included	N/A
64 Gal Mobile Home	\$16.81	Included	N/A
SFD No Organics Discount	N/A	N/A	-\$6.77
Senior No Organics Discount	N/A	N/A	-\$3.40

Multi-Family Solid Waste Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$21.96	\$38.43	\$54.89	\$71.36	\$87.83	\$104.30
64-Gal	\$26.66	\$46.66	\$66.66	\$86.66	\$106.65	\$126.65
96-Gal	\$31.37	\$54.89	\$78.42	\$101.95	\$125.47	\$149.00
1-YD	\$89.41	\$149.05	\$204.74	\$253.01	\$307.25	\$361.46
1.5-YD	\$114.77	\$204.69	\$271.94	\$350.57	\$429.13	\$507.72
2-YD	\$140.08	\$253.01	\$361.46	\$469.89	\$578.29	\$686.81
3-YD	\$201.23	\$369.89	\$532.48	\$695.15	\$857.84	\$1,020.46
4-YD	\$233.79	\$428.87	\$607.45	\$786.13	\$964.75	\$1,143.40
6-YD	\$321.88	\$598.04	\$875.97	\$1,131.21	\$1,409.15	\$1,687.09
8-YD	\$418.99	\$776.31	\$1,121.70	\$1,467.21	\$1,812.64	\$2,158.14

Multi-Family Recycling Collection Rates						
Service Level	Frequency					
	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$5.49	\$9.61	\$13.72	\$17.84	\$21.96	\$26.07
64-Gal	\$6.67	\$11.67	\$16.66	\$21.66	\$26.66	\$31.66
96-Gal	\$7.84	\$13.72	\$19.61	\$25.49	\$31.37	\$37.25
1-YD	\$22.35	\$37.26	\$51.18	\$63.25	\$76.81	\$90.36
1.5-YD	\$28.69	\$51.17	\$67.98	\$87.64	\$107.28	\$126.93
2-YD	\$35.02	\$63.25	\$90.36	\$117.47	\$144.57	\$171.70
3-YD	\$50.31	\$92.47	\$133.12	\$173.79	\$214.46	\$255.11
4-YD	\$58.45	\$107.22	\$151.86	\$196.53	\$241.19	\$285.85
6-YD	\$80.47	\$149.51	\$218.99	\$282.80	\$352.29	\$421.77
8-YD	\$104.75	\$194.08	\$280.42	\$366.80	\$453.16	\$539.53

27

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Multi-Family Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$17.57	\$30.74	\$43.92	\$57.09	\$70.27	\$83.44
64-Gal	\$21.33	\$37.33	\$53.33	\$69.32	\$85.32	\$101.32
96-Gal	\$25.09	\$43.92	\$62.74	\$81.56	\$100.38	\$119.20
1-YD	\$71.53	\$119.24	\$163.79	\$202.41	\$245.80	\$289.17
2-YD	\$112.07	\$202.41	\$289.17	\$375.91	\$462.63	\$549.44
3-YD	\$160.98	\$295.91	\$425.99	\$556.12	\$686.27	\$816.37

Commercial Solid Waste Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$27.27	\$47.73	\$68.19	\$88.64	\$109.10	\$129.56
64-Gal	\$32.08	\$56.13	\$80.19	\$104.25	\$128.30	\$152.36
96-Gal	\$36.85	\$64.48	\$92.12	\$119.76	\$147.39	\$175.03
1-YD	\$103.99	\$186.19	\$256.09	\$317.22	\$385.37	\$453.56
1.5-YD	\$134.04	\$255.92	\$341.74	\$440.79	\$539.79	\$638.79
2-YD	\$164.09	\$317.22	\$453.56	\$589.76	\$726.03	\$862.37
3-YD	\$236.17	\$464.15	\$668.57	\$873.00	\$1,077.41	\$1,281.82
4-YD	\$277.16	\$543.02	\$770.86	\$998.76	\$1,226.58	\$1,454.44
6-YD	\$383.48	\$760.18	\$1,113.68	\$1,440.63	\$1,794.09	\$2,147.55
8-YD	\$499.49	\$988.07	\$1,429.88	\$1,871.85	\$2,313.72	\$2,755.64

Commercial Recycling Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$6.82	\$11.93	\$17.05	\$22.16	\$27.27	\$32.39
64-Gal	\$8.02	\$14.03	\$20.05	\$26.06	\$32.08	\$38.09
96-Gal	\$9.21	\$16.12	\$23.03	\$29.94	\$36.85	\$43.76
1-YD	\$26.00	\$46.55	\$64.02	\$79.31	\$96.34	\$113.39
1.5-YD	\$33.51	\$63.98	\$85.44	\$110.20	\$134.95	\$159.70
2-YD	\$41.02	\$79.31	\$113.39	\$147.44	\$181.51	\$215.59
3-YD	\$59.04	\$116.04	\$167.14	\$218.25	\$269.35	\$320.45
4-YD	\$69.29	\$135.75	\$192.71	\$249.69	\$306.64	\$363.61
6-YD	\$95.87	\$190.05	\$278.42	\$360.16	\$448.52	\$536.89
8-YD	\$124.87	\$247.02	\$357.47	\$467.96	\$578.43	\$688.91

EXHIBIT L
MAXIMUM RATES APPROVED BY CITY FOR RATE PERIOD ONE

Commercial Organics Collection Rates						
	Frequency					
Service Level	1x/week	2x/week	3x/week	4x/week	5x/week	6x/week
32-Gal	\$21.82	\$38.18	\$54.55	\$70.91	\$87.28	\$103.64
64-Gal	\$25.66	\$44.91	\$64.15	\$83.40	\$102.64	\$121.89
96-Gal	\$29.48	\$51.59	\$73.70	\$95.81	\$117.92	\$140.02
1-YD	\$83.19	\$148.95	\$204.87	\$253.78	\$308.30	\$362.85
2-YD	\$131.27	\$253.78	\$362.85	\$471.81	\$580.83	\$689.89
3-YD	\$188.94	\$371.32	\$534.85	\$698.40	\$861.93	\$1,025.45

Roll-off/Compactor Collection Rates			
Service Level	Solid Waste	Recycling	Organics
Roll-off up to 15 CY (per pull)	\$475.71	\$237.85	\$380.56
Roll-off 16-24 CY (per pull)	\$666.82	\$333.41	\$533.45
Roll-off 26-34 CY (per pull)	\$840.18	\$420.09	\$672.14
Roll-off over 34 CY (per pull)	\$1,026.40	\$513.20	\$821.12
Compactor up to 15 CY (per pull)	\$547.06	\$273.53	\$437.65
Compactor 16-24 CY (per pull)	\$766.84	\$383.42	\$613.47
Compactor 26-34 CY (per pull)	\$966.20	\$483.10	\$772.96
Compactor over 34 CY (per pull)	\$1,180.36	\$590.18	\$944.29
Roll-off/Compactor (per ton)	\$42.78	-\$15.00	\$92.00

29

30

1 **EXHIBIT M:**
2 **APPROVED**
3 **SUBCONTRACTORS**

EXHIBIT M APPROVED SUBCONTRACTORS

5 **Street Sweeping Vendors:**

6 Enviro-Commercial Sweeping

7 Ph. 408-920-0274

8 PO Box 1697 Union City, CA

9

10 Universal Services

11 760 E. Capitol Ave

12 Milpitas, CA 95035

13 408-295-9688

14 Contact: Joe Vella

15

16

This page intentionally left blank

1 **EXHIBIT N:**
2 **OPERATING**
3 **ASSUMPTIONS AND**
4 **COST BASIS FOR**
5 **RATE PERIOD ONE**
6 **RATES**

EXHIBIT N
OPERATING ASSUMPTIONS AND COST BASIS FOR
RATE PERIOD ONE RATES

- 8 Final cost forms shall be inserted reflecting the Council-selected option.

This page intentionally left blank

EXHIBIT O: STREET SWEEPING

1

2

3

4

5

6

7

8

- O-1. Monthly Record Keeping Form
- O-2. Abandoned Car Program Form
- O-3. Tree Control Maintenance Activity
- O-4. Daily Report of Motor Street Sweeper
- O-5. Street Sweeping Map
- O-6. Water Use Material

10

EXHIBIT 0-1:

11

STREET SWEEPING

12

MONTHLY RECORD

13

KEEPING FORM

EXHIBIT O-1 STREET SWEEPING MONTHLY RECORD KEEPING FORM



**Santa Clara Valley
Urban Runoff
Pollution Prevention**

EXHIBIT O

Exhibit O-1

FY **Monthly Record Keeping Form**
MONTH AND YEAR: _____

Agency:

I

Completed By: _____ Date: _____

STREET SWEEPING	Volume of material collected (cubic yards)		Miles swept* (Curb miles)	
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

**EXHIBIT O-1
STREET SWEEPING
MONTHLY RECORD KEEPING FORM**

**EXHIBIT O-1
STREET SWEEPING
MONTHLY RECORD KEEPING FORM**

1. Sweeping

Residential Area:

Broom

Regenerative Air

Vacuum

Commercial Areas:

Broom

Regenerative Air

Vacuum

Industrial Areas

Broom

Regenerative Air

Vacuum

Other Areas Swept:

(e.g., parking lots, major arterials)

Broom

Regenerative Air

Vacuum

2) Have there been any changes in your street sweeping program?

(efforts to have parked cars removed, changes sweeping frequency, new equipment, significant downtimes, etc)

This page intentionally left blank

1 **EXHIBIT 0-2:**
2 **STREET SWEEPING**
3 **ABANDONED CAR**
4 **PROGRAM FORM**

**EXHIBIT O-2
STREET SWEEPING
ABANDONED CAR PARKING CONTROL PROGRAM**

**Street Sweeping Abandoned Car Parking Control Program
Maintenance Activity**

Reporting Agency		Month of
Completed By:		Date
Address	Street	Deficiency
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____
18.	_____	_____

This page intentionally left blank

1 **EXHIBIT 0-3:**
2 **STREET SWEEPING**
3 **TREE CONTROL**
4 **MAINTENANCE**
5 **ACTIVITY**

**EXHIBIT O-3
STREET SWEEPING
TREE CONTROL PROGRAM MAINTENANCE ACTIVITY**

**Street Sweeping Tree Control Program
Maintenance Activity**

Reporting Agency

Month of

Completed By:

Date

Address

Street

Deficiency

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

11.

12.

13.

14.

15.

16.

17.

18.

**EXHIBIT O-3
STREET SWEEPING
TREE CONTROL PROGRAM MAINTENANCE ACTIVITY**

This page intentionally left blank

1 **EXHIBIT 0-4:**
2 **STREET SWEEPING**
3 **DAILY REPORT OF**
4 **MOTOR STREET**
5 **SWEEPER**

**EXHIBIT O-4
STREET SWEEPING
DAILY REPORT OF MOTOR STREET SWEEPER**

7
8
9
10
11
12
13

Daily Report of Motor Street Sweeper

Date: _____

Route:	Equip No.	Operator:
Time Start:	Time Finish:	Total Hours:
Miles Start:	Miles Finish:	Total Miles:
Cu. Yards:	Water Use:	

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Streets in addition to those listed on Routes:

From: _____ To: _____ Mileage:

Total to be added to Route:

Streets Listed on Route which were not cleaned:

Total to be deducted from Route:

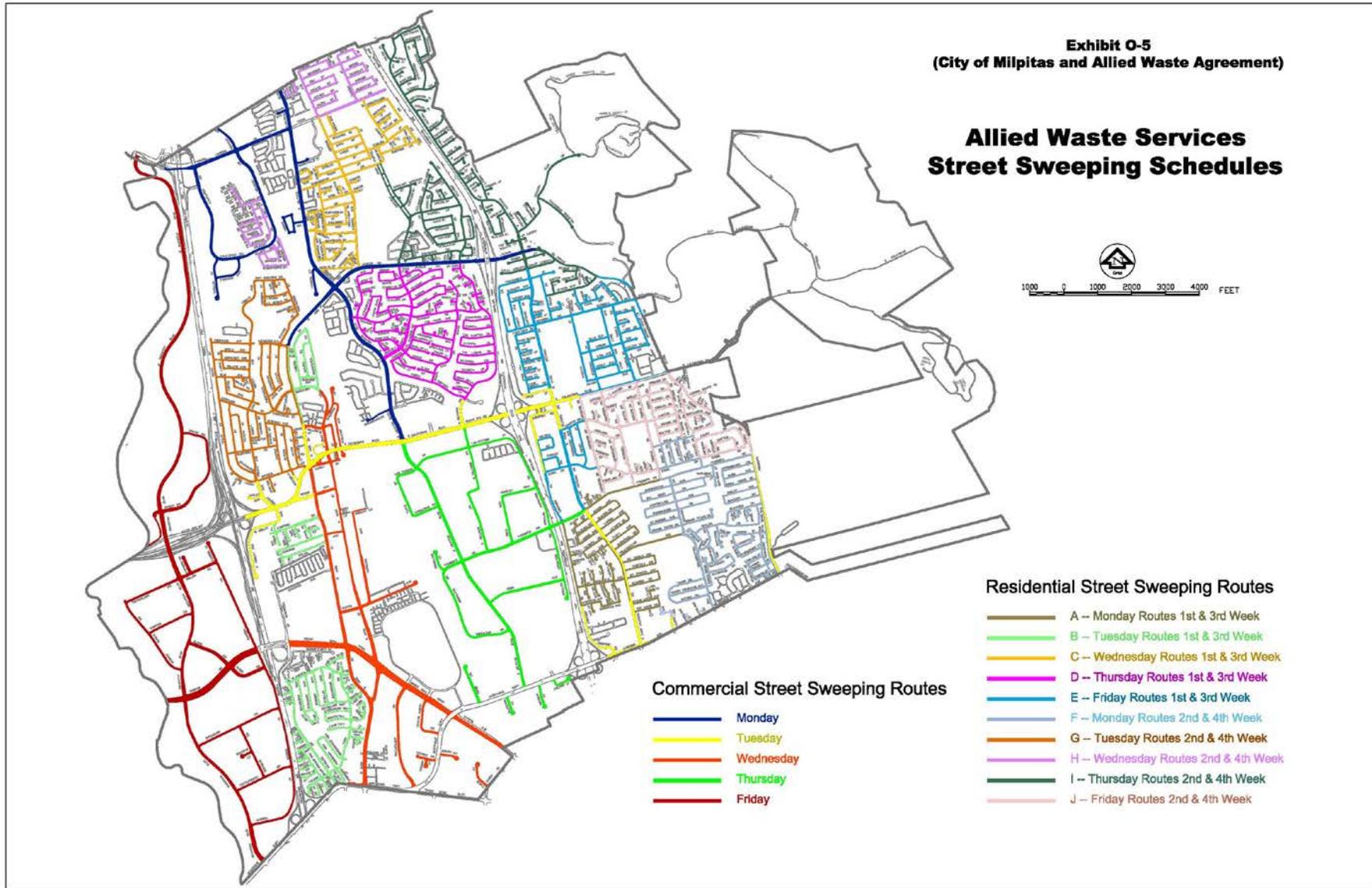
Curb Miles in Route	Additional Miles	Deducted Miles	Net Miles

46

This page intentionally left blank

1 **EXHIBIT 0-5:**
2 **STREET SWEEPING**
3 **MAP**

EXHIBIT O-4 STREET SWEEPING MAP



This page intentionally left blank

1

2

3

4

5

**EXHIBIT 0-6:
STREET SWEEPING
WATER USE
MATERIAL**

**EXHIBIT O-6
STREET SWEEPING
WATER USE MATERIAL**

7