

AMENDED AND RESTATED
FRANCHISE AGREEMENT
BETWEEN THE CITY OF GRASS VALLEY
AND
USA WASTE OF CALIFORNIA INC.,
DBA WASTE MANAGEMENT OF GRASS VALLEY,
FOR COLLECTION OF SOLID WASTE, ORGANIC WASTE, AND
RECYCLABLE MATERIALS

THIS AMENDED AND RESTATED FRANCHISE AGREEMENT (this “Franchise Agreement”) is made and entered into effective as of [REDACTED], 2024 between the City of Grass Valley (the “City”) and USA Waste of California Inc., dba Waste Management of Grass Valley (the “Company”). Unless otherwise specified in this Franchise Agreement, any action authorized, or required to be taken by the City may be taken by the City Council (the “Council”) or by the City Manager.

In consideration of the mutual covenants in this Franchise Agreement, as amended, and restated and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS.

For purposes of this Franchise Agreement the following words or phrases shall have the following meanings.

1.1. **Act.** Act means the California Integrated Waste Management Act of 1989, California Public Resources Code (“PRC”) sections 40000 et seq., as amended, supplemented, superseded, and replaced by the California legislature from time to time. All state code references are to the PRC unless otherwise noted. In the event of any inconsistency between the definitions set forth below and those in the PRC or the California Code of Regulations (“CCR”) related to solid waste the PRC and/or the CCR shall prevail.

1.2. **Applicable Law.** Applicable Law means all laws, ordinances, municipal code, resolutions, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the collection, handling, processing, and disposition of Franchise Materials that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Franchise Agreement.

1.3. **Approved C&D Processing Facility.** Approved C&D Processing Facility means Lockwood Landfill, located at 2700 East Mustang Road, Sparks, NV 89434.

1.4. **Approved Disposal Facility.** Approved Disposal Facility means Lockwood Landfill.

1.5. **Approved Facilities.** Approved Facilities means any one of or any combination of the: Approved C&D Processing Facility; Approved Disposal Facility, Approved Organic Waste Processing Facility; Approved Source Separated Recyclable Materials Processing Facility; and Approved Transfer Facility. City and Company may modify the Approved Facilities upon written agreement.

1.6. **Approved Organic Waste Processing Facility.** Approved Organic Waste Processing Facility means Green Solutions and More (Lincoln, CA), Recology Ostrom Road Landfill (Wheatland, CA), Lockwood Landfill (NV), and Anderson Landfill (CA).

1.7. **Approved Source Separated Recyclable Materials Processing Facility.** Approved Source Separated Recyclable Materials Processing Facility means Sacramento Recovery and Transfer Station (Sacramento, CA) (SRTS).

1.8. **Approved Transfer Facility.** Approved Transfer Facility means McCourtney Road Transfer Station (Grass Valley, CA).

1.9. **Bagster.** A Bagster® is a portable dumpster made of woven material that is approximately 8' long by 4' wide by 2'6" high that will hold up to 3 cubic yards of debris, and up to 3,300 pounds.

1.10. **Bins.** Bins shall mean a watertight metal or heavy plastic receptacle with a hinged plastic lid and a capacity of between one (1) and eight (8) cubic yards, designed or intended to be mechanically dumped into a packer type truck. Bins may also include compactors that are owned or leased by a Customer, contingent upon confirmation of compatibility from Company.

1.11. **Blue Container.** Blue Container means a Container into which Customers shall place Recyclable Materials. Recyclable Materials containers placed into service after the Effective Date shall comply with Public Resources Code Section 18982.2(a)(5) requirements for Blue Containers.

1.12. **City Representative.** City Representative means the City Manager, or designee.

1.13. **Cart.** Cart means an industry standard receptacle for disposal of Franchise Materials, in a range of sizes including approximately 35, 64, or 96 gallons. A Cart will have wheels, a handle for ease of movement and a fitted, attached lid, and is designed to be dumped mechanically into a Solid Waste, Organic Waste or Recyclable Materials collection vehicle.

1.14. **CCR.** CCR has the meaning provided in Section 1.1.

1.15. **Collection or Collection Service.** Collection or Collection Service shall mean all or any part of the activities involved in the collection of Franchise Materials and

its transportation to a Disposal Site or Processing Site.

1.16. **Commercial Business or Commercial.** “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, or industrial facility, as defined in 14 CCR Section 18982(a)(6), with the exception that Multi-Family Dwellings are excluded from the definition of Commercial Business for the purposes of this Franchise Agreement.

1.17. **Compactor.** Compactor means a compacting unit that loads a detachable or non-detachable Bin or Debris Box. The detachable or non-detachable Bin or Debris Box serves as a receptacle of Solid Waste, and has a capacity of one (1) cubic yard or larger. The Bin or Debris Box is picked up by a collection vehicle for emptying at a separate location.

1.18. **Company Service Fee.** Company Service Fee means the compensation provided to the Company for services performed pursuant to this Franchise Agreement.

1.19. **Construction and Demolition Debris or C&D.** Construction and Demolition Debris or C&D has the meaning provided in Title 14, Division 7, Section 17388(c) of the CCR or successor laws and regulations as may be amended from time to time, but not including any Excluded Waste.

1.20. **Container.** Container means a Bin, Cart or Debris Box.

1.21. **Contamination.** Contamination means the presence of Prohibited Container Contaminants in any Container. For purposes of Section 6.1, (a) a Recyclable Materials container will have Contamination if there is more than 10% non-Recyclable Materials or any amount of Excluded Waste, and (b) an Organic Waste container will have Contamination if there is more than 3% non-Organic Waste or any amount of Excluded Waste.

1.22. **CPI Adjustment.** CPI Adjustment means the annual Service Rate adjustment as specified in Section 8.2.

1.23. **CPI Change.** CPI Change is defined in Section 8.2.

1.24. **Curb or Curbside.** Curb or Curbside shall mean that part of the homeowner’s property within five feet of the Public Street or alley without blocking sidewalks, driveways or on-street parking. If extraordinary circumstances preclude a location, Curbside shall be considered a placement suitable to the resident convenient to the Company's equipment, and mutually agreed to by the homeowner and the Company.

1.25. **Customer.** Customer means an individual or entity that subscribes for and receives Franchise Services provided by the Company. Customer shall also mean the

person, organization or corporation receiving Disposal service for Franchise Materials to which billing statements are sent. Customer also means those Generators of Organic Waste or Recyclable Materials in the Service Area to whom the Company provides and the Customer pays for Collection Service under this Franchise Agreement.

1.26. **Debris Box.** Debris Box means a receptacle for Solid Waste and C&D having a capacity of greater than six (6) cubic yards that is picked up in its entirety by a dedicated truck for emptying at a separate location. Also known as a roll-off box or drop box.

1.27. **Discarded Materials.** Discarded Materials means Franchise Materials set out for collection by Company.

1.28. **Disabled Customer.** Disabled means a Residential Customer who is disabled as a doctor's certification that is no more than 12 months old certifying he or she is eligible for a California Disabled Person Parking Placard or Disabled Person License Plate, and who provides a signed affidavit stating that no able-bodied person resides on the premises.

1.29. **Extraordinary Adjustment.** Extraordinary Adjustment is defined in Section 8.3.

1.30. **Disposal.** Disposal has the meaning provided in PRC Section 40120.1 or successor laws and regulations as may be amended from time to time.

1.31. **Disposal Fees.** Disposal Fees shall mean the charges imposed by the Disposal Site.

1.32. **Disposal Site.** Disposal Site has the meaning provided in PRC Section 40122 or successor laws and regulations as may be amended from time to time.

1.33. **Effective Date.** Effective Date means July 1, 2025, the date that Franchise Services shall commence under this Franchise Agreement as amended.

1.34. **Environmental Law.** Environmental Law means any statute, ordinance or regulation relating to pollution or protection of human health or the environment (including ambient surface water, ground water, land surface or subsurface strata).

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

1.36. **Excluded Waste.** Excluded Waste means Hazardous Substance, Hazardous Waste, Infectious Waste, Designated Waste, volatile, corrosive, Medical Waste, infectious, regulated radioactive waste, and toxic substances or material that Approved Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, transfer, Processing, or Disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III Landfills or accepted at the Facility by permit conditions, waste that in the Company's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the Company or Jurisdiction to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in SFD or MFD Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

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

1.38. **Franchise.** Franchise means the rights granted to the Company under the terms and conditions of this Franchise Agreement.

1.39. **Franchise Fee.** Franchise Fee means an amount paid to the City by Company for the right to provide Collection Services as further agreed in Section 3.1 of this Franchise Agreement.

1.40. **Franchise Materials.** Franchise Materials means all Solid Waste, Recyclable Materials, Construction & Demolition Debris and Organic Waste generated in the Service Area, except as provided in Section 2.3. At the Company's option, "Franchise Materials" shall also include any other materials that can now or in the future be disposed of in Class III landfills. It is the intention of the Parties to maximize the scope of the Company's exclusive franchise within the Service Area by including within the definition of "Franchise Materials" those materials that can be safely Collected, Transported, Disposed of or Processed using commercially reasonable methods.

1.41. **Franchise Services.** Franchise Services means all of the duties and obligations of the Company hereunder as stated in this Franchise Agreement.

1.42. **Generator.** Generator has the meaning used in the laws governing Hazardous Waste, but applies in this Franchise Agreement not only to Hazardous Waste but also to all other materials. City is not a "generator" or "arranger" as those terms are used in the context of CERCLA Section 107(a)(3), and that it is Company, not City, which is "arranging for" the collection, transport, recycling and disposal of Franchise Materials.

1.43. **Gray Container.** Gray Container means a Container into which Customers shall place Gray Waste and no Contamination. Gray Containers placed into service after the Effective Date shall comply with Public Resources Code Section 18982(a)(29) requirements for Gray Containers.

1.44. **Gray Waste.** Gray Waste means Solid Waste, excluding Organic Waste, Recyclable Materials and Excluded Waste.

1.45. **Green Container.** Green Container means a Container into which Customers shall place Organic Waste and no Contamination. Organic Waste containers placed into service after the Effective Date shall comply with Public Resources Code Section 18982(a)(29) requirements for Green Containers.

1.46. **Green Waste.** Green Waste means all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, and similar materials that fit into a Green Waste Cart, but not including Excluded Waste or items with a diameter greater than 10 inches.

1.47. **Gross Revenues.** Gross Revenues has the meaning provided in Section 3.1.1.

1.48. **Hazardous Substance.** "Hazardous Substance" shall mean any of the following: (a) any substance defined, regulated or listed (directly or by reference) as "hazardous substances", "hazardous materials", "hazardous wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601, et seq.; (ii) the Hazardous Materials Transportation Act, 49 USC Section 5101, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC Section 6901, et seq.; (iv) the Clean Water Act, 33 USC Section 1251, et seq.; (v) California Health and Safety Code Sections 25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC Section 7401, et seq.; and (vii) California Water Code Section 13050; (b) any amendments, rules, or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereinafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste, or pollutant identified as hazardous or toxic or regulated under any other applicable federal, State, and local environmental laws currently existing or hereinafter enacted, including without limitation, friable asbestos, polychlorinated biphenyl ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

1.49. **Hazardous Waste.** "Hazardous Waste" or "Hazardous Wastes" means any waste which meets the definitions set forth in 22 CCR Section 66261.3, et seq. and is required to be managed; as defined in 14 CCR Section 17402(a)(7). Hazardous Waste includes hazardous wood waste, which means wood that falls within the definition of "treated wood" or "treated wood waste" in 22 CCR Section 67386.4, as

defined in 14 CCR Section 18982(a)(30.5).

1.50. **Inaccessible Area.** Inaccessible Area shall mean any road, alley or property that does not allow safe access, turn-around, or clearance for standard collection vehicles.

1.51. **Liquidated Damages.** Liquidated Damages shall mean the amount due by Company for failure to meet specific quantifiable standards of performance as described in Section 12.5 and Exhibit 5.

1.52. **Medical and Infectious Waste.** Medical Waste or Infection Waste means any Solid Waste that is generated or has been used in the diagnosis, treatment, or immunization of human beings or animals, or research pertaining thereto, and shall include, but not be limited to, biomedical, biohazardous and medical waste, or other Solid Waste resulting from medical activities or services as defined by any State or federal law or regulation, all as currently enacted or subsequently amended.

1.53. **Multi-Family Dwelling or MFD.** Multi-Family Dwelling or MFD means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family Dwelling do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Premises. References to "Multi-Family Dwelling Unit" refer to an individual residential unit of the Multi-Family Dwelling.

1.54. **Organics Commencement Date.** Organics Commencement Date means on or before March 1, 2025, or the date on which the McCourtney Road Transfer Station improvements are completed, whichever is later, on which all services related to Organic Waste collection shall commence. City and Company may agree in writing on an earlier Organic Commencement Date with respect to Commercial Customers.

1.55. **Organic Waste.** Organic Waste means Food Waste and Green Waste.

1.56. **Owner.** Owner shall mean the person, organization or corporation holding legal title to the real property constituting a Commercial or Residential Premises to which Collection Service for Franchise Materials is provided. For the purposes of provisions in this Franchise Agreement pertaining to the sending of notices, billings or other communications by Company to an Owner, Company may regard as Owner the person, organization, corporation or other entity shown in the records of the assessor of Nevada County or as may be indicated documents recorded in the Nevada County Clerk-Recorder's Office.

1.57. **Parties.** Parties mean and the Company.

1.58. **PRC.** PRC has the meaning provided in Section 1.1.

1.59. **Private Drive(s).** Private Drive(s) shall mean a privately owned or maintained way serving less than one Residence for every 100 yards distance.

1.60. **Private Road(s).** Private Road(s) shall mean a privately owned or maintained way that allows for access by a small wheel base service truck and which serves four or more Residences.

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

1.62. **Prohibited Container Contaminants.** "Prohibited Container Contaminants" means the following: (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Recyclable Materials; (ii) Discarded Materials placed in the Green Container that are not identified as acceptable Organic Waste; (iii) Discarded Materials placed in the Gray Container that are acceptable Recyclable Materials and/or Organic Waste; and (iv) Excluded Waste placed in any Container.

1.63. **Public Street(s).** Public Street(s) shall mean a public way used for public travel.

1.64. **Quarterly Remittance.** Quarterly Remittance is defined in Section 3.1.

1.65. **"Recyclable Construction and Demolition Debris" or "Recyclable C&D".** "Recyclable Construction and Demolition Debris" or "Recyclable C&D" means Construction and Demolition Debris or C&D that is disposed of in a Cart or Debris Box or other receptacle that contains no more than 10% non-Recyclables.

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

1.67. **Recyclable Materials, Recyclables.** Recyclable Materials or Recyclables means the materials described as such in Exhibit 1.

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

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

1.69. **SB 1383 Regulations.** “SB 138 Regulations” or “SB 1383 Regulatory” refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted in 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

1.70. **Self Haul.** Self Haul means the transport of Franchise Materials from a Residential or Commercial Premises, where the materials being generated are taken directly to an authorized landfill or transfer station. The transport must be accomplished by the resident Owner or commercial/business/industrial entity that generates the Franchise Materials and may not be transported by a company, agent or other third-party hired for such use except as provided in Section II.C. of this Franchise Agreement.

1.71. **Service Area.** Service Area shall mean the jurisdictional boundary of the City including all areas hereafter annexed or otherwise added to the territorial limits of the City.

1.72. **Service Rates.** Service Rates means the Company Service Fees for Franchise Service billed and collected by the Company from each Customer receiving service under this Franchise as provided in Section 8. The Service Rates include the Franchise Fee. The initial Service Rates are set forth in Exhibit 2.

1.73. **Single-Family or Single-Family Dwelling (SFD).** “Single-Family” or “Single-Family Dwelling” or “SFD” means any residential premises in the Service Area with less than five (5) units.

1.74. **Signature Date.** Signature Date means the date of execution of this Franchise Agreement by both Parties.

1.75. **Solid Waste.** Solid Waste shall mean and include all Solid Waste as defined in PRC Section 40191 and regulations or successor laws and regulations as may be amended from time to time generated within the Service Area that can be disposed of in Class III landfills.

1.76. **Special Services.** Special Services are specific service-related activities, including without limitation lock, gate, and long walk services, or other services that is provided by the Company to Customers for which the Company may charge an additional Fee, with prior notice to the City.

1.77. **Special Waste.** Special Wastes include flammable waste, waste transported in a bulk tanker, liquid waste, sewage sludge, pollution control process waste, residue and debris from the cleanup of a hazardous material spill or release of chemical substances, commercial products or any other Special Wastes; contaminated

soil, waste, residue, debris and articles from the cleanup of a site or facility formerly used for the generation, storage, treatment, Recycling, reclamation, or Disposal of any other Special Wastes; dead animals, manure, waste water, explosive substances, and radioactive substances.

1.78. **State.** State means the State of California.

1.79. **Ton.** Ton means a “short ton” of 2,000 pounds.

1.80. **Transport.** Transport means the hauling of Franchise Materials to a Disposal Site.

1.81. **Uncontrollable Circumstances.** Uncontrollable Circumstances are any acts of God, such as landslides, lightning, fires, storms, floods, pestilence, freezing, and earthquakes; pandemics, epidemics, or the threat thereof, explosions, sabotage, civil disturbances, acts of a public enemy, wars, blockades, riots, labor unrest, eminent domain, condemnation or other taking, or other events of a similar nature, not caused or maintained by the City or Company, which event is not reasonably within the control of excuse from its obligations due to such event, to the extent event has a material adverse effect on the ability of a Party to perform its obligations thereunder. Events which could have been prevented by reasonable precautions, including compliance with agreements and applicable laws, shall not be considered an Uncontrollable Circumstance. Labor unrest, including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action lawfully conducted by the Company's employees or lawfully directed at the Company, or a subsidiary, are not considered Uncontrollable Circumstances, but shall excuse performance to the extent provided in Section 10.5.

2. GRANT OF EXCLUSIVE AGREEMENT.

2.1. SCOPE OF EXCLUSIVE FRANCHISE.

2.1.1. City hereby grants to Company, for the term hereinafter set forth, the exclusive right and privilege to collect and transport to any legally authorized Disposal Site or Processing Site all Franchise Materials and, to the extent permitted by Applicable Law, unless otherwise exempt from Collection pursuant to the terms and conditions of Section 2.3 of this Franchise Agreement.

2.1.2. The Company shall have the right to select the transfer station, Disposal Site (which must be a Class III disposal site), and Processing Site for Franchise Materials. The Company may change the Disposal Site at any time, with ninety (90) days' written notice to City. As of the Effective Date, Franchise Materials will be transported to the McCourtney Road Transfer Station, from where they will be transported for subsequent disposal or processing.

2.2. **COMPANY RESPONSIBILITY.** The Company hereby accepts and

assumes responsibility to perform and fulfill all the terms, covenants, conditions, and obligations required under this Franchise Agreement. Company agrees to perform all of its obligations under this Franchise Agreement for the term hereof. Company shall furnish all the labor and equipment necessary for the Collection, Transport, and Disposal or Processing of all Franchise Materials, subject to the terms, conditions and provisions of this Franchise Agreement.

2.3. EXCEPTIONS TO FRANCHISE. The following services and materials are expressly excluded from this Franchise Agreement. However, the granting of this Franchise shall not preclude an Owner or Customer from contracting for the categories of services and materials described below to be delivered to, collected and/or transported by the Company or others, provided that nothing in this Franchise is intended to or shall be construed to excuse any person from any authorization from the City which is otherwise required by law.

2.3.1. Compactors for Recyclables. Rental, lease or sale of Compactors, provided that the Company shall have the exclusive right to provide hauling services for Compactors unless used exclusively for the collection of Recyclable Materials, including Recyclable C&D, in which at least ninety-five percent (95%) of each load is actually Recycled and for which the Generator receives a net payment. For purposes of this provision, "net payment" shall include and offset any sums of money or service fees paid or owed to the person(s) or entity(ies) providing hauling and collection services for Recyclable Materials, including Recyclable C&D. This provision does not allow persons or entities to collect an additional fee or otherwise earn a profit for providing hauling and collection services for Recyclable Materials, including Recyclable C&D.

2.3.2. Self-Hauling. Self-Haul materials, which are delivered by a person or entity directly to a disposal facility. Persons or entities cannot subcontract any portion of the Self- Haul to any entity other than the Company. This provision does not allow persons or entities to purchase, borrow or rent Bins or Carts or other containers and have them collected by a third-party.

2.3.3. Incidental Hauling. Materials which would otherwise constitute Franchise Materials that are removed from a premise by a company as an incidental part of a gardening, landscaping, tree trimming, cleaning, maintenance, construction, handyman, tractor or similar service offered by that company rather than as a waste hauling service. This provision does not allow the hauling of materials by any business hired solely for the purposes of hauling and/or removal of debris.

2.3.4. Construction and Demolition Debris. Construction and Demolition Debris materials removed from a work or construction/demolition site by a company or business generating the C&D and Self Hauled or incidentally hauled as provided in Section 2.3.3.

2.3.5. Recyclable C&D. Recyclable C&D, in which at least ninety-five percent (95%) of each load is actually Recycled and for which the Generator receives a

net payment. For purposes of this provision, “net payment” shall include and offset any sums of money or service fees paid or owed to the person(s) or entity(ies) providing hauling and collection services for Recyclable C&D. This provision does not allow persons or entities to collect an additional fee or otherwise earn a profit for providing hauling and collection services for Recyclable C&D.

2.3.6. Residential Recyclables. Recyclable Materials donated or sold by Residential Customers to any party of their choice, in which at least ninety-five percent (95%) of each load is actually Recycled, and not disposed of, and for which the Generator receives a net payment. For purposes of this provision, “net payment” shall include and offset any sums of money or service fees paid or owed to the person(s) or entity(ies) providing hauling and collection services for Recyclable Materials. This provision does not allow persons or entities to collect an additional fee or otherwise earn a profit for providing hauling and collection services for Recyclable Materials.

2.3.7. Commercial Recyclables. Recyclable Materials donated or sold by Commercial Customers to any party of their choice, in which at least ninety-five percent (95%) of each load is actually Recycled, and not disposed of, and for which the Generator receives a net payment. For purposes of this provision, “net payment” shall include and offset any sums of money or service fees paid or owed to the person(s) or entity(ies) providing hauling and collection services for Recyclable Materials. This provision does not allow persons or entities to collect an additional fee or otherwise earn a profit for providing hauling and collection services for Recyclable Materials.

2.3.8. Governmental Entities. The Company's exclusive Franchise in this Franchise Agreement shall not include governmental entities if and to the extent the City has no legal power to include them in the exclusive Franchise.

2.4. **TERM OF AGREEMENT**. The term of this Franchise Agreement shall commence on the Effective Date and end on June 30, 2032. The parties may agree in writing to extend the term of this Franchise Agreement for additional five (5) year terms.

2.5. **TITLE TO FRANCHISE MATERIALS**. It is expressly understood that all Franchise Materials collected under this Franchise shall remain the property of the Customer until such time as they are collected for Disposal or Processing. That ownership shall transfer to Company once the Franchise Materials are collected. The Company is hereby granted the right to retain, dispose of and otherwise use such Franchise Materials, or any part thereof, in any fashion or for any lawful purpose desired by the Company, and to retain any benefit or profit resulting therefrom.

2.6. **ANTI-SCAVENGING ENFORCEMENT**. The City will cooperate with the Company in the Company's enforcement of the exclusive rights granted to the Company in this Franchise Agreement and anti-scavenging laws, including without limitation the institution of civil actions against a person or entity alleged to have violated the exclusive rights created in this Franchise Agreement or the anti-scavenging provisions of Public Resources Code Section 41950 (which provides for treble damages, as

measured by the value of the material removed, or a civil penalty of not more than \$2,000.00, whichever is greater, for each unauthorized removal, in accordance with Public Resources Code Section 41953). If City is required to take administrative, law enforcement, or other legal action against any person who infringes on the Company's exclusive rights, the Company shall reimburse the City for all reasonable costs, staff time and legal costs related to any such action. Nothing herein precludes the Company from taking such legal action against third parties as it deems appropriate to protect the exclusive nature of its franchise.

3. FRANCHISE FEE.

3.1. CITY FRANCHISE FEE.

3.1.1. Company will pay City ten percent (10%) of all revenues collected by the Company resulting from the full amount of the Service Rates for the exclusive Collection Services provided by the Company on or after the Effective Date of this Franchise Agreement within the Service Area, but excluding revenue for services provided by the Company prior to the Effective Date and from services other than Collection Services, non-exclusive or excepted services, exempt materials, or sales of processed materials (collectively, "Gross Revenues"). If the Franchise Fee is increased after the date of this Franchise Agreement, the Service Rates shall be adjusted in the same manner as adjustments for increases in Disposal Fees as provided in Section 8.4.

3.1.2. The Franchise Fee shall be computed and paid on the basis of the Company's cash receipts from Gross Revenues after the Effective Date of this Franchise Agreement. Company shall make payments to City on a quarterly basis within 30 days following the completion of each calendar quarter ("Quarterly Remittance"). The Company shall remit the Franchise Fee as part of the Quarterly Remittance.

3.1.3. Payment schedule and late fees. Within thirty (30) calendar days of the end of each calendar quarter, following the Commencement Date, Company shall remit to the City all fees as described in this section. If such remittance is not paid to the City on or before the thirtieth (30th) calendar day following the end of a calendar quarter, all fees due shall be subject to a delinquency penalty of one and one-half percent (1.5%), which attaches on the first day of delinquency. The delinquency penalty shall be increased an additional one and one-half percent (1.5%) for each additional month the payment remains delinquent up to the amount authorized by law. Each quarterly remittance to the City and individual Customers shall be accompanied by a statement listing the amount of each fee paid; calculation of each fee; and, statement of Gross Revenues, by type for the period collected from all operations conducted or permitted by this Franchise Agreement. The City may, at any time during the term of this Franchise Agreement, request a detailed calculation of Gross Revenues which may include, but is not necessarily limited to, the number of Customers charged at each service level and rate charged for each billing period. The City may, at any time during the term of this Franchise Agreement, perform an audit of Company's billings and

payment of fees. Company shall cooperate with the City in any such audit. Should City perform this review and identify billing errors or other errors in payment of fees valued at one (1) percent or more of Gross Revenues, Company shall, in addition to compensating the City and individual customers as applicable for lost fees, reimburse the City's cost of the review.

3.1.4. In the event the Franchise Fee or any other fee under this Franchise Agreement is determined by a court to be invalid or unenforceable, in whole or in part, City and Contractor will, as promptly as reasonably practicable following such court decision, meet and confer to negotiate in good faith and using reasonable efforts to agree upon adjustments to each of the Service Rates, which adjustments shall in the aggregate, as applied to collection services, equal the amount of the City fees determined to be invalid or unenforceable. To the extent the Customers are entitled to a reimbursement of any such fees, City will directly reimburse such Customers such City fees to the extent the same have been paid by such Customers either directly or indirectly (through Company) to the City.

3.1.5. **UNDER AND OVER PAYMENTS.** If the Company fails to pay the entire amount of compensation due the City through error or otherwise, the difference due the City shall be paid by the Company within thirty (30) days from discovery of the error or determination of the correct amount. Any overpayment to the City through error or otherwise shall be offset against the next payment due from the Company.

3.2. **FINANCIAL REVIEW.** The relevant books and records of the Company shall be subject to review and inspection for the purpose of reviewing billing operations, accounts receivable and customer service, by either party, its auditors or other agents, at any reasonable time upon reasonable notice.

4. **SERVICES OF COMPANY.**

4.1. **SERVICES PROVIDED BY COMPANY.** The Company shall, in accordance with the terms of this Franchise Agreement, Applicable Law and best industry practices, provide all labor, materials, facilities, services and equipment necessary to Collect, Process, Recycle or Dispose of (as appropriate), market and transport all set out Franchise Materials.

4.2. **CONTAINERS.**

4.2.1. Company shall deliver Containers (Gray, Blue, and Green, as applicable) to new Customers within seven (7) working days after notice. Company will own all such Containers. All Containers placed in service after the Effective Date shall comply with color and labeling requirements specified in 14 CCR Section 18984.7 and 14 CCR Section 18984.8 respectively, provided that all Containers in service will comply with the applicable color requirements by January 1, 2036.

4.2.2. Company will repair or replace Containers that are damaged. Such

repair or replacement shall occur within seven (7) days after receiving notice from the Customer or City. Company may bill Customers for Container repair or replacement costs, unless damage is the result of normal wear and tear or Company mishandling.

4.2.3. Company will replace lost or stolen Containers. Such replacement shall occur within seven (7) days after receiving notice from the Customer or City. One free Cart replacement shall be provided every four years. Company will bill Customers for additional replacements based on actual costs of Carts and delivery, unless such replacement is the result of Company damaging the Cart.

4.2.4. Customers may request a change in Container size once every twelve (12) months, at no cost.

4.2.5. Customer may not, itself or by others, mechanically compact materials in Company-owned containers except with Company-provided compaction devices.

4.3. SOLID WASTE COLLECTION.

4.3.1. Commercial Premises and Multi-Family Dwellings. Company shall provide Containers (Carts or Bins) to all Commercial Premises and Multiple-Family Dwellings in the Service Area, into which Solid Waste shall be placed by the Customer for Collection by Company. The size of Container(s) and the frequency of their collection (which shall not be less than once a week) shall be determined between the Customer and Company. Containers shall be placed on hard surface locations which are accessible to Company and consistent with applicable municipal code and development approvals. Bins supplied by Company shall at all times be maintained by Company in a well-kept appearance. Front load bins must be maintained with lids. Customers shall be responsible for sanitation and deodorizing of such Bins; provided, however, Company shall provide Bin cleaning service at the request of the Customer for a fee. The initial delivery of such Bins and Carts shall occur as provided in accordance with the implementation schedule agreed upon by the Parties.

4.3.2. Single-Family Dwellings. Company shall provide Carts to all Single-Family Dwellings in the Service Area, into which Solid Waste shall be placed by the Customer for Collection by Company. Customers may select the size of Cart, though 64-gallon Carts shall be the default size. The frequency of collection shall be once per week. Customers may request additional Solid Waste Carts, in which case an additional fee set forth in Exhibit 2 shall apply.

4.3.3. City Solid Waste Service. Company will provide the City Solid Waste services as provided for in Exhibit 4.

4.3.4. Hours of Collection. Collection Service of all Bins and Carts shall not start before 5:00 a.m. for commercial and 6:00 a.m. for residential or continue after 6:00 p.m., subject to change by action of the City Council.

4.3.5. Company Assisted Service. For a Disabled Customer who subscribes for Collection Services, the Company will provide backyard service at the existing Cart service rate. The Company will have no obligation to provide service for a driveway that is longer than 50 feet or for more than a single Cart.

4.4. **RECYCLABLE MATERIALS COLLECTION.**

4.4.1. Commercial Premises and Multi-Family Dwellings. Unless an exception applies under Section 2.3, Company shall provide Containers (Carts or Bins) to all Commercial Premises and Multi-Family Dwellings in the Service Area, into which they shall place Recyclables for Collection by Company. The size of Container(s) and the frequency of their collection (which shall not be less than once a week) shall be determined between the Customer and Company. Containers shall be placed on hard surface locations which are accessible to Company and consistent with applicable municipal code and development approvals. Bins supplied by Company shall at all times be maintained by Company in a well-kept appearance. Front load bins must be maintained with lids. Customers shall be responsible for sanitation and deodorizing of such Bins; provided, however, Company shall provide Bin cleaning service at the request of the Customer for a fee. The initial delivery of such Bins and Carts shall occur as provided in accordance with the implementation schedule agreed upon by the Parties.

4.4.2. Single-Family Dwellings. Company shall provide Carts to all Single-Family Dwellings in the Service Area, into which Recyclables shall be placed by the Customer for Collection by Company. Customers may select the size of Cart, though 96-gallon Carts shall be the default size. The frequency of collection shall be every other week. Customers may request additional Recyclables Carts. One additional Cart shall be provided and serviced at no additional charge. More than one additional Cart shall be provided and services for an additional fee set forth in Exhibit 2 shall apply.

4.4.3. Collection Days and Times. To the maximum extent possible, Collection of Recyclables from all SFD Customers shall be made on a regular schedule on the same day as Solid Waste collection. Collection from Commercial Premises shall be made on a regular schedule.

4.4.4. Construction and Demolition. The Company shall encourage builders and demolition companies to source-separate their C&D for future recycling. Prior to disposal, Company shall have the right to salvage C&D collected pursuant to this Franchise Agreement and to retain funds derived therefrom.

4.4.5. Materials to be Recycled. Company shall collect and Recycle all of the materials listed in Exhibit 1.

4.5. **ELECTRONIC WASTE AND EXCLUDED WASTE COLLECTION.** Three times each year on days mutually selected by the City and Company, Company shall

conduct an E-Waste/Electronic Waste and shred event where Customers may Dispose of E-Waste and Excluded Waste at no charge. The location of the event shall be determined by mutual agreement of the City and Company.

4.6. **GREEN WASTE (OR ORGANIC WASTE) COLLECTION**

4.6.1. Commercial Premises and Multi-Family Dwellings. Company shall provide Carts or Bins to all Commercial Premises and Multiple-Family Dwellings in the Service Area, into which Organic Waste shall be placed by the Customer for Collection by Company. The size of Cart(s) and the frequency of their collection (which shall not be less than once a week) shall be determined between the Customer and Company. Containers shall be placed on hard surface locations which are accessible to Company and consistent with applicable municipal code and development approvals. Bins supplied by Company shall at all times be maintained by Company in a well-kept appearance. Front load bins must be maintained with lids. Customers shall be responsible for sanitation and deodorizing of such Bins; provided, however, Company shall provide Bin cleaning service at the request of the Customer for a fee. The initial delivery of such Bins and Carts shall occur as provided in accordance with the implementation schedule agreed upon by the Parties.

4.6.2. Single-Family Dwellings. Company shall provide Carts to all Single-Family Dwellings in the Service Area, into which Organic Waste shall be placed by the Customer for Collection by Company. Customers may select the size of Cart, though 64-gallon Carts shall be the default size. The frequency of collection shall be once every week. Customers may request additional Organic Waste Carts, in which case an additional fee set forth in Exhibit 2 shall apply.

4.6.3. Hours of Collection. Collection Service of all Bins and Carts shall not start before 5:00 a.m. for commercial and 6:00 a.m. for residential or continue after 6:00 p.m., subject to change by action of the City Council. Company shall notify the City within twenty-four (24) hours when Organic Waste Services have been delayed. Organic Waste Carts shall be collected using an automated collection system. The standard service level for SFD Customers shall be the same as their Solid Waste Cart.

4.6.4. Company Assisted Service. For a Disabled Customer who subscribes for Collection Services, the Company will provide backyard service at the existing Cart service rate. The Company will have no obligation to provide Organic Waste service for a driveway that is longer than 50 feet or for more than a single Cart.

4.6.5. Christmas Trees. Company shall collect un-flocked Christmas trees at the curbside cut up and placed in their Organic Waste cart on the regular day of Collection Service on a schedule mutually agreed upon with the City. Customers will also have the option to drop off trees at a central location at no cost to the City or Customers on a schedule mutually agreed upon with the City.

4.7. **OVERAGE**. "Overage" is defined as (i) Solid Waste, Recyclable Material,

or Organic Waste exceeding its container's intended capacity such that the lid is lifted by 6 inches or more (or would be lifted by six (6) inches or more if there was a lowered lid), or (ii) Solid Waste, Recyclable Material, or Organic Waste placed on top of or in the immediate vicinity of the container. Company is not obligated to collect Overage, unless caused by Company spillage of non-overloaded containers during collection. If Company elects to collect Overage, it may charge the customer the Overage Rate set forth in Exhibit 2. Company will provide photographic evidence of the Overage to customer upon their request. If there have been more than three instances of Overage in any 12-month period for a particular service (i.e., Solid Waste, Recyclable Material, or Organic Waste), and Company has photographic evidence of each instance, Company may increase the customer's service level (i.e., larger container or more frequent service) to mitigate the Overage, and may increase the charges to such customer according to the increased service level. After twelve (12) months of having no Overage incidents, the Customer may request to revert to their previous service level.

5. PUBLIC EDUCATION AND OUTREACH

5.1. Company shall submit a public education and outreach plan to the City annually that meets the mutual goals and requirements of the Parties and applicable law. The plan shall include, but is not limited to, distribution of billing inserts and flyers; distribution of posters and flyers to schools, community centers, libraries, and other facilities; speeches and slideshows to schools; preparation of community service announcements; and displays at community events, festivals, and similar activities. The City shall approve the plan prior to implementation; such approval will not be unreasonably withheld or delayed. Company's annual budget for public education and outreach will be \$15,000. If the City and Company agree that Company will spend more than that, then such additional amount will be recovered by Company through an adjustment to Company's customer rates. Company and City may amend an annual public education and outreach plan at any time.

5.1.1. **Program Objectives.** Company's public education and outreach strategy shall focus on improving Customer understanding of the benefits of and opportunities for source reduction, reuse, Recycling, and composting. In general, Company-provided public education and outreach should: (i) inform Customers about the services that are provided under this Franchise Agreement with specific focus on describing the methods and benefits of source reduction, reuse, Recycling, and composting, (ii) instruct Customers on the proper method for placing materials in Containers for collection and setting Containers out for collection with specific focus on minimizing Contamination of Recyclable and Organic Waste, and (iii) clearly define the Excluded Waste and educate Customers about the hazards of such materials and their opportunities for proper handling.

5.1.2. **Coordination with City and County's Educational Efforts.** Company acknowledges that it is part of a multi-party effort to operate and educate the public about the regional integrated waste management system. Company shall cooperate and coordinate with the City and County of Nevada as applicable, to

minimize duplicative, inconsistent, or inappropriately timed education campaigns. Company is aware that the County is responsible for regional public education and outreach for schools, self-hauled waste, and home Composting. Company shall not engage in public education and outreach around these subjects without coordination with and approval of the City, as applicable. Company shall allow the City a reasonable opportunity to review, request modifications to, and approve all public education materials including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. The City shall have the right to request that Company include the City's and/or County's identification and contact information on public education materials and approval of such requests shall not be unreasonably withheld.

6. **SB 1383 REQUIREMENTS.**

6.1. **CONTAMINATION MONITORING.** Company and the City anticipate that Customers will participate in Company's Recyclable Material and Organic Waste programs in a manner so as not to result in Contamination. The City and the Company agree to utilize the following procedures to assist in minimizing Contamination.

6.1.1. Review Period. For purposes of Section 6.1, a "Review Period" will commence when a Customer has a Contamination occurrence, and will continue until twelve months after the latest Contamination occurrence. For example, if a Customer has a Contamination occurrence on June 1, 2025, and has no further occurrences of Contamination for twelve months thereafter, the Review Period would be June 1, 2025 – May 31, 2026. If, however, the Customer had Contamination occurrences on June 1, 2025 and September 1, 2025, and no further Contamination occurrences prior to September 1, 2026, then the Review Period would be June 1, 2025 – August 31, 2026.

6.1.2. First, Second and Third Occurrences. For the first, second and third occurrences within a Review Period, where the Company documents that a particular Customer has a Recyclable Materials or Organic Waste Container with Contamination, the Company shall service the Recyclable Materials or Organic Waste Container, unless Excluded Waste is identified. The Company must notify the Customer in writing (U.S. mail, e-mail, other electronic means) and provide the following information:

- the date Contamination was present in the Container;
- photographic evidence of the violation(s);
- a description of the materials that are appropriate for collection in the Container;
- an explanation that subsequent incidents of Contamination may result in non-collection, the imposition of a contamination service charge, and where warranted, requiring additional or larger-sized collection Containers; and
- a phone number to contact the Company to obtain additional information and/or receive responses to questions the Customer may have.

6.1.3. Fourth and Subsequent Occurrences. For the fourth and subsequent occurrences within a Review Period, where the Company documents that a particular Customer has a Recyclable Materials or Organic Waste container with Contamination, the Company may refuse collection or service the Recyclable Materials or Organic Waste container and/or charge the premises a Contamination fee in the amount set forth on Exhibit 2. In addition, the Company may, as reasonably required to prevent future incidents of Contamination: (i) deliver additional or larger containers to the premises, or require additional weekly collections and charge the premises for such increased or additional services at the rate set forth on Exhibit 2; (ii) for customers receiving Bin service, install locking Bins and charge the customer for such in accordance with Exhibit 2; or (iii) remove the offending Container. Any increased capacity or collection frequency, or the removal of an offending Container, will remain in effect until the Company determines that it is no longer needed to prevent Contamination. After twelve (12) months of having no Contamination incidents, the Customer may request to revert to their previous service level.

6.1.4. At the end of a Review Period, the number of "Contamination occurrences" for purposes of Sections 6.1.2 and 6.1.3 shall be reset to zero.

6.1.4.1. At least ten (10) days prior to taking the actions described in 6.1.1 or 6.1.2 above, the Company's representative shall contact the customer by phone, text, other electronic means, U.S. mail, e-mail or in person to confirm that customer has the appropriate level of service. The Company shall notify the City within five (5) business days of taking these actions. The City will consider, and pursue as applicable, appropriate legal remedies against offending customers in order to secure discontinuance of Contamination. All City costs of pursuing such remedies shall be recoverable from the offending customers.

6.1.5. Identification of Excluded Waste. If the Company's personnel observe Excluded Waste in an uncollected Container, the Company's personnel shall issue a non-Collection notice for any such Container in accordance with this Section and shall not Collect the Discarded Materials that contain Excluded Waste. The Company's personnel shall record that observation in accordance with this Section and immediately inform their route supervisor.

6.1.6. Disposal of Contaminated Containers. If the Company observes visible Contamination in a customer's Recyclable Materials or Organic Waste Containers, the Company may dispose of the Container's contents provided that the Company complies with the noticing requirements in Section 6.1.4.1.

6.1.7. Route Review Contamination Monitoring by Company.

6.1.7.1. Methodology and Frequency. Commencing within a reasonable time of the Organics Commencement Date, the Company shall conduct route reviews for Contamination in Containers in a manner that is deemed safe by the

Company and is conducted in a manner that results in all routes being reviewed at least annually.

6.1.7.2. The Company shall conduct route reviews that include inspection of the contents of Recyclable Materials, Organic Waste, or Solid Waste Containers for Contamination in a manner that a minimum of 10% of Containers on each and every route are inspected annually.

6.1.7.3. The Company shall develop a route review methodology to accomplish the above container inspection requirements and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b).

6.1.8. Waste Composition Studies. During the term of this Franchise Agreement, the Company may, in its sole discretion, incorporate waste composition studies in addition to, or as an alternative to, route reviews under Section 6.1 of this Franchise Agreement to monitor contamination of one or more waste streams Collected by the Company pursuant to this Franchise Agreement. Any such waste composition studies conducted by the Company shall comply with Applicable Law.

6.1.9. Container Colors and Labeling. All Carts and Bins placed in service after January 1, 2025 shall comply with color and labeling requirements specified in 14 CCR Section 18984.7 and 14 CCR Section 18984.8 respectively, provided that all Carts and Bins in service will comply with the applicable color requirements by January 1, 2036.

6.1.10. The parties may agree in writing to modify the scope of Company's SB 1383-related services, and any resulting compensation adjustment to Company.

6.2. **GENERATOR WAIVERS.**

6.2.1. The Company shall use reasonable efforts to assist City to verify that Commercial Generators' de minimis, physical space constraint, and collection frequency waivers meet the applicable thresholds under 14 CCR Section 18984.11. The Company shall use reasonable efforts to re-verify de minimis and physical space constraint waivers issued by City at least once every five (5) years from the date of issuance of the waiver. The Company shall provide City with documentation provided by Generator to the Company to support the Generator's request for waiver.

6.2.2. Company Change in Customer Service Levels. When City grants a waiver to a Generator, City shall notify the Company within 7 days of the waiver approval with information on the Customer and any changes to the service level or service requirements for the Customer. The Company shall have 7 days to modify the Customer's service level as needed.

6.2.3. Company Recordkeeping of Generators Granted Waivers. Upon

Company's request, no more than twice per year, City shall provide the Company an updated listing of waivers granted by City, including the Generators' names, mailing address, service address, type of waiver, and date of issuance. The Company shall maintain waiver-related records in accordance with Applicable Law.

7. OTHER COMPANY REQUIREMENTS.

7.1. GENERAL.

7.1.1. Company Provided Equipment and Vehicles. Company shall provide an adequate number of vehicles and equipment for the Collection, Disposal and Transportation services for which it is responsible under this Franchise Agreement. All vehicles used by Company under this Franchise Agreement shall be registered with the Department of Motor Vehicles of the State of California, shall be kept clean and in good repair, shall be, uniformly painted and shall be washed at least once every seven (7) calendar days during good weather. Company's name, phone number and vehicle number shall be prominently displayed on its vehicles. Company shall furnish a listing of equipment utilized to perform all services included in this Franchise Agreement upon request by City.

The City and Contractor agree that Contractor's obligations and/or scope of services under this Franchise Agreement exclude any existing requirements regarding the future conversion of fleets, or any part thereof, to Zero-emissions (ZEV) or Near-zero-emissions (NZEV) vehicle(s) or the future acquisition, hiring or use of ZEVs or NZEVs under Applicable Law, including without limitation Sections 2015 et seq. of Title 13 of the California Code of Regulations. Should such existing Applicable Law apply to any Contractor's vehicles used in the provision of services under this Franchise Agreement during the Term, then the City and Contractor agree to meet and confer in good faith to amend this Franchise Agreement to incorporate provisions and obligations reasonably necessary to comply with such Applicable Law, and Contractor shall be entitled to a rate adjustment in accordance with Section 8.3 for such change in Contractor's obligations and/or scope of services under this Franchise Agreement.

7.1.2. Collection on Holidays. If the day of Collection on any given route falls on Christmas Day, New Year's Day or Thanksgiving Day or a holiday observed by the Disposal Site to which the City's Franchise Materials are disposed, Company shall provide Collection Service for such route on the next workday following such holiday, thereby adjusting subsequent workdays that week.

7.1.3. Disabled Special Service. At no additional cost, the Company shall provide special service to Disabled Customers. Collection shall be from the back porch, carport, or other outside storage location. The Company shall screen applicants (must be name shown on bill or rental agreement) and provide service only in cases of legitimate need. Eligibility for this Special Service shall be on an annual basis.

7.1.4. Private Drives and Inaccessible Areas. For Customers on Private

Drives or other inaccessible areas, the Company shall Collect Solid Waste, Green Waste (or Organic Waste) and Recyclables on the nearest Public Street or Private Road connecting to the Private Drive or other inaccessible area.

7.1.5. Employees. Company shall exercise reasonable care to hire responsible Employees, to supervise the work of such Employees, and to discipline and, if necessary and consistent with Company's legal and contractual obligations, discharge an Employee failing to meet reasonable standards for performance of work under this Franchise Agreement. Company shall comply with applicable state and federal law pertaining to employment including, but not limited to, applicable equal opportunity employment and affirmative action requirements.

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

7.1.7. Safety Training. Company shall provide suitable operational and safety training for all of its employees who operate vehicles or equipment. Company shall train its employees involved in operations to identify, and not to collect or Dispose, Excluded Waste. Upon request from the City, Company shall provide a copy of its safety policy and safety training program, the name of their safety officer(s), and the frequency of their trainings.

7.1.8. Manner of Collection. The Company shall perform all Collection Services in a quiet and courteous manner and ensure that all Carts and Bins are placed on the premises from which they were removed in an upright position and within five (5) feet of where they were originally placed before collection so as to not block traffic.

7.1.9. Service Schedule. In January of each calendar year, the Company shall provide calendars (which may be in "pdf" or other similar format) identifying the schedule for Solid Waste, Recyclables, and Organic Waste Collection for that calendar year. The calendar shall provide adequate detail for customers to identify specific service days for specific service areas. Hard copies of the calendars shall be made available to Customers upon request.

7.1.10. Inclement Weather. In the event of inclement or severe weather that makes it unsafe for Collection vehicles or personnel to perform Collection Services, the Company will be excused from performing services in accordance with the normal Collection schedule and will make commercially reasonable efforts to provide Collection Services within a one-week time period (or earlier if reasonably practicable) provided the roads are safely accessible and may double-up on Collections at no additional charge. If Customers have a Company account, Company will notify them of a service interruption based on the Customer's selected preferred method of contact. Company will also provide notice of service interruptions on social media.

7.1.11. Code Revisions. The City shall use reasonable efforts to update its Municipal Code to be consistent with the terms of this Franchise Agreement and to reflect new program requirements if requested by the Company and deemed necessary by the City Council.

7.1.12. Complaints. All service complaints shall be directed to Company. Company shall record all complaints duly received and respond as provided below.

7.1.12.1. Complaint. The Company agrees to maintain a written log of all oral and written service complaints registered with the Company from Customers, service recipients, or the public within Franchise area ("Complaint Log"). The Company shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all complaints. Complaints that cannot be reasonably resolved may be appealed to the City Manager or designee for final resolution. The Company shall record in the Complaint Log all written and oral complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. Such log shall be kept so that representatives of the City, upon request, may conveniently inspect it.

7.1.12.2. Complaint Response. The Company shall respond to all properly submitted complaints, other than missed pickups, within twenty-four (24) hours if the complaint is received during a weekday or by the next business day if the complaint is received on a Saturday, Sunday or a holiday.

7.1.12.3. Missed Pickups. In the event of a missed pickup (which had been properly placed by customer), the Company shall complete the pickup the same day if the complaint is received by 12:00 p.m. or by 12:00 p.m. the following day if the complaint is received after 12:00 p.m.

7.1.12.4. Telephone. The Company shall maintain a toll-free telephone system during office hours (8:00 a.m. to 5:00 p.m.), which will have available service representatives sufficient to handle the volume of calls typically experienced by the Company. Customers must be able, with reasonable convenience, to reach the Company's office by phone during office hours. The Company shall also maintain a method for customers to contact Company after-hours, which may include online chat. The Company shall provide the City the means to contact the Company directly by telephone on a 24-hour basis in the event of an emergency.

7.2. CHANGE IN OPERATIONS, ADMINISTRATION OR SCHEDULE. The Company shall provide a route map with pick up schedules and notify the City in writing

of any material changes in or to the operation to provide Franchise Services (e.g., vehicle routes, equipment type, crew size), administration (e.g., management), and schedule five (5) days in advance of the time such material change is implemented. Any changes to the Company's Collections operation shall meet the service requirements and performance standards and all other terms of this Franchise Agreement. In the case of changes to the Collection schedule the Company must notify all affected Customers at least (14) days prior to any change in the Collection day. The Company shall not permit any Customer to go more than seven (7) days without Solid Waste Collection Service in connection with a Collection schedule change other than in the event of an Uncontrollable Circumstance.

7.3. ADDITION OF NEW NON-FRANCHISE SERVICES. Upon receiving a written request from the City, the Company shall provide any other exclusive or non-exclusive services not covered by this Franchise, and that it is qualified to provide, including, but not limited to, assistance to the City in the event of natural disasters, subject to establishment of appropriate and mutually agreed upon compensation for providing the service.

8. SERVICE RATES.

8.1. AMOUNT OF SERVICE RATES. As of the Effective Date of this Franchise Agreement, Company may not charge rates in excess of those set forth in Exhibit 2. The Company may establish charges for Special Services that are not specified in Exhibit 2 subject to notification of the City, at least 30 days prior to implementation. The City may consider making such charges a part of the rates and charges provided for in Exhibit 2 as part of the annual review provided for.

8.2. CPI ADJUSTMENT. The Service Rates shall be increased annually on July 1st, beginning July 1, 2025 as described below in this Section 8.2 (the "CPI Adjustment"). Each year, the Company shall calculate and submit to the City Representative the percentage increase in the CPI-U: Garbage and trash collection index, as published by the United States Department of Labor, Bureau of Labor Statistics ("CPI") during the 12 month period ending the preceding March (the "CPI Change").

8.2.1. If the CPI Change is more than 1% and less than or equal to 3.5%, then the service portion (meaning that portion of the maximum Service Rates other than Disposal charges) of the maximum Service Rates shall be increased by 2.5%.

8.2.2. If the CPI Change is greater than 3.5%, then the service portion of the maximum Service Rates shall be increased by 2.5%, plus an amount equal to 75% of the difference between the CPI Change and 3.5%.

8.2.3. If the CPI Change is less than or equal to 1%, then the service portion of the maximum Service Rates shall be increased by the amount equal to the

Change in CPI but not less than 0%.

8.2.4. The CPI Adjustment to the maximum rates will not exceed 10% in any single year.

8.2.5. Provided that adequate supporting information has been submitted to the City by the Company, any requested CPI Adjustment shall be deemed approved and shall take effect on the following July 1st. Changes in the maximum Service Rate as provided for herein will be filed with the City Manager by June 15 of each year. The Company shall reimburse the City its actual costs in reviewing any CPI Adjustment or change in the maximum Service Rate hereunder. Such costs will be reimbursed to Company in such Service Rate adjustment.

8.3. **EXTRAORDINARY ADJUSTMENT.** In addition to the annual CPI adjustment provided by Section 8.2, the Service Rates shall, upon written request of Company, be further adjusted to fully capture increased expenses and lost revenue associated with performance of the Franchise Services hereunder due to any one or more of the following causes:

8.3.1. Uncontrollable Circumstance;

8.3.2. Change in Applicable Law that is effective after the Effective Date of this Franchise Agreement;

8.3.3. Increase in surcharges, fees, assessments or taxes levied by federal, state or local regulatory authorities or other governmental entities related to the Franchise Services; or

8.3.4. Increase of at least 10% in the cost of transportation, including fuel and third-party transportation costs.

If Company requests a Service Rate adjustment pursuant to this Section, it shall prepare a Service Rate adjustment request setting forth its calculations of the increased costs/lost revenue and accompanying adjustment to the Service Rates necessary to offset such increased costs/lost revenue. The City may request documentation and data reasonably necessary to evaluate such request by Company, and may retain, at Company's expense, an independent third party to audit and review such documentation and request. If such third party is retained, the City shall take reasonable steps, consistent with Applicable Law, to protect the confidential or proprietary nature of any data or information supplied by Company. The City shall approve all properly calculated Service Rate adjustments within ninety (90) days of Company's request.

Notwithstanding the foregoing, if the request is based upon any new or increased third party fees, taxes, assessments or charges, the City shall use good faith efforts to approve the Service Rate adjustment within such time period as necessary to ensure that such fees, taxes, assessments or charges are passed on to customers by the date the same are effective.

8.4. DISPOSAL/PROCESSING FEE ADJUSTMENT.

8.4.1. Service Rates shall be increased or decreased based on a change in costs associated with disposal and processing of Franchise Materials, including tip fees and transportation costs. Such changes in costs would include changes in facilities and changes in tip fees imposed by currently used facilities. Such adjustments shall be equal to the amount derived by multiplying (A) the portion of the previous Service Rate representing Disposal Fees/Processing Fees by (B) the percentage change in the Disposal Fees/Processing Fees.

8.4.2. In the event that the City identifies an alternative processing facility for the processing of organic waste, which can provide service at the same or lower cost as the current, applicable Approved Facility, the Company shall use and transport applicable Franchise Materials to the alternative facility.

8.5. **BILLING AND COLLECTION OF ACCOUNTS.** Company shall bill Customers for all Collection Services (including Disposal) for Franchise Materials as part of a single all-inclusive Service Rate, except as otherwise provided in the Franchise Agreement.

8.5.1. Residential. SFD and MFD Customers may be billed for up to two (2) months in advance or based on arrears/advanced billing combinations implemented at the discretion of the Company. Payment shall be due within 30-days of the billing date. If not paid when due, the bill may thereafter bear a late charge to be determined by Company (subject to City approval) which shall be collectible along with the charge for service. Company shall diligently pursue collection of delinquent accounts by every means reasonably available to Company.

8.5.2. Non-Residential. All non-residential Customers shall be billed monthly in advance, except for roll-off services, which may be billed in arrears. Payment with respect to each such bill shall be due on or before the 30th day following the end of the service period for which the bill is rendered; thereafter the bill shall be considered delinquent and Company shall provide written notice to the business owner and, if different, the property owner of the delinquent amount. Company may charge interest not to exceed the maximum interest rate allowed by law for such time as the bill remains unpaid after the due date.

8.5.3. Company may discontinue Collection Services to Customers with an invoice more than 90 days past due. If Company pursues legal action to collect past due amounts, Customers shall be liable for Company's attorneys fees' and court costs.

8.5.4. Special Services. Company shall also receive fees for performance of special services as agreed upon in separate contracts between Company and each Customer requesting such special service. Company shall provide the City with notice of such special services and the fees charged.

8.6. **CUSTOMER SERVICE.** Company shall at all times be in compliance with this section.

8.6.1. Office Location and hours. Company will have an operation and maintenance yard located at 13083 Grass Valley Avenue, Grass Valley, California 95945. Company will have a drop box at this locations where Customers may leave payments (checks or money orders only; no cash).

8.6.2. Website. Company shall develop a comprehensive website which fully explains and effectively promotes the Collection service options offered to its Customers. The website shall contain the full approved rate schedules as well as any other information that may be helpful to the Members and Customers in meeting the Agency's and Members' Diversion goals. The website shall also allow Customers to submit inquiries, complaints and queries which shall be answered as provided for in the following paragraph.

8.6.3. Service Requests, Compliments, Complaints. Company shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all Customer service requests and complaints. Company shall record in a separate computerized log, approved as to form by the City's designated representative, all complaints, noting the name and address of complainant, date and time of complaint, nature of complaint, and nature and date of resolution. Company customer service representatives will be available to customers by calling a local or toll free number, 8am – 5pm, Monday - Friday. Company shall retain this complaint log for the Term plus two (2) years after its expiration or earlier termination. Upon request by the City's designated representative, Company shall promptly compile and submit a summary statistical table of the complaint log. Company shall respond to all complaints received within twenty-four (24) hours, weekends and Holidays excluded. If a complaint involves a failure to Collect Solid Waste, Recyclable Materials or Organic Materials from a Premises in the Service Area which is the fault of Company, Company shall Collect the material in question within twenty-four (24) hours of receipt of the Complaint, provided that the Generator has properly placed materials for Collection.

9. **REPORTS.** The Company will provide the City with reports that contain the information in this Section 9 required by the City for compliance with Applicable Law and for the City to measure the Company's performance of items in this Franchise Agreement, but limited to information directly attributable to the Collection Services provided under this Franchise Agreement:

9.1. Company shall keep an auditable journal recording each instance reported to Company that Solid Waste, Organic Waste, or Recyclable Materials are not collected in compliance with the terms of this Franchise Agreement or applicable ordinance or regulation. The journal shall include the reason for non-collection, including but not limited to instances of Hazardous Waste found in the Solid Waste, Organic Waste or Recyclable Materials;

9.2. **MONTHLY REPORTS.** Company shall compile and keep the following information for each month and shall deliver a written report, to the City Manager, within 10 days of the preceding month:

9.2.1. Solid Waste weight tickets from landfill;

9.2.2. Total tons of Recyclable Materials and Organic Waste collected from residential and commercial premises, by type;

9.2.3. The name, address and telephone number of each waste disposal facility used by Company during the reporting month;

9.2.4. The name, address and telephone number of each facility where Solid Waste, Organic Waste and Recyclable Materials were delivered by Company during the reporting month;

9.2.5. Summaries of the net amount of all waste disposed during the reporting period and where the waste was disposed of, by residential and commercial/industrial service sectors or monthly report currently generated by the Company;

9.2.6. City may review all supporting documentation (which Company shall retain for a period of 24 months) for Company's summaries on Company's business premises after giving 48 hours written notice of such a request; and

9.2.7. Company shall maintain relevant financial information consistent with generally accepted business practices regarding the operation of Company's waste collection business and annually provide financial information to the City in manner that allows for the review of the collection and payment of franchise fees. All financial information provided to City must be held strictly confidential and not publicly disclosed.

9.3. **ANNUAL REPORTS.** Company shall submit an annual report, in such form and utilizing such media as approved by City, within ninety (90) days after the close of each calendar year. This report shall include, but is not limited to, the following information:

9.3.1. A summary of the previous year's activities including, but not limited to, services begun or discontinued during the reporting year, and the number of customers for each service route; and

9.3.2. A list of Company's officers and members of its board of directors.

9.4. **AUDIT.** In order to verify reports of the amounts of Solid Waste, Organic

Waste, and Recyclable Materials collected by Company from each designated route and disposed of, City shall be entitled to conduct an audit of any designated route upon demand. The audit demand will be made by City by telephone 48 hours prior to the regularly scheduled collection day of the designated route. Telephone notice shall be followed by written notice and facsimile transmission (Fax) to Company. The audit demand shall entitle City to conduct a physical route audit of any or all designated routes for the purposes of verifying customers served, disposal amounts collected, and any other information as may be deemed necessary and beneficial to City so long as the audit activity does not interfere with Company's personnel who are servicing the route being audited. The standard route audit will include, but is not limited to: (1) verification of the addresses which are served by the designated collection vehicle; (2) verification of the landfill or other facility to which the Solid Waste, Organic Waste, or Recyclable Materials are taken; and (3) the quantity of Solid Waste, Organic Waste, and Recyclable Materials in tons collected from the designated route.

9.5. **SB 1383 REPORTING.** Company shall provide a report to the City, covering the most recently completed calendar year. Such report shall include the following information:

9.5.1. Contamination Monitoring Report. Company's report under this section shall include:

9.5.1.1. Route Reviews. The Company shall submit the following information regarding contamination monitoring route reviews conducted by Company under this Franchise Agreement:

- The number of route reviews conducted;
- Description of the Company's process for determining the level of contamination;
- Summary report of non-Collection notices and courtesy Collection notices issued;
- A record of each contamination incident which shall include, at a minimum:
 - Name of the Customer;
 - Address of the Customer;
 - The date the contaminated Container was observed;
 - The staff who conducted the inspection; and
 - The total number of violations found and a description of what action was taken for each.
- Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants; and
- Any other information reasonably requested by City related to route reviews that does not create additional cost to Company.

9.5.2. Compliance Monitoring and Enforcement Report. Company's report under this section shall include:

- The total number of route reviews conducted;
- A copy of written and/or electronic records and documentation for all audits, studies, and compliance reviews conducted; and
- The number of Commercial Customers that were included in a compliance review performed by the Company and the number of violations found and corrected through compliance reviews; including a list with each Generator's name or account name, address, and Generator type.

10. **INDEMNITY, INSURANCE.**

10.1. **INDEMNIFICATION OF THE CITY.** Company shall indemnify, defend (with counsel selected by City) and hold harmless City, its officers, agents, and employees from any and all claims and losses whatsoever occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Franchise Agreement, any and all claims, lawsuits or actions arising from the awarding or execution of this Franchise Agreement and from any and all claims and losses occurring or resulting to any person, firm, corporation or property for damage, injury or death arising out of or connected with Company's performance of its obligations pursuant to this Franchise Agreement or arising from or attributable to any alleged breach of warranty of merchantability or fitness of purpose or other laws relating to product liability for Recyclable Materials collected pursuant to this Franchise Agreement, or to the repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or Hazardous Wastes at any place where Company transfers, stores or disposes of Solid Waste or Recyclable Materials pursuant to this Franchise Agreement, or its activities pursuant to this Franchise Agreement result in a release of hazardous substances into the environment. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, to defend, protect, hold harmless and indemnify City, unless such claim is due to the negligence or willful acts of the City its elected officials, officers, employees, agents or contractors. Company's obligation to indemnify, defend and save harmless City as stated hereinabove shall include, but not be limited to, paying all legal fees and cost incurred by the legal counsel selected as provided above in representing City in connection with any such claims, losses, lawsuits or actions. In connection with claims, liability, lawsuits or actions arising out of the Environmental Law, this clause shall not restrict any rights City has against Company, including, but not limited to, the right of contribution, pursuant to the Environmental Law. Any action defended by the City's Insurance provider will be done so by selected attorney of the provider. In addition, Company's duty to defend and indemnify herein includes all fines and/or penalties imposed by the California Department of Resources Recycling and Recovery, subject to the restrictions set forth in Public Resources Code section 40059.1, if the requirements

of AB 939, AB 341, SB 1383, or other applicable law are not met by Company with respect to the waste stream collected under this Franchise Agreement, and such failure is (i) due to the failure of Company to meet its obligations under this Franchise Agreement, or (ii) due to Company's delays in providing information that prevents the City, Customers, or Company from submitting reports required by AB 939, AB 341, SB 1383, or other applicable law in a timely manner. The provisions of this Section shall survive the termination or expiration of this Agreement.

10.2. OMITTED.

10.3. **INSURANCE SCOPE AND LIMITS.** The Company shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Company, his agents, representatives, employees or subcommands. With respect to General Liability, and Pollution and/or Environmental Impairment Liability coverage shall be maintained for a minimum of five (5) years after contract completion, which continuing coverage may be maintained through continuous policy renewals. The maintenance of claims made against any insurance required of the Company shall not be considered a waiver by City of any claim or liabilities it may have against the Company.

10.3.1. Minimum Limits of Insurance. The Company shall maintain insurance coverage of the following type and with limits no less than:

- General Liability: \$20,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
- Automobile Liability: \$10,000,000 combined single limit per accident for bodily injury and property damage.
- Worker's Compensation and Employer's Liability: \$3,000,000 each accident, \$3,000,000 policy limit bodily injury or disease, \$3,000,000 each employee bodily injury by disease.
- Pollution and/or Environmental Impairment Liability: \$5,000,000 each incident/\$10,000,000 policy aggregate covering liability arising from the release of waste materials and/or irritants, contaminants or pollutants.
- Deductible and Self-Insured Retentions. The deductibles or self-insured retentions for the General Liability and Auto Liability policies are for the account of the Company and shall be the sole responsibility of the Company.

10.3.2. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

- Automobile liability and general liability: The City, its officers, officials, employees and volunteers are to be covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Company; and with respect to liability arising out of work or operations performed by or on behalf of the Company including materials, parts or equipment furnished in connection with such work or operations.
- Worker's Compensation and Employers Liability Coverage. The Insurance company shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Grantee for the City.
- All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail return receipt requested, has been given to the City.
- Verification of Coverage. The Company shall furnish the City with endorsements effecting coverage required by this clause or certificates evidencing such coverage. The endorsements or certificates are to be signed by a person authorized by that Insurance Company to bind coverage on its behalf.

10.4. REVOCATION OF PREVIOUS AGREEMENTS. This Franchise Agreement, rather than any preceding agreements between the City and the Company, shall govern with respect to the Company and City's rights, duties and obligations relating to this Franchise Agreement. Upon execution of this Franchise Agreement, all previous agreements shall terminate and be of no further force and effect except with respect to covenants therein for acts and omissions occurring prior to the date of termination.

10.5. COMPLIANCE WITH APPLICABLE LAW AND MUNICIPAL CODE. Company will comply with all Applicable Law and those provisions of the Grass Valley Municipal Code which are applicable to the work or business in which it is herein franchised, and with any and all amendments to such applicable provisions during the term hereof but only to the extent they are not inconsistent with or do not conflict with the terms and conditions of this Franchise Agreement without regard to this Section.

11. PERFORMANCE BOND.

11.1. Within seven (7) calendar days of the Commencement Date, Company shall file with the City a bond, payable to the City, securing Company's performance of its obligations under this Franchise Agreement, and such bond shall be renewed annually if necessary so that the performance bond is maintained always during the Term of this Franchise Agreement. The principal sum of the bond shall be \$3,000,000 and shall be adjusted every three (3) years, so that the bond amount equals at least three (3) months of the prior year's average annual Gross Revenues. The bond shall be

executed as surety by a corporation authorized to issue surety bonds in the State of California that has a rating of A or better in the most recent edition of Best's Key Rating Guide, and that has a record of service and financial condition satisfactory to the City. The bond shall be in a form reasonably approved by the City's.

11.2. In lieu of a performance bond, the City and Company may agree in writing that Company will provide for the issuance of an irrevocable stand by letter of credit (the "Letter of Credit") by a bank approved by the City in its sole discretion (the "Bank") for the benefit of the City. Under the Letter of Credit, the City may draw, in one or more drawings, an aggregate amount up to \$2 million (the "Stated Amount") upon the occurrence of (1) an event of default as defined herein, (2) Company's failure to timely pay any monies due the City, (3) Company's inability to regularly pay its bills as they become due, or (4) Company's failure to timely pay any disposal facility or third-party for services provided under this Franchise Agreement, as evidenced to the satisfaction of the City. The City and Company agree that Company will increase the aggregate amount of the Letter of Credit in conjunction with the adjustment of rates in this Franchise Agreement in an amount reasonably satisfactory to the City. The Letter of Credit must be transferable to any successor or assignee of the City.

12. **DEFAULT; DISPUTE RESOLUTION.**

12.1. **EVENTS OF DEFAULT.** Each of the following shall constitute an event of default ("Event of Default"), provided that it consists of, or is based on, acts or omissions that occur during the term of this Franchise Agreement, in each case subject to any applicable cure rights, including without limitation the cure rights provided in Section 12.2:

12.1.1. Failure to correct breach. Failure to correct any breach of this Franchise Agreement within the applicable cure period (as defined below).

12.1.2. Fraud or Deceit. Company's practice, or attempt to practice, any fraud or deceit upon the City or Customers.

12.1.3. Company bankruptcy. The company files a voluntary petition for debt relief under any applicable bankruptcy, insolvency, debtor relief, or other similar law now or hereafter in effect, or consents to the appointment of or taking of possession by a receiver, liquidator, assignee (other than as a part of a transfer of equipment no longer useful to the company or necessary for this Franchise Agreement), trustee (other than as security for an obligation under a deed of trust), custodian, sequestrator (or similar official) of the company for a part of the company's operating assets or any substantial part of the company's property, or shall make any general assignment for the benefit of the company's creditors, or shall fail generally to pay the company's debts as they become due.

12.1.4. Court order or decree. Any court having jurisdiction shall enter a

decree or order for relief in respect of the Company, in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law now or hereafter in effect, or the Company shall consent to or shall fail to oppose any such proceeding, or any such court shall enter a decree or order appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any part of the Company's operating equipment or assets that would impede Company's ability to perform under this Franchise Agreement, or order the winding up or liquidation of the affairs of the company.

- 12.1.5. Failure to maintain coverage. Company fails to provide or maintain in full force and affect the General, Workers' Compensation, automobile, Pollution and/or Environmental Impairment Liability, or indemnification coverage as required by this Franchise Agreement.
- 12.1.6. Violations of regulation. Company violates any orders or filings of any regulatory body having authority over Company relative to this Franchise Agreement, provided that Company may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach or default of this Franchise Agreement shall be deemed to have occurred unless and until the regulatory body or court determines Company violated such order or filing.
- 12.1.7. Failure to pay or report. Company fails to make any payments to the City or Customers required under this Franchise Agreement including payment of City or Customers fees or Liquidated Damages or fails or refuses to provide the City or Customers with required information, reports, and/or records in a timely manner as provided for in this Franchise Agreement.
- 12.1.8. False, misleading, or inaccurate statements. Any representation or disclosure made to the City or any Customer by Company in connection with this Franchise Agreement, or any future amendment to this Franchise Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Franchise Agreement; and any Company-provided report containing a misstatement, misrepresentation, data manipulation, or an omission of fact or content explicitly defined or required by this Franchise Agreement, excepting unintentional and immaterial errors.
- 12.1.9. Seizure or attachment. There is a seizure of, attachment of, or levy on, some or all of Company's operating equipment, including without limitation its equipment, maintenance or office facilities or any part(s) thereof which materially impacts Company's ability to perform its obligations under this Franchise Agreement.

12.1.10. Suspension or termination of service. There is any termination or suspension of the transaction of business by Company related to this Franchise Agreement, including without limitation, due to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more than seven (7) calendar days.

12.1.11. Criminal activity. Company, or its officers, managers, or employees are found guilty of criminal activity related directly or indirectly to performance of this Franchise Agreement or any other agreement held by Company with the City or Customers.

12.1.12. Assignment without approval. Company transfers or assigns this Franchise Agreement without the express written consent of the City in accordance with Section 13.

12.2. **CURE RIGHTS.** Notwithstanding any other provision of this Section 12 to the contrary, the City shall provide the Company with reasonable notice of and a reasonable opportunity to cure any breach of this Franchise Agreement during the time periods set forth below (the "Cure Period"). Any breach that is timely cured by Company shall not be determined to constitute an Event of Default. Company shall proceed to cure such default as follows:

12.2.1. Immediately after receiving written notice of default from the City, if the default is such that in the determination of the City, the health, safety, or welfare of the public is endangered thereby; or

12.2.2. Within thirty (30) days after receiving notice of default; provided that if the nature of the default is such that it will reasonably require more than thirty (30) to cure, the Company shall have such additional time as is reasonably needed to expeditiously complete a cure. During any default Cure Period, the Company shall provide the City weekly written status of progress in curing such default.

12.3. **RIGHT TO TERMINATE UPON DEFAULT.** Upon an Event of Default by the Company that is not cured as provided herein, the City shall have the right to terminate this Franchise Agreement.

12.4. **POSSESSION OF RECORDS UPON TERMINATION.** In the event of termination for an Event of Default, Company shall furnish the City with immediate access to business records related to its Customers, collection routes, disposal, and billing of accounts for services which are reasonably necessary for continued services to Customers.

12.5. **CUMULATIVE SPECIFIC PERFORMANCE.** The City's right to terminate the Franchise Agreement is not exclusive, and the City's termination of the Franchise Agreement shall not constitute an election of remedies. Instead, all remedies provided

for in this Franchise Agreement, including, but not limited to, the imposition of Liquidated Damages, shall be in addition to any and all other non-duplicative legal and equitable rights and remedies which the City may have under law or as otherwise provided in this Franchise Agreement.

12.6. PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES.

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

12.6.2. **Service Performance Standards; Liquidated Damages for Failure to Meet Standards.** Company and City acknowledge that consistent, reliable collection and disposal services are of utmost importance to the City and Customers and that the City has considered and relied on Company's representations as to its quality of service commitment in awarding this Franchise Agreement. Company and City recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. Company and City further recognize that if Company fails to achieve the performance standards or fail to submit required documents in a timely manner, the City and its residents and businesses will suffer damages, and that it is, and will be, impractical and extremely difficult to ascertain and determine the exact amount of damages which the City will suffer. Therefore, without prejudice to the City's right to treat such non-performance as an Event of Default under this Franchise Agreement, Company and City agree that the Liquidated Damages amounts established in Exhibit 5 of this Franchise Agreement represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the effective date of this Franchise Agreement, including the relationship of the sums to the range of harm to the City and Customers that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical.

12.6.3. The Liquidated Damages in Section 12.6.1. are in addition to and without prejudice to the City's right to treat such as an Event of Default. In addition

to considering the reports submitted by Company pursuant to this Franchise Agreement, the City may determine the occurrence of events giving rise to Liquidated Damages through the observation of its own employees or agents, through discussions with Customers, and through investigation of Customer complaints made directly to the City or County. Prior to assessing Liquidated Damages based on such observations or investigations, the City shall give Company notice of its intention to do so. The notice will also include a brief description of the incident(s)/non-performance. The City must make a claim for liquidated damages (a) within ninety (90) days of receipt of Company's reporting of the underlying event,(b) for liquidated damages for late reports, within ninety (90) days of the report's due date, or, (c) if there was no Company report, within ninety (90) days of the date City became aware of or should have become aware of the incident of non-performance, so that Company may timely address the issue. Company may review (and make copies at its own expense) all non-confidential and disclosable information in the possession of the City and Customers relating to incident(s)/non-performance. Company may, within ten (10) Business Days after receiving the notice, request a meeting with the City. Company may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The City will provide Company with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of Liquidated Damages. Within forty (40) business days after receiving the written explanation, if the intended assessment totals over thirty thousand dollars (\$30,000), Company may request a hearing thereon before the City Council. The City Council may affirm, modify, or reverse all or some of the Liquidated Damages so assessed. In such case, the decision of the City Council shall be final. In all other cases, the decision of the City's representative shall be final.

12.6.4. **Two-Phase Performance Management.** The Parties desire to minimize the time and cost involved in monitoring Company's performance under this Franchise Agreement, particularly about the assessment of Liquidated Damages. Exhibit 5 to this Franchise Agreement identifies each "Performance Area" for which the City desires to establish performance standards for this Franchise Agreement. Company's performance within each "Performance Area" shall be primarily monitored using the "Performance Indicator" described for each. The City shall not assess Liquidated Damages for the "Specific Performance Measures" identified in Exhibit 5 unless Company fails to meet the minimum standard for the "Performance Indicator" within the same "Performance Area".

12.6.5. **Amount.** The City may assess Liquidated Damages for each calendar day or event, as appropriate, that Company is determined to be liable in accordance with this Franchise Agreement in the amounts specified in Exhibit 5 subject to annual adjustment described below.

12.6.6. **Timing of Payment.** Company shall pay any Liquidated Damages assessed by the City within ten (10) business days of the date the Liquidated Damages are assessed. If they are not paid within the ten (10) business day period, the City may proceed against the performance bond or Letter of credit required by this

Franchise Agreement, order the termination of the rights or “franchise” granted by this Franchise Agreement, or all the above. The City must send Company a notice regarding Liquidated Damages within 90 days of the underlying event.

12.7. EXCUSE FROM PERFORMANCE. The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by Uncontrollable Circumstances beyond the control of and not the fault of the Party claiming excuse from performance hereunder. Labor unrest including but not limited to strike, work stoppage or slowdown, sickout, picketing, or other concerted job action lawfully conducted by the Company's employees or lawfully directed at the Company, or a subsidiary, shall not constitute an excuse from continuing to provide a reasonably satisfactory level of performance during the pendency thereof, but the Company shall not be required to adhere strictly to the specific requirements of this Franchise Agreement regarding routes, collection times or similar matters: provided, however, that: (i) in no event shall more than nine days elapse between pickups for Residential Customers, (ii) pickup delays for Commercial Customers shall not exceed three days, and (iii) all Customers shall receive at least 24 hours' notice of deviations from collection routes or times. The terms of this paragraph shall not excuse the Company's compliance with its obligations under applicable law, but the City will not claim or assert that the Company is in breach of this Franchise Agreement with respect to such labor unrest so long as it complies with the requirements of this paragraph.

12.7.1. Notice. The Party claiming excuse from performance shall, within a reasonable period of time, not to exceed seven (7) days, give the other party notice of the facts constituting such cause, efforts undertaken by the Company to attempt to perform this Franchise Agreement, the estimated timelines for such performance, and asserting its claim to excuse under this Section; provided, that failure to give such notice shall not eliminate the excuse from performance except to the extent the other Party shall have been prejudiced by such failure.

12.8. DISPUTE RESOLUTION.

12.8.1. Reference of dispute. Any dispute seeking damages and any dispute seeking other legal or equitable relief including but not limited to specific enforcement of any provision hereof, shall be heard and determined as provided below in this Section 10.8.

12.8.2. Dispute Resolution Procedures.

12.8.2.1. Negotiations. In the event that any dispute may arise, the parties shall first seek to resolve any disputes by negotiations between a senior executive of the Company and the City Manager (the “Senior Executives”).

12.8.2.2. Notification. When a party believes there is a dispute relating to the

Franchise Agreement, the party will give the other party written notice of the dispute.

- 12.8.2.3. Meeting among Senior Executives. The Senior Executives shall meet at a mutually acceptable time and place within thirty (30) days after the date of the notice to exchange relevant information and to attempt to resolve the dispute. If a Senior Executive intends to be accompanied at a meeting by an attorney, the other party's Senior Executive shall be given at least three (3) business days' notice of such intention and may also be accompanied by an attorney.
- 12.8.2.4. Confidentiality. All negotiations are confidential and shall be treated as compromise and settlement negotiations under the State of California Rules of Evidence.
- 12.8.2.5. City Council. If the dispute has not been resolved within thirty (30) days after the date of the notice of a dispute, or if the party receiving such notice fails or refuses to meet within such time period, either party may submit the dispute to the City Council for resolution by making written request to the City Council. The City Council shall consider the dispute at a meeting to be held within thirty (30) days following receipt of such request.
- 12.8.2.6. Litigation. If a dispute has not been resolved to the satisfaction of the parties within sixty (60) days after the written submission to the City Council, then either party may initiate litigation in the courts of the State of California, which shall have exclusive jurisdiction over such disputes. The exclusive venue for such disputes shall be Nevada County.
- 12.8.2.7. Interim Measures. Notwithstanding the requirements for alternative dispute resolution procedures (such as negotiation and submission to the City Council), either party may apply to the courts of the State of California for equitable relief, including temporary restraining orders, injunctions, attachments and conservation orders in appropriate circumstances.
- 12.8.2.8. Costs and Attorney's Fees. In the event of any action or litigation to enforce this Franchise Agreement, for interpretation or construction of this Franchise Agreement, or on account of any default under or breach of this Franchise Agreement, each party to such action, arbitration or litigation shall bear its own costs and expenses in connection with such action or litigation.
- 12.8.2.9. Punitive Damages. Penal, punitive, treble, multiple, consequential, incidental or similar damages may not be recovered or awarded.

13. ASSIGNMENT.

13.1. "Assignment" means: (i) a sale, exchange or other transfer of this Franchise Agreement, the Company's rights hereunder, or substantially all of the Company's assets dedicated to service under this Franchise Agreement to a third party; (ii) a sale, exchange or other transfer of thirty (30) percent or more of the outstanding common stock of the Company; (iii) any reorganization, consolidation, merger re-capitalization, stock issuance or re-issuance, voting trust, pooling Franchise Agreement, escrow arrangement, liquidation or other transaction to which the Company or any of its shareholders is a party which results in a change of ownership or control of thirty (30) percent or more of the value or voting rights in the stock of the Company; and (iv) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership; provided that the effect of such occurrence is to change control of the Company or responsibility for this Franchise Agreement to an entity that is not controlled by Company's ultimate parent entity (as defined on the effective date of this Contract in 16 CFR §801.i(a)(3)). For purposes of this Section, the term "proposed assignee" shall refer to the proposed assignee(s) or other successor(s) in interest pursuant to the assignment. If the Company is a subsidiary of another corporation or business entity, any "Assignment," as defined above, by the parent company or corporation shall be considered an Assignment by the Company; provided, however, that no such occurrence shall constitute an "Assignment" if, following such occurrence, the surviving ultimate parent entity is owned by a large, fluid aggregation of shareholders where no shareholder owns more than ten percent (10%) of the voting securities of the surviving ultimate parent entity (excluding, however, any such shareholder that prior to such transaction owned 10% or more of the voting securities of the ultimate parent entity of Company). Notwithstanding any other provision of this Section 13, reorganizations, mergers, consolidations, sales of equity or assets or similar transactions between or among entities owned by the same ultimate parent including but not limited to Company and regardless of which entity is the survivor, do not constitute an Assignment.

13.2. In connection with any proposed Assignment, the Company shall furnish the City with satisfactory proof that any proposed assignee has the demonstrated technical and financial capability to perform all Franchise Services, including:

13.2.1. That the proposed assignee has at least 10 years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Company under this Franchise Agreement.

13.2.2. In the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any State, federal or local laws and the assignee has provided City with a complete list of such citations and censures.

13.2.3. The proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion.

13.2.4. The proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, State and local laws regulating the collection and Disposal of Solid Waste including hazardous substances.

13.2.5. Assignee has experience in billing Customers for a city of comparable size to City of Grass Valley in which the company has provided residential and Commercial Service, and has successfully performed the billing and collection services for a minimum of five years for Residential and Commercial Customers.

13.2.6. Financial assurances that confirm the assignee's financial ability to perform the Franchise Agreement, and the City may require changes to the insurance coverages provided in this Franchise Agreement (including without limitation insurance products, coverage limits, deductibles and self-insured retentions) as appropriate in view of the assignee's financial capability and to confirm the assignee's financial ability to perform all Franchise Services and its other responsibilities under this Franchise Agreement.

13.2.7. Any other information required by City to ensure the proposed assignee can fulfill the terms of this Franchise Agreement in a timely, safe and effective manner.

13.3. The City shall consent to such an assignment if such information reasonably demonstrates that the proposed assignee has the demonstrated technical and financial capability to perform all Franchise Services.

13.4. If the City consents to an Assignment at the point of transition, the Company shall cooperate with the City and subsequent Company(s) or subcontractor(s) to assist in an orderly transition which shall include the Company providing route lists and billing information. If any entity succeeds to the rights, duties and obligations of the Company under this Franchise Agreement in conformity with the terms of this Section 13 (including with the City's consent, where required), then the City shall execute a novation whereby such new entity shall assume all of the rights, duties and obligations of the Company under this Franchise Agreement and the City shall release the Company of all obligation and liability under this Franchise Agreement.

13.5. The Company shall not delegate or subcontract its obligations under this Franchise Agreement to any other person or entity without the prior written consent of the City. other than a delegation or subcontract to an affiliate of the Company.

14. MISCELLANEOUS; AMENDMENT.

14.1. **AMENDMENT.** Except for rate and fee adjustments made pursuant to Section 8 of this Franchise Agreement, this Franchise Agreement may be amended or modified only by a written agreement duly authorized and executed by both City and Company.

14.2. **INDEPENDENT COMPANY.** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent company and not as an officer, agent, servant or employee of City; that Company shall have the exclusive control over the details of the services and work performed hereunder and all persons performing the same; that Company shall be solely responsible for the acts and omissions of its officers, agents, employees, Company's and subcontractors, if any; and that nothing herein shall be construed as creating a partnership or joint venture between City and Company. Neither Company nor its officers, employees, agents or subcontractors shall obtain any rights to retirement benefits, workers' compensation benefits or any other benefits which accrue to City employees.

14.3. **RIGHT OF ENTRY.** Company shall have the right, until receipt of written notice revoking permission to pass is delivered to Company, to enter or drive on any private street, court, place, easement or other private property for the purpose of collecting or transporting Franchise Materials of the Owner of or Customer located on the private street, easement, or property, or its lawful occupant.

14.4. **LAW TO GOVERN.** It is understood and agreed by the parties hereto that the laws of the State of California, other than laws regarding choice of law, shall govern the rights, obligation, duties and liabilities of the parties to this Franchise Agreement and shall govern the interpretation of this Franchise Agreement.

14.5. **FEES AND GRATUITIES.** Company shall not nor shall it permit any agent, employee or subcontractor employed by it to, request solicit demand or accept, either directly or indirectly, any compensation or gratuity for the collection of Franchise Materials otherwise required to be collected under this Franchise Agreement, other than acceptance by drivers of holiday gifts offered by customers of a reasonable value.

14.6. **NOTICES.** All notices, demands, requests, consents or other communications which this Franchise Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, telecopier (with written confirmation of receipt), or a nationally recognized overnight delivery service (receipt requested), addressed to the respective party as follows:

To CITY: City of Grass Valley
 Attn: City Manager
 125 East Main Street

Grass Valley, CA 95945

To COMPANY: Waste Management of Grass Valley
Attn: District Manager
13083 Grass Valley Ave.
Grass Valley, CA 95945

With a required copy to:

USA Waste of California, Inc.
Attn: Area Vice President
1333 E. Turner Road
Lodi, CA 85240

or to such address as either party may from time to time designate by notice to the other given in accordance with this Section. Such notice shall be deemed effective on the date personally served or, if mailed, three (3) business days from the date such notice is deposited in the mail.

14.7. **SEVERABILITY.** If any non-material provision of this Franchise Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Franchise Agreement, which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

14.8. **GOOD FAITH AND EXERCISE OF OPTIONS.** Parties will exercise of any approval, disapproval, consent, option, discretion, election, opinion or choice under this Franchise Agreement, make a requirement under this Franchise Agreement or interpret this Franchise Agreement (“Discretionary Action”) reasonably. Parties will exercise their rights and remedies in good faith in accordance with Applicable Law. Any referee, court, or other decision-maker must find the party's exercise to be reasonable.

14.9. **ENTIRE AGREEMENT; PRIOR AGREEMENTS; WAIVER.** This Franchise Agreement, including all Exhibits attached hereto, constitutes the full and entire agreement between the parties with respect to the matters covered herein. All prior and contemporaneous agreements, understandings, negotiations, writings and other communications between the parties are hereby superseded and are no longer of any force and effect, except to the extent that the terms of such communications are expressly addressed in this Franchise Agreement. As of the Effective Date, this Franchise Agreement shall supersede any and all prior agreements between the parties. No waiver of any provision of this Franchise Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver.

14.10. **SECTION HEADINGS.** The section and subsection headings this Franchise Agreement are for reference only and are not intended to be used in the

construction of this Franchise Agreement nor to alter or affect any of its provisions.

14.11. **INTERPRETATION.** The language of each and all paragraphs, terms and/or provisions of this Franchise Agreement shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Franchise Agreement.

14.12. **THIRD PARTIES.** Nothing in this Franchise Agreement expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the Parties hereto and their successors and permitted assigns, any rights or remedies under or by reason of this Franchise Agreement.

14.13. **AUTHORITY.** All individuals executing this Franchise Agreement on behalf of the City or the Company represent and warrant that they are duly authorized to execute and deliver this Franchise Agreement to the other Party.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Franchise Agreement to be duly executed as of the day and year first above written.

ADD SIGNATURES

DRAFT

EXHIBIT 1 – RECYCLABLES LIST

RECYCLABLE MATERIALS must be dry, loose (not bagged), unshredded, empty, and include **ONLY** the following:

Aluminum cans	Newspaper
PET bottles with the symbol #1 – with screw tops only	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.)	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
PP plastic bottles and tubs with symbol # 5 - empty	Uncoated printing, writing and office paper
Steel and tin cans	Old corrugated containers/cardboard (uncoated)
Glass food and beverage containers – brown, clear, or green	Magazines, glossy inserts and pamphlets

NON-RECYCLABLES include, but are not limited to the following:

Plastic bags and bagged materials (even if containing Recyclable Materials)	Microwavable trays
Porcelain and ceramics	Mirrors, window or auto glass
Light bulbs	Coated cardboard
Soiled paper, including paper plates, cups and pizza boxes	Plastics not listed above including but not limited to those with symbols #3, #4, #6, #7 and unnumbered plastics, including utensils
Expanded polystyrene	Coat hangers
Glass cookware/bakeware	Household appliances and electronics
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)

Excluded Materials or containers which contained Excluded Materials	Napkins, paper towels, tissue, paper plates, and paper cups
Any paper Recyclables or pieces of paper Recyclables less than 4" in size in any dimension	Propane tanks, fuel cannisters
Batteries	Metal cookware/bakeware
Fiber Recyclable Materials with moisture exceeding commodity market limits	

DELIVERY SPECIFICATIONS:

Material delivered by or on behalf of Customer may not contain Non-Recyclables or Excluded Materials. "Excluded Materials" means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances or other materials that are deleterious or capable of causing material damage to any part of Company's property, its personnel or the public or materially impair the strength or the durability of Company's structures or equipment.

Company reserves the right upon notice to discontinue acceptance of any category of materials set forth above as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials.

Company may reject in whole or in part, or may process, in its sole discretion, Recyclables not meeting the specifications, including wet materials. Company may invoice Customers for all costs, losses and expenses incurred with respect to such non-conforming Recyclables including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, the Company may bill Customers a contamination charge as provided in Section C.6 of the Agreement.

EXHIBIT 2 – SERVICE RATES

DRAFT

EXHIBIT 3 – OMITTED

DRAFT

EXHIBIT 4 – CITY SERVICES

The following locations will be provided regular services by Waste Management for the disposal of solid waste, recyclables and green waste without charge to the City:

- Mautino Park, 10609 Alta Street
- Condon Park, 660 Minnie St
- Condon Park LOVE Building 660B Minnie St
- Condon Park Maintenance Area 660C Minnie St
- Memorial Park 441 Memorial Lane
- E. Daniels Park 125 Neal St
- City Hall, 125 E. Main Street
- Animal Control 556B Freeman Lane
- Streets/Public Works 556A, Freeman Lane
- Wastewater Treatment Facility. 556C Freeman Lane
- Fire Station 1, 472 Brighton St
- Fire Station 2. 213 Sierra College Drive
- Fire Station2, Training Facility. 213 Sierra College Drive
- Parking Lots located at 168 S. Auburn, S. Church/Neal Street, Richardson/S Auburn Street, Minnie Park at Brighton St/Minnie St; Bank Street Park at Bank/Bennett St

Downtown trash/recycling cans, Historic Downtown area. cans in excess of 40, will be charged the normal service fees.

The City reserves the right to designate up to 5 additional sites for solid waste disposal services.

City solid waste disposal services will not exceed a four yard bin. or equivalent, serviced not more than 2 times a week. Additional services may be provided for the incremental cost of service. Containers for Green Waste and Recyclable Materials will be such to meet the requirements of the City.

Special Services:

Three community clean up events each year not to exceed three. 3 yard bins for each event. The time and location of clean ups to be mutually agreed to by the City and Waste Management.

The following will be serviced by Waste Management for the cost of gate fees only:

Streets 556 Freeman Lane Debris Box

Green Waste Collection from City Parks and open spaces. Any other Debris Box used for City debris or C&D collection

EXHIBIT 5 – PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES

The City wishes to establish standards of performance under the Agreement in each of the four (4) “Performance Areas” listed below. The City may monitor Company’s performance in each of those areas listed below relative to the “Specific Performance Measures” within that performance area. In the event that the City determines that Company has failed to meet the performance standard established for any “Specific Performance Measure”, the City may assess Liquidated Damages pursuant to and in accordance with the Franchise Agreement and this Exhibit. Liquidated Damages, if assessed, shall only be assessed for the number of events, days, or other measure in excess of the acceptable performance level. The City must make a claim for liquidated damages (a) within ninety (90) days of receipt of Company’s reporting of the underlying event, (b) for liquidated damages for late reports, within ninety (90) days of the report’s due date, or, (c) if there was no Company report, within ninety (90) days of the date City became aware of or should have become aware of the incident of non-performance.

Defined Terms

Certain terms that are specific to this Exhibit are defined below:

“**Complaint**” shall mean each written or orally communicated statement made by any person, whether to the City or Customer, alleging: (1) non-performance, or deficiencies in Company’s performance, of its duties under this Agreement; or (2) a violation by Company of this Agreement.

“**Event**” shall mean each occurrence of the required Specific Performance Measure that exceeds the Acceptable Performance Standard, as provided in the chart below.

“**Service Opportunity**” shall mean each individual scheduled opportunity the Company has to Collect from a Container at a Customer’s location. For example, a Multi-Family or Commercial Customer receiving Solid Waste Collection service three (3) times per week from two (2) Containers and Recyclable Materials Collection service two (2) times per week from two (2) Containers would have a total of ten (10) Service Opportunities each week. Service Opportunities shall be calculated based on the subscription levels presented in Company’s most recent Quarterly Report to the City.

“**Total Service Opportunities**” shall mean the sum of all Service Opportunities in each time period.

Performance Area: Service Quality and Reliability

Specific Performance Measure	Definition	Acceptable Performance Level	Tracking Method	Liquidated Damage Amount
Failure to Correct Missed Collections	Each "Missed Collection," defined as each Service Opportunity where Company fails to Collect a Container from a Customer who properly placed said Container for Collection, which is not Collected by the end of the Business Day following the receipt of the Customer complaint about the Missed Collection.	Less than one (1) per one hundred (100) Missed Collections	Company shall document missed pick-up complaint reports listing for each complaint, the date of the complaint, the resolution date; and any other information requested by the City. Submit report annually.	\$50/Event
Failure to Clean-Up Spillage	Each failure by Company to clean up: (1) any items or materials spilled during the Collection of a Container; or, (2) any fluids spilled or leaked from a Collection vehicle prior to leaving the Collection location. For item (1), it shall not be considered a performance failure regarding overloaded containers or material laying on the ground before Company's collection.	Less than five (5) per one thousand (1,000) Service Opportunities	See above	\$100/Event

Damage to Property	Each event of damage to either public or private property because of Collection activity, including without limitation curbs, sidewalks, landscapes, Container enclosures and gates, signs, light fixtures, and overhead wires and cables. Normal wear and tear to street surfaces is excluded.	Less than two (2) per one thousand (1,000) Service Opportunities	See above	\$250/Event
Excessive Noise or Discourteous Behavior	Each verified Complaint received that is related to either noise during Collection activity or the behavior of Company's employees. Frivolous complaints are excluded.	Less than five (5) per one thousand (1,000) Service Opportunities	See above	\$250/Event

Performance Area: Customer Service and Public Education and Outreach

Specific Performance Measure	Definition	Acceptable Performance Level	Tracking Method	Liquidated Damage Amount
Failure to Commence Service	Any failure by Company to deliver a Container and begin providing Collection to a Customer, at the level of service 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.	Less than one (1) per 100 Service Requests	Company shall document on a quarterly basis from its customer service system listing the total number of complaints coded for each category. Submit report annually.	\$50/Event
Failure to Replace Container	Any failure by Company to replace or repair a damaged or defaced Container within seven (7) calendar days of receiving such a request from a Customer.	No acceptable failure level	See above	\$50/Event

Failure to Resolve Complaint	Any failure by Company to address a Complaint submitted through Company approved communication channels within seven (7) calendar days of receiving such Complaint.	Less than one (1) per 100 Complaints	See above	\$100/Event
Unauthorized Hours of Operation	Each occurrence of Company Collecting from Customers during unauthorized hours.	Less than two (2) per 1,000 Service Opportunities	See above	\$50/Event
Inaccurate Billing	Each instance where Company failed to resolve within seven (7) days a Complaint received where the Company billed a Customer in error. Inaccurate billing may include either over or under-charging of the Customer relative to the approved Rates for services.	Less than five (5) per one thousand (1,000) bills issued.	See above	\$100/Event
Failure to Perform Agreed Upon Public Education and Outreach Tasks	No failures or Complaints in this category are acceptable; therefore, any Complaint of this nature shall be considered unacceptable.	Each individual failure by Company to develop, produce, and distribute public education and outreach materials as agreed by Company and City..	Company shall report all public education and outreach activities completed each year in the public education plan.	\$250 per activity

Performance Area: Facilities

Performance Indicator: Company's performance relative to facilities shall be considered acceptable when one hundred percent (100%) of all material types Collected by Company shall be delivered to a disposal facility. If Company fails to meet this level of performance, the City may assess liquidated damages for the specific performance measures identified in the following table.

<u>Specific Performance Measure</u>	<u>Definition</u>	<u>Acceptable Performance Level</u>	<u>Tracking Method</u>	<u>Liquidated Damage Amount</u>
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Disposal of Targeted Diversion	Each individual occurrence of delivering Recyclable Materials, Organic Materials, or Reusable Materials set out for Collection by the Customer for Disposal rather than Processing without the written consent of the City.	No acceptable failure level	Tonnage reports	\$500/Ton
Mixing Materials During Collection	Each individual Container that is Collected by Company in a vehicle intended or designated for Collecting a different material type (e.g. Recyclable Materials Collected in Solid Waste vehicle, Solid Waste Collected in Organic Materials vehicle, etc.) without the written consent of the City	No acceptable failure level	Tonnage reports, observation, complaints	\$100/Container

Performance Area: Reporting

Performance Indicator: Company’s reporting shall be considered acceptable if Reports required under this Franchise Agreement are received, complete, and accurate within seven (7) calendar days after the date due or reasonably requested. If Company considers a requested date to be unreasonable, Company shall notify City in writing within five (5) calendar days of receipt of the relevant request. Such written notice shall propose an alternative date for submission of the report and provide a justification therefor. If City, in its sole discretion, does not find the justification or alternative date proposed by Company acceptable, the parties shall confer in good faith to determine a reasonable date. If Company fails to provide this notice within five (5) calendar days of receipt of a request, Company will be deemed to have agreed to its reasonableness.

If Company fails to meet this level of performance, the City may assess liquidated damages for the specific performance measures identified in the following table.

<u>Specific Performance Measure</u>	<u>Definition</u>	<u>Acceptable Performance Level</u>	<u>Liquidated Damage Amount</u>
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Late Report	Each occurrence of a Report, as required by this Franchise Agreement, being submitted more than seven (7) calendar days after the due date. Reports shall be considered late until they are submitted in a complete format.	More than seven (7) calendar days after reporting due date	\$500/Day
Misleading/ Inaccurate Reporting	Each occurrence of Company providing misleading or otherwise materially inaccurate information or reporting to the City under or regarding this Franchise Agreement. Typographical, cell reference, mathematical, and/or logic errors are considered legitimate excuses from this requirement.	No acceptable failure level	\$500/Event

By signing at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of Liquidated Damage provisions of the time that the Franchise Agreement was made.

Company
 Sign: _____
 By: _____
 Its: _____

City
 Sign: _____
 By: _____
 Its: _____