

AMENDED AND RESTATED AGREEMENT NO. 2024-12

BETWEEN

CITY OF TURLOCK

AND

TURLOCK SCAVENGER COMPANY

FOR

SOLID WASTE HANDLING SERVICES

EFFECTIVE JULY 1, 2023

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AGREEMENT

This Agreement ("Agreement") is entered into to be effective as of the 1st day of July, 2023, by and between the City of Turlock ("City") and Turlock Scavenger Company, a California corporation ("Contractor"), (collectively, the "Parties") to provide an exclusive franchise for Solid Waste Handling Services within the City.

RECITALS:

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939"), has declared that it is in the public interest to authorize and require local agencies to make adequate provision for the disposal of all Solid Waste within their jurisdictions.

B. Pursuant to Public Resources Code section 40059(a)(1) and Turlock Municipal Code, Section 6-3-112, the City Council of the City has determined that the public health, safety, and welfare require that an exclusive franchise agreement be awarded to a qualified Solid Waste enterprise for Solid Waste Handling Services within the City Limits.

C. City and Contractor are mindful of the provisions of the laws governing the safe Collection, transport, recycling, and disposal of Solid Waste, including AB 939, AB 341, the Resource Conservation and Recovery Act ("RCRA"), SB 1383, and the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). City and Contractor desire to leave no doubts as to their respective roles, and to memorialize that by entering into this Agreement. City and Contractor understand and agree that it is Contractor, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Contractor on its Collection methods, nor supervise the Collection process, nor do the Parties intend to place title to such Solid Waste in City, but rather intend that whatever, if any, title in and to such Solid Waste that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Contractor, and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. By entering this Agreement City and Contractor further desire to confirm that Contractor has agreed to indemnify the City in connection with any claims relating to the inadvertent or intentional Collection, transportation, and/or disposal of hazardous materials that may occur in connection with Contractor's performance under this Agreement in accordance with the terms hereof.

D. Contractor and City previously entered an agreement dated October 29, 1991 (the "Prior Agreement"). The Prior Agreement was amended by the First Amendment on June 2, 1992, by the Second Amendment on August 5, 1992, and by the Third Amendment on December 13, 1994 (the "Amendments"). The Prior Agreement as modified by the Amendments shall mean the Prior Agreement.

E. The Parties to this Agreement are now desirous of restating the various provisions of the Prior Agreement, and further to amend the Prior Agreement in various respects including but not limited to: (1) new collection rates as adjusted by an updated Refuse Rate Index ("RRI") formula; (2) an updated three-container collection system with food waste placed in the green container in compliance with SB 1383; (3) a fifteen percent (15%) Franchise Fee; (4) continued

street sweeping services for an additional charge; and (5) an updated term through December 31, 2043, with automatic annual extensions thereafter and a maximum term through December 31, 2063. Accordingly, this Agreement shall supersede and replace the Prior Agreement as of the Effective Date.

C O V E N A N T S:

Based upon the foregoing Recitals and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, City and Contractor hereby agree as follows:

SECTION 1. RECITALS

The Parties acknowledge the above recitals are true and correct and incorporate them herein as if they were fully restated.

SECTION 2. DEFINITIONS

Except as otherwise defined by the California Public Resources Code, the following terms shall have the following meanings.

2.1 AB 341

“AB 341” shall mean Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011).

2.2 AB 939

“AB 939” shall mean the California Integrated Waste Management Act of 1989, currently codified as California Public Resources Code section 40000 et seq., as it may be amended from time to time.

2.3 AB 1594.

“AB 1594” shall mean Assembly Bill No. 1594 from the 2013-2014 Regular Session of the California Legislature (Chapter 719, Statutes 2014).

2.4 AB 1826.

“AB 1826” shall mean Assembly Bill No. 1826 from the 2013-2014 Regular Session of the California Legislature (Chapter 727, Statutes 2014).

2.5 Affiliate

“Affiliate” means a Person in which Contractor owns a direct or indirect ownership interest, a Person which has a direct or indirect ownership interest in Contractor and/or a Person which is also owned, controlled or managed by any Person which has a direct or indirect ownership

interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interests of less than fifty percent (50%) shall be disregarded, and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

2.6 Animal Waste

“Animal Waste” shall mean animal carcasses, dead animals, and/or parts or portions of dead animals. Animal Waste shall not include manure.

2.7 Applicable Law

“Applicable Law” shall mean all federal, state, county, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirements of any governmental agency having jurisdiction over an aspect of this Agreement that are in force on the Effective Date, and as may be enacted, issued or amended thereafter, including without limitation, City's Municipal Code, AB 939, AB 1826, AB 1594, SB 1383, and AB 341.

2.8 Approved Facilities

“Approved Facilities” shall mean the Transfer Facility, the Recycling Facility, the Organics Facility and the Disposal Facility, as listed in **Exhibit D** at the time of the Effective Date, subject to change by mutual agreement between City and Contractor.

2.9 Billings

“Billings” or “Billing” or “Bill” means the statements of charges provided to Customers for services rendered by Contractor pursuant to the terms of this Agreement.

2.10 Bins

“Bins” shall mean a metal or plastic Container, including dumpsters, compactors, and any similar such devices with a capacity of under ten (10) cubic yards.

2.11 Bulky Items

“Bulky Items” means Solid Waste that cannot and/or would not typically be accommodated within a Cart, including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators with and without Freon, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as “white goods”); residential wastes (including non-treated wood waste, tree branches, scrap wood, in the aggregate not exceeding one cubic yard per Collection); and clothing. For purposes of this Agreement, and notwithstanding any provision hereof to the contrary, Bulky Items shall specifically include items commonly known in the waste industry as “brown goods”. Bulky Items do not include Special Wastes, car bodies, car parts, tires, Construction and Demolition Debris or

(with the exception of appliances/white goods described above) items that cannot reasonably be moved with equipment of the type which, pursuant to industry standards, would normally be carried in a truck Collecting Bulky Items. In the event a question arises as to whether a specific item, or category of items, meets the definition of Bulky Items, the Municipal Services Director shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

2.12 Cart

"Cart" means a plastic 95-gallon Container with a hinged lid and wheels serviced by an automated or semi-automated process, as opposed to a manual process of lifting and dumping.

2.13 Change in Law

"Change in Law" shall mean any of the following events or conditions that has a material and adverse effect on the performance by either Party or any Subcontractor of its obligations under this Agreement (except for payment obligations): (a) the enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation, of any Applicable Law on or after the Effective Date; or (b) the order or judgment of any Federal, State, County, or local governmental body, on or after the Effective Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of City or of Contractor, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence. For the avoidance of doubt, any additional measures required by SB 1383 due to changes in SB 1383 by way of legislation or administrative or judicial interpretation after the Effective Date shall constitute Changes in Law subject to increased compensation pursuant to Section 22.4 below.

2.14 Change in Scope

"Change in Scope" shall mean any and all additional Solid Waste Handling Services or modifications to existing Solid Waste Handling Services (which may include use of Approved Facilities) directed by City to be provided by Contractor under this Agreement. For the avoidance of doubt, any additional Services that City requires Contractor to perform in order for City to comply with SB 1383 beyond those Services specifically described in this Agreement shall constitute Changes in Scope subject to increased compensation pursuant to Section 22.4 below.

2.15 City

"City" shall mean the City of Turlock, a municipal corporation, located in Stanislaus County, California.

2.16 City Council

"City Council" shall mean the City Council of City.

2.17 City Limits

“City Limits” shall mean the territorial boundaries of the City together with all amendments and changes thereto, which boundaries are depicted on maps, incorporated herein by reference, that are kept on file in the office of the City Clerk of the City of Turlock, and which are from time to time amended to reflect changes.

2.18 Collect/Collection

“Collect” or “Collection” shall mean to take physical possession of, transport, and remove Solid Waste from a Premises.

2.19 Collection Route.

“Collection Route” means the designated weekly itinerary or sequence of stops scheduled to be performed by one Collection vehicle providing regularly scheduled Garbage, Recyclables, or Organic Waste Collection services (not on-call or Bulky Item) within the Franchise Area.

2.20 Commercial Premises

“Commercial Premises” means Premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding Residential Premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the property. Notwithstanding any provision to the contrary herein, in the Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which hotels and motels are operated and upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises.

2.21 Construction and Demolition Debris

“Construction and Demolition Debris” shall include discarded building materials, packaging, debris, and rubble resulting from construction, alteration, remodeling, repair, or demolition operations on any pavements, excavation projects, houses, Commercial buildings, or other structures, excluding Excluded Waste. Construction and Demolition Debris includes rocks, soils, tree remains and other Green Waste which results from land clearing or land development operations in preparation for construction.

2.22 Container

“Container” means any and all types of Solid Waste receptacles, including Carts, Bins, compactors, Roll off Boxes and other boxes. Specifications of Containers are listed in Exhibit F.

2.23 Contractor

“Contractor” shall mean Turlock Scavenger Company, the entity granted the franchise pursuant to this Agreement, or any party permitted pursuant to the terms hereof to become the successor or assignee thereof.

2.24 Criminal Activity

“Criminal Activity” shall mean the approval of a plea of nolo contendere or the entry against Contractor or any of its employees of a criminal conviction, or a permanent mandatory or prohibitory injunction from a court, municipality or regulatory agency of competent jurisdiction, based, in the case of Contractor’s employees, on acts taken in their official capacity on behalf of Contractor, with respect to:

- a. Fraud or criminal offense in connection with obtaining, attempting to obtain, procuring or performing a public or private agreement;
- b. Bribery or attempting to bribe a public officer or employee of a local, State, or Federal agency;
- c. Embezzlement, extortion, racketeering, false claims, false statements, forgery, falsification or destruction of records, obstruction of justice, knowingly receiving stolen property, theft, or misprision (failure to disclose) of a felony;
- d. Unlawful disposal of Hazardous Waste or Designated Waste the occurrence of which any of Contractor or such employee knew or should have known;
- e. Violation of antitrust laws, including laws relating to price-fixing, bid-rigging and sales and market allocation, and of unfair and anti-competitive trade practice laws, including with respect to inflation of Solid Waste Collection, Transportation, Processing fees, or Disposal Fees;
- f. Violation of securities laws; or
- g. Felonies or misdemeanors involving moral turpitude.

2.25 Customer

“Customer” or “Customers” shall mean any person receiving Solid Waste Collection services from Contractor within the Franchise Area.

2.26 Day

“Day” or “Days” shall mean calendar days unless otherwise specified.

2.27 Discarded Materials

“Discarded Materials” shall mean Recyclable Material, Organic Waste, Solid Waste and Construction and Demolition Debris (C&D) placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste.

2.28 Disposal Facility

“Disposal Facility” shall mean the landfill, waste to energy facility and any additional and/or replacement landfills or waste to energy facilities selected by Contractor and approved by City which has obtained, and maintains during the Term, valid permit(s) to accept, process or dispose of Solid Waste, and such other materials as may be delivered by Contractor under the terms of this Agreement.

2.29 Dwelling Unit

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

2.30 Effective Date

“Effective Date” shall mean July 1, 2023.

2.31 Electronic Waste (E-Waste)

“Electronic Waste” or “E-Waste” means discarded electronics equipment such as cell phones, computers, monitors, televisions, and other items containing cathode ray tubes.

2.32 Environmental Laws

“Environmental Laws” means all federal and state statutes, county, local, and City ordinances concerning public health, safety, and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §2601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; and the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

2.33 Excluded Waste

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

2.34 Food Waste

“Food Waste” shall mean those discarded materials that will decompose and/or putrefy including: (i) all kitchen and table food waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and (iv) vegetable trimmings, houseplant trimmings and other compostable organic waste common to the occupancy of Residential Premises or Commercial Premises. Food Waste is a subset of Organic Waste.

2.35 Franchise Area

“Franchise Area” shall mean all Premises within the City Limits, including Premises which may be annexed and thereby added to the City Limits following the Effective Date.

2.36 Franchise Fee

“Franchise Fee” shall mean the franchise fee set forth and more fully defined in Section 11 hereof.

2.37 Garbage

“Garbage” shall mean all putrescible and non-putrescible solid, semi-solid and associated liquid waste, as defined in California Public Resources Code section 40191, attributed to normal activities of a Service Unit, designated for the “Garbage Container” and not designated for the “Organics Container” or the “Recycling Container.” Garbage must be generated by and at the Service Unit wherein the Garbage is Collected. Garbage does not include Household Hazardous Waste or those items defined as Excluded Waste.

2.38 Garbage Container

“Garbage Container” has the same meaning as “gray container” in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and collection of Garbage.

2.39 Green Waste

“Green Waste” means those Discarded Materials that will decompose and/or putrefy, including, but not limited to, green trimmings, grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, small pieces of unpainted and untreated wood, and other types of Organic Waste resulting from normal yard and landscaping maintenance that may be specified in City Legislation for Collection and Processing as Organic Waste under this Agreement. Green Waste does not include items herein defined as Excluded Waste. Green Waste is a subset of Organic Waste. Green Waste placed for Collection may not exceed four (4) inches in diameter and three (3) feet in length and must fit within the Contractor-provided Container.

2.40 Gross Receipts

“Gross Receipts” shall mean total cash receipts collected from Customers by Contractor, or by City for Contractor, for the provision of services pursuant to this Agreement, without any

deductions. Gross Receipts does not include revenue from administrative charges imposed by the City or from the sale of Recyclable Material, Green Waste, Food Waste, and other material which is diverted from disposal, or from the receipt of governmental funding.

2.41 Hazardous Substance

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

2.42 Hazardous Waste

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

2.43 Household Hazardous Waste

“Household Hazardous Waste” shall mean any Hazardous Waste generated by a Single Family or Multi-Family Dwelling, including but not limited to: automobile maintenance and repair products (e.g., motor oil, oil filters, antifreeze, brake fluid, etc.); lawn and garden chemicals (e.g., pesticides, herbicides, fungicides, etc.); cleaning products (e.g., bathroom cleaners, drain cleaners, chlorine bleach, solvents, oven cleaners, etc.); and home improvement supplies (e.g., stains, paints, varnish, paint thinners, chemical strippers, glue, pool chemicals, etc.).

2.44 Household Sharps Waste

“Household Sharps Waste” shall mean home generated sharps waste as defined in Health and Safety Code §117671 and includes hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, which are generated from a Customer at Single Family or Multi-Family Dwelling.

2.45 Industrial Refuse

“Industrial Refuse” shall mean refuse that is: (a) produced by a person principally engaged in the business of growing, processing, or manufacturing agricultural, animal, or other products or materials whose principal outlet for such products is wholesale rather than retail; (b) collected by a licensee from a container whose volume equals or exceeds ten (10) cubic yards; or (c) produced by any person engaged in the business of building construction or demolition (i.e., Construction and Demolition Debris).

2.46 Industrial Organic Waste

“Industrial Organic Waste” shall mean Organic Waste that is produced by a person principally engaged in the business of growing, processing, or manufacturing agricultural, animal, or other products or materials whose principal outlet for such products is wholesale rather than retail.

2.47 Industrial Recyclable Materials

“Industrial Recyclable Materials: shall mean Recyclable Materials (including Construction and Demolition Debris) that is: (a) produced by a person principally engaged in the business of growing, processing, or manufacturing agricultural, animal, or other products or materials whose principal outlet for such products is wholesale rather than retail; or (b) produced by any person engaged in the business of building construction or demolition (i.e., Construction and Demolition Debris).

2.48 Multi-Family Dwelling

“Multi-Family Dwelling,” “Multi-Family Residential Dwelling” or “Multi-Family” means for the purpose of implementing this chapter, of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises are considered a distinct type of Commercial Premises for the purposes of implementing SB 1383 requirements. Consistent with SB 1383 regulations, residential premises that consist of fewer than five (5) units are not “multi-family” and instead are “single-family” for the purposes of this Agreement. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Premises.

2.49 Municipal Code

“Municipal Code” shall mean City's Municipal Code.

2.50 Municipal Services Director

“Municipal Services Director” shall mean the Municipal Services Director of the City of Turlock or his or her designee.

2.51 Organic Waste

“Organic Waste” means Solid Waste containing material originated from living organisms and their metabolic waste products, including but not limited to food scraps, food-soiled paper, landscape and pruning waste, organic textiles and organic carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Organic Waste includes Food Waste and Green Waste, and does not include compostable plastic.

2.52 Organics Container

“Organics Container” has the same meaning as “green container” in 14 CCR Section 18982(a)(29) and shall be used for the purpose of storage and Collection of source separated Organic Waste designated for the Organics Container, including Food Waste, and Green Waste accepted in the City’s Organic Waste Collection program, and other Organic Wastes as determined by the City as acceptable for the Organics Container.

2.53 Organics Facility

“Organics Facility” shall mean any organic processing facility and any additional and/or replacement facility selected by Contractor.

2.54 Person

“Person” shall mean any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Stanislaus, towns, cities, and special purpose districts.

2.55 Premises

“Premises” shall mean any land, building, and/or structure within the City Limits where Solid Waste is generated or accumulated.

2.56 Prohibited Container Contaminants

“Prohibited Container Contaminants” shall mean any of the following:

- a) Non-Organic Waste placed in the Organics Container, including, but not limited to, Garbage, textiles and carpets, manure, biosolids, digestate, sludges, non-compostable paper, Construction & Demolition Debris, and Hazardous Waste;
- b) Organic Waste placed in the Garbage Container that is specifically identified under this Agreement for Collection in the Organics Container or Recyclables placed in the Garbage Container that is specifically identified under this Agreement for Collection in the Recycling Container;
- c) Organic Waste placed in the Recycling Container that is specifically identified under this Agreement for collection in the Organics Container or Garbage placed

in the Recycling Container. Paper products and printing and writing paper may be considered acceptable and not considered Prohibited Container Contaminants if they are placed in the Recycling Container.

2.57 Recyclable Material

“Recyclable Material” or “Recyclables” shall mean those materials which are capable of being recycled, reprocessed, transformed, and reused and which would otherwise be processed or disposed of as Garbage. These materials will include, but not be limited to, those defined by the City for the purpose of placement by generators in proper receptacles and Collection by Contractor and may be modified from time to time when requested by Contractor and approved by City. Recyclable Materials currently being collected as of the execution of this Agreement include: newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); steel including “tin” cans and small scrap (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; metal foil; mixed plastics such as plastic containers (1-7), and bottles including containers made of HDPE, LDPE, PET, or PVC; that are California Redemption Value (CRV) labeled.

2.58 Recycling Container

“Recycling Container” has the same meaning as “blue container” in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

2.59 Recycling Facility

“Recycling Facility” shall mean the Turlock Recycling facility and any additional and/or replacement facility selected by Contractor.

2.60 Residential Premises

“Residential Premises” shall mean all premises upon which Dwelling Units exist. Notwithstanding any provision to the contrary herein, in the Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which hotels and motels are operated or upon which Multi-Family Dwellings exist shall be deemed to be Commercial Premises.

2.61 Roll off Box

"Roll off Box" means Solid Waste Collection Containers of ten (10) yards or larger, including compactors.

2.62 Route Review

“Route Review” means a visual inspection of Containers along a Garbage Collection Route for the purpose of identifying Prohibited Container Contaminants, which may include mechanical inspection methods such as use of cameras.

2.63 SB 1383

“SB 1383” shall mean Assembly Bill No. 1383 from the 2015-2016 Regular Session of the California Legislature (Chapter 395, Statutes 2016).

2.64 Single Family Dwelling

“Single Family Dwelling” means a building or lot containing one Dwelling Unit, and, for purposes of this Agreement, includes buildings and lots with more than one Dwelling Unit where such Dwelling Units are determined by the City to be reasonably able to receive individualized Solid Waste Collection service by the automated process utilizing Carts, Bins, or Containers contemplated herein. Any ambiguity as to whether a Customer's Premises qualifies as a Single-Family Dwelling or Multi-Family Dwelling shall be resolved by the Municipal Services Director whose decision shall be final.

2.65 Solid Waste

“Solid Waste” means Garbage, Recyclable Materials, and Organic Waste and has the same meaning as defined in Public Resources Code Section 40191, which defines “solid waste” as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, C&D wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid Waste does not include: (1) hazardous waste as defined in Public Resources Code Section 40141; (2) low-level radioactive waste; (3) untreated medical waste, or Special Wastes as defined herein.

2.66 Solid Waste Handling Services

“Solid Waste Handling Services” means the Collection, transfer, transport, recycling, processing, and disposal of Solid Waste for Premises within the City.

2.67 Source Separated

“Source Separated” means materials that have been kept separate from the rest of the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4).

2.68 Source Separated Organic Waste

“Source Separated Organic Waste” means those Organic Wastes that can be placed in an Organics Container, including Food Waste, food-soiled paper, Green Waste, and any other items as determined by the City.

2.69 Source Separated Recyclable Materials

“Source Separated Recyclable Materials” means Recyclable Materials that can be placed in the recycling container, including, but not limited to, glass and plastic bottles, aluminum, tin and steel cans, metals, unsoiled paper products, printing and writing paper, cardboard, and any other items as determined by the City.

2.70 Special Wastes

“Special Wastes” means a waste which is a Hazardous Waste only because it contains an inorganic substance or substances which cause it to pose a chronic toxicity hazard to human health or the environment and which meets all of the criteria and requirements of 22 CCR Section 66261.122 and has been classified as a special waste pursuant to 22 CCR Section 66261.124.

2.71 Subcontractor

“Subcontractor” shall mean any Person who has entered into a contract, express or implied, with Contractor for the performance of an act that is necessary for, and directly related to, Contractor’s fulfillment of its obligations for providing Solid Waste Handling Services under this Agreement. As of the Effective Date, the only Subcontractors are Turlock Transfer, Inc., a California corporation that provides transfer services (“Turlock Transfer”), Turlock Recycling, a California corporation that provides processing services for Recyclable Materials and operates the buyback center (“Turlock Recycling”), and Marchant Waste Managers, Inc. a California corporation that provides sales, rental, repair, servicing of waste equipment and installation (“Marchant Waste”). Notwithstanding any other provision in this Agreement, vendors providing services, materials and/or supplies to Contractor that are not directly related to Contractor’s provision of services under this Agreement (such as office supplies, equipment parts and paving services at Contractor’s facilities), professional service firms providing legal, accounting and/or other business services to Contractor, and other subcontractors that are not Affiliates of Contractor, shall not be considered Subcontractors for any purpose under this Agreement. Approved Subcontractors are listed in **Exhibit E**.

2.72 Temporary Service

“Temporary Service” shall mean Solid Waste Handling Services provided by Contractor on an as-needed and temporary basis to any Premises within the City in conjunction with construction, demolition, cleanup or other projects, and by use of temporarily placed Bins or Roll off Boxes.

2.73 Term

“Term” shall have the meaning ascribed in Section 6 of this Agreement.

2.74 Transfer Facility

“Transfer Facility” shall mean the Turlock Transfer facility and any additional and/or replacement facility selected by Contractor and approved by City.

2.75 Transformation

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

2.76 Universal Waste

“Universal Waste” (U-Waste) shall mean those Hazardous Wastes identified as universal waste in Section 66261.9 of Title 22 of the California Code of Regulations, including, but not limited to: fluorescent bulbs and tubes; household batteries (e.g., D, AA, button-type, etc.); non-empty aerosol cans; electronic devices (e.g., televisions, computer monitors, cell phones, radios, video cassette recorders, etc.); and mercury containing devices (e.g., thermometers, thermostats, gauges, etc.), and generated by Single or Multi-Family Dwellings. Universal Waste does not include waste generated in the course of operating a business at a Single or Multi-Family Dwelling or waste otherwise generated from operating a business.

SECTION 3. GRANT OF EXCLUSIVE FRANCHISE

3.1 Scope of Franchise

Except as hereinafter expressly set forth, City hereby grants to Contractor and Contractor hereby accepts from City, for the Term hereof, the exclusive contract, right, and privilege to Collect, transport, and dispose of all Solid Waste generated or accumulated within the Franchise Area. The exclusive franchise, right, and privilege to provide Solid Waste Handling Services within City granted to Contractor by this Agreement shall be interpreted to be consistent with all applicable state and federal laws, now in effect and adopted during the Term of this Agreement, and the scope of this Agreement shall be limited by all applicable current and developing laws and regulations. In the event that future interpretations of current law or future enactments limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof. The provisions of Title 6, Chapter 6-3 of the Turlock Municipal Code, as they now exist or as they may be amended, and the Regulations adopted pursuant thereto, and any future amendments to said Regulations, are specifically incorporated herein and made a part hereof as if fully set forth in this Agreement.

3.2 Matters Excluded from Scope of Franchise

Notwithstanding any other provisions set forth in this Agreement to the contrary, the exclusive franchise granted herein shall exclude the Collection, transportation, processing, recycling, and/or disposal of:

(A) any Solid Waste otherwise within the scope of this Agreement which is transported by a Self-Hauler, as that term is defined, and subject to the requirements, in the Municipal Code, as may be amended from time to time;

(B) the sale or donation of Recyclable Material sold or donated by the person or entity that generated such Recyclable Material (the "Generator") to any Person or entity other than Contractor; provided, however, to the extent permitted by law, if the Generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer, or processing of Recyclable Material to any Person or entity other than Contractor, the fact that the Generator receives a reduction or discount in price (or in other terms of the consideration the Generator is required to pay) shall not be considered a sale or donation;

(C) any Solid Waste generated at City facilities that is otherwise within the scope of this Agreement which is Collected or transported to a disposal or recycling facility by City employees in the course and scope of their employment with City;

(D) the City's ordinary operations of street cleaning and use of its streets. Notwithstanding the foregoing, Contractor shall provide street sweeping services at additional cost as set forth in this Agreement and its exhibits;

(E) the Collection, transportation, or disposal of Hazardous Waste; Household Hazardous Waste; Universal Waste; E-Waste; biohazardous waste; untreated medical waste; infectious waste; Animal Waste; used cooking fats, oils, grease, and similar waste; or other materials which do not constitute Solid Waste;

(F) the Collection, transportation, and processing of Construction and Demolition Debris by a contractor, handyman, repairman, or other similar service provider, using its own equipment and employees, as an incidental part of the services provided to its customers, rather than as a hauling service, provided that such waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials;

(G) the Collection, transportation, and processing of Green Waste and related Solid Waste by a gardener, or landscaper, using its own equipment and employees, as an incidental part of the gardening or landscaping services provided to its customers, rather than as a hauling service provided that such Solid Waste is not Collected or transported by a third party hired for the primary purpose of Collecting and transporting said materials; and

(H) for up to five (5) years after the Effective Date, the Collection, transportation, and processing of Industrial Refuse, Industrial Organic Waste and Industrial Recyclable Materials (including Construction and Demolition Debris) by any Person having a legal right to continue doing so pursuant to Public Resources Code section 49520, as long as and to the extent such legal right continues to exist.

SECTION 4. ENFORCEMENT OF EXCLUSIVITY

Contractor and City shall both be responsible for enforcing the exclusivity of this Agreement. City shall use commercially reasonable efforts to enforce the exclusivity hereof, including, without limitation, by enforcing the provisions of Title 6, Chapter 6-3, Sections 6-3-120(c) and 6-3-133 of the Turlock Municipal Code, by adopting such ordinances or other regulations as it deems to be necessary or desirable to protect the exclusive rights granted herein, and by instituting appropriate legal proceedings to enforce the exclusivity provisions hereto. Contractor shall defend, indemnify and hold City harmless for all enforcement actions taken pursuant to this Section in accordance with Section 25, Indemnification.

SECTION 5. ACCEPTANCE; WAIVER

Contractor agrees to be bound by and comply with all the requirements of this Agreement. Contractor waives any right or claim to serve the City or any part of the City under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity including any right under section 49520 of the Public Resources Code; provided, however, that, on or before the Effective Date, the City shall give each eligible Person licensed under Section 6-3-119 of the Turlock Municipal Code to Collect Industrial Refuse the notice described in section 49520 of the Public Resources Code that such license will expire, and that such Collection activity must cease, five (5) years after the mailing of such notice. Additionally, by and upon the effectiveness of this Agreement, Contractor agrees to the termination of the Prior Agreement as of the Effective Date, agrees to waive any and all rights under the Prior Agreement, and agrees to release and hold the City harmless from any of the City's obligations thereunder, excepting, however, the right to compensation for services provided at the rates approved by City as of the Effective Date and the right to be credited for services already provided (such as situations where the maximum calls for Bulky Item services have been reached by a Customer); provided, however, nothing contained in this provision is intended to or shall relieve Contractor from any obligation existing under the Prior Agreement pertaining to insurance, indemnification, or other legal obligations to City or Customers (as opposed to obligations to provide service pursuant to the terms thereof), or from any obligation set forth in the Prior Agreement which are called out as surviving the termination thereof, and all such obligations, including specifically those indemnification obligations relating to Environmental Laws, general liability, and AB 939 shall survive the termination of the Prior Agreement.

SECTION 6. TERM

Unless this Agreement is terminated sooner pursuant to Section 17 hereof, the term of this Agreement (the "Term") shall be for a period of twenty (20) years, commencing on the Effective Date, and ending at 11:59 pm on June 30, 2043; provided, however, that the Term shall automatically be extended for one (1) additional year commencing on July 1, 2043, and on July 1 of each succeeding year, but not beyond June 30, 2063; and provided, further, that either Party may terminate the next automatic extension by giving the other Party written notice of termination of the annual extension at least ninety (90) days before the end of the then current year of the Term.

SECTION 7.
CONDITIONS TO EFFECTIVENESS OF AGREEMENT

The satisfaction of each and all of the conditions set out below is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein. The conditions in Sections 7.1, 7.3 and 7.4 may be waived solely by City in its sole discretion. The condition in Section 7.2 may only be waived by City and Contractor acting together.

7.1 Accuracy of Representation

All representations and warranties made by Contractor and set forth in this Agreement shall be accurate, true, and correct on and as of the Effective Date of this Agreement.

7.2 Absence of Litigation or Referendum Petition

To Contractor's knowledge, there shall be no litigation pending in any court challenging the award of this exclusive franchise for Solid Waste Handling Services to Contractor or the execution of this Agreement or seeking to restrain or enjoin its performance.

7.3 Furnishing of Insurance, Bond, and Letter of Credit

Contractor shall have furnished evidence of the insurance and Surety required by Sections 14 and 15 hereof, and shall comply with all ongoing requirements relating thereto.

7.4 Effectiveness of City Council Action

The City Council's Resolution approving this Agreement shall have become effective pursuant to California law.

SECTION 8.
SOLID WASTE HANDLING SERVICES
PROVIDED BY CONTRACTOR

8.1 General

8.1.1 Equipment

Contractor shall furnish all labor, supervision, materials, supplies, and equipment necessary to provide all Solid Waste Handling Services required by the terms of this Agreement.

8.1.2 Performance Standards

Contractor shall perform Solid Waste Handling Services as required hereunder in a workmanlike manner consistent with good housekeeping standards and all relevant provisions of Applicable Law.

8.1.3 Noise and Disruption

Contractor shall perform Solid Waste Handling Services as required hereunder in such a manner as to minimize noise and other disruptive impacts including, without limitation, those upon traffic. Contractor shall use commercially reasonable efforts to coordinate its Collection schedules such that street sweeping on any given street shall occur within two (2) business days following Collection of Solid Waste by Contractor, at the frequency listed in **Exhibit G**.

8.1.4 Collection Times

Contractor shall not commence Collection of Solid Waste for any Customers until 5:00 a.m., nor shall such activities occur after 6:00 p.m. for all Customers. Solid Waste Collection shall not occur on Saturdays or Sundays, excepting Collection from Commercial Customers on Saturdays, Temporary Services, Collection occurring on Saturdays following holidays, and in exceptional circumstances as may be approved by the Municipal Services Director.

8.1.5 Collection Schedule

Contractor shall establish Collection routes and a Collection schedule such that Customers at all Residential and Commercial Premises within the City will have not less than one established Collection day each week. Contractor shall provide notice to each Customer of its established Collection day(s) and shall provide at least thirty (30) days' notice to Customers of any change in their established Collection day(s). Notwithstanding any provision herein to the contrary, should any established Collection day fall on a legal holiday, or on any other holiday which is observed by an Approved Facility to which Solid Waste is taken for disposal or diversion, Contractor shall provide for Collection one (1) day later during the pick-up week, and the regular Collection schedule shall be resumed the following week. A pick-up week shall be defined as Monday through Friday, except when a legal holiday moves the Collection day one (1) day later, resulting in a Saturday Collection day, for Residential Premises and Monday through Saturday for Commercial Premises. Contractor may charge Customers for emergency Collection services, where the emergency Collection is not required as a result of a missed pickup as set forth in Section 8.1.9, at rates which do not exceed the maximum rates set forth on **Exhibit A**.

8.1.6 Commingling of Routes

Solid Waste, Organic Waste and Source Separated Recyclable Materials Collected by Contractor may be commingled with such materials Collected in other jurisdictions, provided that Contractor maintains a method of allocating tonnage between jurisdictions that is satisfactory to the Municipal Services Director, in accordance with the method used in setting rates hereunder.

8.1.7 Placement of Containers

Contractor shall, whenever possible, place Carts in the street gutter, adjacent to the curb, upon completing Collection. Contractor shall replace all Bins in the location upon the property of each Customer utilizing Bins designated for storage of Bins, and shall secure gates, doors, and/or enclosures when applicable (subject to the applicable fees established in **Exhibit A**).

8.1.8 Contractor's Containers

(A) Contractor's Containers shall meet the minimum standards set forth on the attached **Exhibit F**.

(B) Contractor shall provide Carts having a capacity of approximately 95-gallons. Notwithstanding the foregoing, the Parties recognize that different vendors provide Carts of slightly different dimensions, and hence the capacity of each Cart size may vary slightly, but in no case by more than 10% of the capacity noted above.

(C) Contractor shall be responsible to provide Carts in colors that meet SB 1383 regulatory requirements, and Contractor shall not receive additional compensation for providing Carts that comply with SB 1383 regulatory requirements.

(D) Contractor shall be responsible to replace, as necessary, all damaged or lost Containers or Containers at the end of their useful life.

(E) Contractor shall deliver Containers to each new Customer Premises at no charge.

(F) Contractor shall ensure it maintains an accurate list that contains the total number of Carts at each service address.

(G) All Carts shall be maintained by Contractor in a watertight condition, as shall all Bins which are used primarily for the disposal of Solid Waste containing liquids.

(H) On the next service day after notification (Saturdays, Sundays and holidays excepted), Contractor shall repair or replace lost, stolen, or damaged Carts at no charge to Customers. However, Contractor shall be entitled to charge Customers for the replacement of any Cart that has been damaged by a Customer's willful neglect or abuse, ordinary wear and tear excepted, with such charges being subject to the Municipal Services Director's approval and at a fee no higher than Contractor's actual cost of repair and replacement (in accordance with the fees established in **Exhibit A**).

(I) Contractor shall, at Customer's request and for an amount not exceeding the maximum rate set forth in **Exhibit A**, refurbish, replace, and steam clean as necessary all Bins and Contractor-provided Roll off Boxes; provided, however, City may require the steam cleaning or replacement of Bins utilized at restaurants, bars and grocery stores/markets more frequently if it determines such action is needed to protect public health and safety. Additional steam cleaning shall be provided to any Customers who request it at a charge not to exceed the maximum rate set forth in **Exhibit A** hereto. Contractor may charge Customers for damaged Bins at rates that do not exceed the maximum rate set forth in **Exhibit A**.

(J) All Bins and Roll off Boxes shall be kept freshly painted in a uniform fashion and shall be identified with Contractor's name and phone number in letters not less than three inches high on its exterior so as to be visible when the Container is placed for use.

(K) Contractor shall be responsible to provide Bins and Roll off Boxes in colors that meet SB 1383 regulatory requirements, and Contractor shall not receive additional compensation for providing Bins and Roll off Boxes that comply with SB 1383 regulatory requirements.

(L) At a Customer's request, Contractor shall provide Bins with locking bars and may charge rates to Customers for locking bars which do not exceed the maximum rates set forth in **Exhibit A**.

8.1.9 Missed Pick-ups

In case of a missed pick-up called in by a Customer, Contractor shall Collect Solid Waste from such Customer no later than the next day of the pick-up week following the date of the call, provided that such call is received by Contractor before the close of business on the day it was missed.

8.1.10 Record of Non-collection

As more fully set forth herein, Contractor shall Collect all Solid Waste placed for Collection by Customers in Containers, excepting materials that do not meet the definition of Solid Waste (such as hazardous materials). Whenever Contractor determines not to Collect any Solid Waste deposited for Collection, Contractor shall leave a tag at least 2" by 6" in size, indicating the reason for Contractor's refusal to do so. This information will be left by means of a check system (i.e., checking off boxes on a preprinted tag). The tag shall provide Contractor's business name and its local telephone number and shall be securely fastened to the Container, or the article refused. Contractor shall maintain a record of all such tags at its place of business. Such record shall contain the date of such notice, street address, reason for non-collection, and a summary of any communications between Contractor and the Customer involved. Such notice shall be retained so that it may be inspected by representatives of City upon request.

8.1.11 Recyclables and Organic Waste Contamination

(A) Contractor must offer all Customers the correct combination of Cart and Bin sizes and collection frequency that matches their unique service needs (as reasonably determined by Customer) to reduce contamination of Recyclable Materials and Organic Waste and provide service at the least cost to Customer. To support City's diversion goals Contractor is only required to collect and process Recyclable Materials if they have been separated by the Customer from Garbage and Organic Waste and is only required to collect Organic Waste if it has been separated by the Customer from Garbage and Recyclable Materials.

(B) As part of Contractor's Community Outreach and Education program, Contractor has agreed to provide outreach and support to all Customers. Additionally, Contractor's route collection personnel will report to Contractor's supervisors if they observe potential contamination problems, and/or insufficient collection capacity. For purposes of determining if Garbage, Recyclable Materials or Organic Waste are deemed to be contaminated, if, by visual or digital inspection, Garbage is commingled by ten percent (10%) by weight or volume of Prohibited Container Contaminants, Recyclable Materials

are commingled with ten percent (10%) by weight or volume of Prohibited Container Contaminants, or Organic Waste is commingled with three percent (3%) by weight or volume of Prohibited Container Contaminants, then Garbage, Recyclable Materials and/or Organic Waste will be deemed to be contaminated and Contractor may take the following steps:

(1) Single Family Customers.

First Occurrence. For the first occurrence within any twelve-month period of contamination for a particular Container (i.e., Garbage Container, Recycling Container or Organics Container), Contractor must collect the contaminated Container (as Garbage) and must affix a contamination violation notice to the contaminated Container which contains instructions on the proper procedures for sorting Recyclable Materials or Organic Waste, and must notify the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag). Contractor's representative must also contact the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Recyclable Materials and/or Organic Waste.

Second and Subsequent Occurrence. For the second or subsequent occurrence within any twelve-month period of contamination for a particular Container (i.e., Garbage Container, Recycling Container or Organics Container), Contractor must collect the contaminated Container (as Garbage) and may charge the Customer a contamination fee as set forth in **Exhibit A**. However, Contractor must continue providing the Recyclable Materials or Organic Waste Collection Services for such Container. Contractor must affix a contamination violation notice to the contaminated Container which contains instructions on the proper procedures for sorting Recyclable Materials or Organic Waste, and must notify the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag) and, for any contamination fee charge being assessed, must provide the Customer with written notice that clearly documents the Customer's on-going contamination problems. Contractor may also increase the number of Carts or collection frequency at Customer's cost not to exceed the maximum rates set forth in **Exhibit A** and impose a contamination surcharge on the account for a period of six months or until the Customer has demonstrated no contamination for a period of three consecutive months at a cost not to exceed the maximum rates set forth in **Exhibit A**. Contractor must notify City on a monthly basis with the Billing information (email notice is acceptable) if Contractor increases the number of Carts or collection frequency for excessive contamination or imposes the contamination surcharge to the account. City will consult with Contractor and consider, and pursue as applicable, appropriate legal remedies against offending Customers in order to secure discontinuance of the contamination. All City costs of such action shall be recoverable by the City from the offending Customer.

(2) Commercial and Multi-Family Customers.

The following provisions will apply to all Commercial and Multi-Family Customers:

First Occurrence. For the first occurrence within any twelve-month period of contamination for a particular Container (i.e., Garbage Container, Recycling Container or Organics Container), Contractor must collect the contaminated Container (as Garbage) and must affix a contamination violation notice to the contaminated Container which contains instructions on the proper procedures for sorting Recyclable Materials or Organic Waste, and must notify the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag). Contractor's representative must also contact the Customer by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Recyclable Materials and/or Organic Waste.

Second and Subsequent Occurrence. For the second and subsequent occurrence within any twelve-month period of contamination for a particular Container (i.e., Garbage Container, Recycling Container or Organics Container), Contractor will provide a contamination violation notice that contains instructions on the proper procedures for setting out Recyclable Materials or Organic Waste, and Contractor must collect the contaminated Container (as Garbage) and may charge the Customer a contamination fee at a cost not to exceed the maximum rates as set forth in **Exhibit A**. For any contamination fee charge being assessed, Contractor must provide written notice to the Customer that clearly documents the Customer's on-going contamination problems. Contractor may also increase the Container size or collection frequency at Customer's expense at a cost not to exceed the maximum rates set forth in **Exhibit A** and impose a contamination surcharge on the account until the Customer has demonstrated no contamination for a period of three consecutive months at a cost not to exceed the maximum rates set forth in **Exhibit A**. Contractor must notify City (email notice is acceptable) within five (5) Business Days if Contractor increases the Container size or collection frequency for excessive contamination or imposes the contamination surcharge to the account. City will consider, and pursue as applicable, appropriate legal remedies against offending Customers in order to secure discontinuance of the contamination. All City costs of such action shall be recoverable by the City from the offending Customers.

(3) Disputes Over Excess Contamination Charges.

If Customer disputes a contamination charge (which must be within 30 days of them being assessed), Contractor will temporarily halt any unpaid contamination charge and/or increased Maximum Service Rate resulting from increasing the Collection Container number or size or collection frequency, and Contractor may request a ruling by the Municipal Services Director to resolve the dispute. A request by Contractor to the Municipal Services Director to rule on any such dispute must be filed within ten (10) Business Days of Contractor's halting of contamination charge, or increased Maximum

Rate, and must include written documentation and evidence of ongoing contamination problems. The Municipal Services Director may request a meeting (in person or phone) with both the Customer and Contractor to resolve the dispute. Following such a meeting, the Municipal Services Director will rule on the dispute within ten (10) Business Days, and the Municipal Services Director's decision on resolving the dispute between and Customer will be final. If the Municipal Services Director rules in favor of the Customer, Contractor will credit the disputed contamination charges or increased Maximum Service Rate. If the Municipal Services Director rules in favor of Contractor, Contractor may charge Customer the prior halted contamination charge and/or increased Maximum Service Rate resulting from increasing the Collection Container number or size or collection frequency and may follow the steps for collection of delinquent accounts.

8.2 Residential Solid Waste Handling Service

8.2.1 Single Family Dwelling Customers –Automated Collection

Contractor shall provide each Customer at a Single Family Dwelling with one 95 gallon Cart designated for the Collection of Garbage, one 95 gallon Cart designated for the Collection of Recyclable Materials, and one 95 gallon Cart designated for the collection of Organic Waste. Contractor shall Collect all Solid Waste placed out for Collection in Carts by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor may charge Customers for additional Collection in excess of once per week at rates that do not exceed the maximum rates set forth in **Exhibit A**. Upon request from any Customer at a Single-Family Dwelling, Contractor shall provide such Customer with one or more additional Garbage, Recyclables, or Organics Containers, and shall Collect all Solid Waste placed for Collection in such additional Garbage, Recyclables, or Organics Containers at rates that do not exceed the maximum rates set forth in **Exhibit A**. Wherever feasible, Customers shall be directed by Contractor to place Carts for Collection either in the street gutter, against the curb, in front of their Premises, or adjacent to their Premises in the alley or easement in the rear of their Premises. It is the intent of the parties that the services provided under this Agreement will result in an automated Collection system that includes source separation of Recyclable Material and source separation of Organic Waste. Contractor shall deliver all Garbage to the Transfer Facility for Transfer to the Disposal Facility.

8.2.2 Walk-Out Service

Contractor shall provide eligible Customers with "walk-out service" as set forth in this Section at rates that do not exceed the maximum rates set forth in **Exhibit A**. This service shall require Contractor to use its own forces to bring a Customer's Carts from a Customer's side yard or such other location at which the Customer's Containers are regularly stored, provided they are not stored behind gates or fences, to Contractor's Collection Vehicle; and, after disposal of the contents thereof, returning said Containers to the location where they are regularly stored. To be eligible for this service a Customer shall provide a letter to Contractor from a physician confirming the Customer is unable to move his/her Carts to the curb, and that to the best of the physician's knowledge there is no other capable persons living in the Customer's household to provide this service. Contractor may require each eligible Customer to provide a new letter from a physician

on an annual basis in order to maintain eligibility for walk-out service. Contractor may also provide Customers who are not eligible for walk-out service pursuant to the foregoing with walk-out service at a rate which shall not exceed the maximum rate set forth in **Exhibit A**. Contractor may require as a condition of walk-out service that a Customer sign a standardized agreement, which authorizes entry onto the Customer's property and holds Contractor harmless from liability (including specifically liability related to pets escaping) associated with Contractor providing such service.

8.2.3 Recycling Program for Single Family Dwellings

Contractor shall provide each Customer at a Single-Family Dwelling with a Recycling Container of the same size as the Customer's Garbage Container designated for the Collection of Recyclables (a Recycling Container). Upon request by a Customer, Contractor shall provide one or more additional Recycling Containers at rates which shall not exceed the maximum rates set forth in **Exhibit A**. Contractor shall Collect all Recyclable Material placed out for Collection in a Recycling Container by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor shall Collect Recyclable Material placed in Recycling Containers for Collection from each Customer at a Single-Family Dwelling on the same day as such Customer's Garbage Container is Collected, utilizing an automated Collection process. Customers shall be directed to place Recycling Containers in the same location for Collection as Garbage Containers. The materials allowed to be deposited by Customers for Collection in Recycling Containers shall be as set forth from time to time on Contractor's website. Contractor shall deliver all Recyclable Material to the Transfer Facility for Transfer to a Recycling Facility which will process Recyclable Material in a method that will provide the City with diversion credit under AB 939, AB 1594, and SB 1383. Contractor shall follow the Community Outreach and Education requirements of Section 10.8 of this Agreement.

8.2.4 Organic Waste Collection for Single Family Dwellings

Contractor shall provide Customers at Single Family Dwellings with an Organics Container of the same size as the Customer's Garbage Container (subject to the provisions of Section 8.1.8(B)), designated for Collection of commingled Organic Waste. Upon request by a Customer, Contractor shall provide one or more additional Organics Containers at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor shall Collect all Organic Waste placed out for Collection in an Organics Container by each Customer at a Single-Family Dwelling not less than once per week using an automated Collection system at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor shall Collect Organic Waste placed in Organics Containers for Collection from each Customer on the same day as such Customer's Garbage Container is Collected, using an automated Collection process. Customers shall be directed to place Organics Containers in the same location for Collection as Garbage Containers. Contractor shall follow the Community Outreach and Education requirements of Section 10.8 of this Agreement. Contractor shall deliver all Organic Waste to the Transfer Facility for Transfer to an Organics Facility which will compost or process Organic Waste in a method that will provide the City with diversion credit under AB 939, AB 1594, and SB 1383.

8.2.5 Multi-Family Dwelling Customers

Contractor shall comply with all requirements applicable to Commercial Customers, set forth below, in connection with Multi-Family Dwellings, and further shall comply with the specific provisions contained herein related to such Dwellings. Customers at Multi-Family Dwellings shall be provided sufficient services by Contractor to enable it and the City to comply with AB 939, AB 1594, AB 341, AB 1826, and SB 1383.

8.2.5.1 Multi-Family Source Separated Collection Program

Contractor shall provide all Customers at Multi-Family Dwellings participating in a Source Separated Collection Program meeting the requirements set forth below through a combination of Containers, meeting the minimum standards set forth in **Exhibit F**, some of which are designated for the Collection of Garbage ("Garbage Containers"), designated for the Collection of Recyclable Material ("Recycling Containers"), and designated for the Collection of Organic Waste ("Organics Containers"). Contractor shall follow the Community Outreach and Education requirements of Section 10.8 of this Agreement.

(A) Garbage Collection Service:

Contractor shall provide all Customers with the number of Garbage Containers reasonably needed for Garbage Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Garbage placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. If warranted by specific circumstances, at any given Multi-Family Dwelling, a combination of Bins, and/or Carts may be utilized. The size of Garbage Bins, and/or Carts utilized, and the frequency of their Collection, shall be mutually agreed upon in writing by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number and size of such Containers, and may require more frequent Collection should it determine such action is needed to protect the public health, safety, and welfare. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**. Contractor shall deliver all Garbage to the Transfer Facility for Transfer to the Disposal Facility.

(B) Recycling Collection Service:

Contractor shall provide all Customers with the number of Recycling Containers reasonably needed for Recyclable Material Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Recyclable Material placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. If warranted by specific circumstances, at any given Multi-Family Dwelling, a combination of Recycling Bins and/or Carts may be utilized. The size of Recycling Bins, and/or Carts utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor

and its Customers in writing (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number and size of such Containers, and may require more frequent Collection should it determine such action is needed to protect the public health, safety, and welfare. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**. At a minimum, Contractor shall allow the materials identified in Section 8.2.3 above to be placed for Collection in Recycling Containers. Should such Recycling Containers be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in **Exhibit A** for contaminated loads, subject to Section 8.1.11 above. Contractor shall deliver all Recyclable Materials to the Recycling Facility which will process Recyclable Materials in a method that will provide the City with diversion credit under AB 939, AB 341, AB 1594, AB 1826, and SB 1383.

(C) Organic Waste Collection Service:

Contractor shall provide all Customers with the number of Organics Containers, reasonably needed for Organic Waste Collection at each Premises at which Multi-Family Dwellings exist, bearing in mind both the number of Dwellings and space limitations, and shall Collect all Organic Waste placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. In the event extra pickups are required at a Multi-Family Dwelling in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**. Should such Organics Container be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in **Exhibit A** for contaminated loads, subject to Section 8.1.11 above. Contractor shall deliver all Organic Waste to the Organics Facility which will compost or process Organic Waste in a method that will provide the City with diversion credit under AB 939, AB 1594, AB 1826, and SB 1383.

8.2.6 Bulky Item Collection

8.2.6.1 Bulky Item Service for Single Family Dwellings

Contractor shall provide Bulky Item Collection services to residents living at all Single-Family Dwellings in City at no charge on an on-call basis as set forth herein, provided that Collection of certain Bulky Items will be made at rates not exceeding the maximum rates set forth in **Exhibit A**. The no-charge Bulky Item Collection service set forth in this Section shall only apply with respect to Bulky Items generated at the Dwelling Unit at which the Customer calling for service resides and is limited to up to one (1) large Bulky Item per scheduled pick up and one (1) pickup per calendar year. Bulky Items Collected pursuant to this Section shall occur on the same day as the Customer's regularly scheduled Collection day. In order to receive such service, residents shall provide Contractor with at least two (2) weeks' prior notice by phone of the number

and type of Bulky Items to be Collected. Contractor shall produce, keep current, and provide public information specifically outlining its Bulky Item Collection service, which shall specifically include the annual publication and distribution of a brochure describing this service to residents of all Single-Family Dwellings in City. Contractor may charge rates for the Collection of each Bulky Item in excess of the above limits that do not exceed those set forth on **Exhibit A**.

8.2.6.3 Proper Handling of Bulky Items

Contractor shall properly handle all materials required to be Collected as Bulky Items, including specifically items that require special handling pursuant to the Environmental Laws, such as materials that constitute Universal Waste and/or waste.

8.2.6.4 Bulky Item Drop-off Event

Contractor shall provide a citywide free Single Family Dwelling disposal program, "Embrace Turlock's Beauty" once per year, on the second Saturday of October during the hours of 8:00 am through 12:45 pm at the Turlock Transfer located at 1100 S Walnut Rd. Participants must provide the previous month's (i.e., September) utility bill along with a picture identification with a City address. Program details include:

- No more than one load of household debris per current utility bill
- No vehicle loads larger than a pick-up truck are accepted
- No more than 9 tires per load
- No sealed gas cylinders (e.g., propane, oxygen, helium, etc.)
- No treated wood or other household hazardous materials.

This program is held in conjunction with Stanislaus County's Household Hazardous Waste event that is held at 901 S Walnut Rd from 8 am to 12 pm to collect household hazardous items. Contractor provides labor for the event inside the Turlock Transfer property and City provides traffic control and program eligibility verification at the gate outside the property. City is responsible for disposal and special items fees collected during the event at the current rate charged by Turlock Transfer. Date, time of event, eligibility requirements and acceptable items may be changed upon mutual agreement between the City Contractor.

8.2.6.5 Program Changes

If Bulky Item Collection program changes are requested by the City, Contractor shall collaborate with the City to modify existing programs or develop a new program. Before any such program is implemented, Contractor and City shall meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth on **Exhibit A** in order to compensate Contractor for developing, implementing and operating such program.

8.3 Commercial Solid Waste Handling Services

8.3.1 Commercial Bins and/or Carts and Roll off Boxes

Contractor shall provide all Customers at Commercial Premises ("Commercial Customers") with at least one Container for Collection of Garbage, and shall Collect all Garbage placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor shall provide additional Containers to Customers and shall provide additional Collections upon request, or as may be required by City's Municipal Code, health and safety requirements, or by the Municipal Services Director, and may charge rates for such services which do not exceed the maximum rates set forth in **Exhibit A**. Bins and Roll off Boxes shall be Collected by Contractor from the location upon each Customer's property designated for their storage, and replaced to that location with gates and/or doors secured, as applicable, after Collection is completed, unless different arrangements are agreed upon by the Customer and Contractor. Notwithstanding anything set forth herein to the contrary, Contractor need not provide Containers to Customers who choose to utilize their own Roll off Box compactors. Further, Contractor may lease Roll off Box compactors to Customers at rates that it sets, which rates shall not be regulated by this Agreement. Contractor shall provide Solid Waste Handling Services in connection with Roll off Box compactors at rates that do not exceed the maximum rates set forth in **Exhibit A**. Contractor shall deliver all Garbage to the Transfer Facility for Transfer to the Disposal Facility.

8.3.2 Commercial Containers

As an alternative to the requirements of Section 8.3.1, Contractor shall offer Collection in ninety-five (95) gallon Carts to Commercial Premises where the Customers do not have space for, or do not generate enough Garbage to require the use of Bins for Collection. Rates for Customers at Commercial Premises (excepting Multi-Family Dwellings) receiving such service shall not exceed the maximum rates set forth on **Exhibit A** for Commercial Garbage Containers; provided, however, rates for Customers at Multi-Family Dwellings receiving such service shall not exceed the maximum rates set forth on **Exhibit A** for Residential Container Service. If Contractor and Customer have a disagreement as to whether a Garbage Container that is a Cart is appropriate, or if City determines the Collection in a Garbage Container that is a Cart causes health and safety or other concerns, City shall make the final determination as to whether Collection in a Garbage Container that is a Cart may occur.

8.3.2.1 Commercial Source Separated Collection Program

Contractor shall provide Customers at all Commercial Premises with a Source Separated Collection Program meeting the requirements set forth below through a combination of Containers, meeting the minimum standards set forth in **Exhibit F**, some of which are designated for the Collection of Garbage, Recyclable Material, and Organic Waste.

(A) Garbage Collection Service:

Contractor shall provide all Customers with the number of Garbage Containers reasonably needed for Garbage Collection at each Commercial Premises, and shall Collect all Garbage placed therein for Collection not less than once per week, at rates

that do not exceed the maximum rates set forth in **Exhibit A**. If warranted by specific circumstances, and upon written approval of the Municipal Services Director, at any given Commercial Premises, Carts may be utilized instead of Bins. The size of Garbage Containers utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Garbage Containers, sizes, and more frequent Collection, should it determine such action is needed to protect the public health, safety and welfare. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Commercial Premises for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**.

(B) Recycling Collection Service:

Contractor shall provide all Customers with the number of Recycling Containers reasonably needed for Recyclable Material Collection at each Commercial Premises, and shall Collect all Recyclable Material placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. If warranted by specific circumstances, and upon written approval of the Municipal Services Director, at any given Commercial Premises, Carts may be utilized instead of Recycling Bins. The size of Recycling Containers utilized, and the frequency of their Collection, shall be mutually agreed upon by Contractor and its Customers (except that Collection shall occur not less than one time per week), and City shall have the right to impose minimum requirements for the number of Recycling Containers, sizes, and more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Commercial Premises for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**. At a minimum, Contractor shall allow the materials identified from time to time on Contractor's website to be placed for Collection in Recycling Containers. Should such Recycling Containers be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in **Exhibit A** for contaminated loads, subject to Section 8.1.11 above. Contractor shall deliver all Recyclable Material to the Recycling Facility which will process Recyclable Material in a method that will provide the City with diversion credit under AB 939, AB 1594, AB 341, AB 1826, and SB 1383.

(C) Organic Waste Collection Service:

Contractor shall provide all Customers with the number of Organics Containers reasonably needed for Organic Waste Collection at each Commercial Premises, bearing in mind space limitations, and shall Collect all Organic Waste placed therein for Collection not less than once per week, at rates that do not exceed the maximum rates set forth in **Exhibit A**. As part of the Collection of Commercial Organic Waste, Roll off Boxes may only be used for the Collection of Organic Waste mutually agreed upon by Contractor and its Customers in writing (except that Collection shall occur not less than one time per

week), and City shall have the right to impose minimum requirements for the number and size of such Organics Containers, and may require more frequent Collection should it determine such action is needed to protect the public health, safety and welfare. In the event extra pickups are required at a Commercial Premises in any given month, Contractor may charge the Person who manages or owns the Multi-Family Dwelling for such pickups an amount that does not exceed the maximum rate for "extra dumps" as set forth in the attached **Exhibit A**. Should such Organics Containers be contaminated with materials not permitted to be placed therein for Collection, Contractor may charge the responsible Customer a rate that does not exceed the maximum rate set forth in **Exhibit A** for contaminated loads, subject to Section 8.1.11 above. Contractor shall deliver all Organic Waste to the Organics Facility which will compost or process Organic Waste in a method that will provide the City with diversion credit under AB 939, AB 1594, AB 1826, and SB 1383.

8.4 Other Collection Programs As May Be Required by Law

In the event CalRecycle, or any federal, state, or local law or regulation, imposes upon City or Contractor a requirement for the implementation of any program for the Collection of any waste material (whether or not meeting the definition of Solid Waste hereunder) not already covered by this Agreement, whether Commercial or Residential in nature, Contractor shall design and present a program to City to comply with such requirement, which program shall meet the Municipal Services Director's reasonable approval. Before any such program is implemented, Contractor and City shall meet and confer in good faith to determine a fair and reasonable adjustment to the maximum rates set forth on **Exhibit A** in order to compensate Contractor for developing, implementing and operating such program.

8.5 Roll Out Service

Certain Premises within the City Limits require Contractor to move a Bin in order to service the Bin ("Roll Out Service"). Contractor may charge said Premises for the Roll Out Service where Contractor is required to move a Bin at rates that do not exceed the maximum rates set forth in the attached **Exhibit A**.

8.6 Temporary Services

Contractor shall provide Temporary Services on an on-call basis to any Customer requesting such service pursuant to the following conditions:

(A) Bins and Roll off Boxes utilized in connection with Temporary Services shall meet the minimum standards set forth herein and Containers shall be delivered within reasonable service time of a call for such service, excepting weekends and holidays.

(B) No charges excepting rates not exceeding the maximum rates set forth in the attached **Exhibit A** related to Containers, Carts, Bins or Roll off Boxes utilized in connection with Temporary Services shall be imposed by Contractor, unless approved in accordance with Section 8.9 (Special Services).

(C) City has in place an ordinance regulating the recycling and disposal of Construction and Demolition Debris, and Contractor agrees to comply with all applicable provisions thereof. The Customer shall be responsible for the costs of disposal of such waste at rates that do not exceed the maximum rates as set forth in the attached **Exhibit A**.

(D) In addition to complying with any other requirements of the City's ordinance regulating Construction and Demolition Debris, Contractor shall make all reasonable efforts to recycle all Construction and Demolition Debris it Collects, especially to the degree such loads contain clean inert materials. Towards this end, Contractor shall make available to Customers involved in construction separate Containers within which to Collect different types of marketable materials, such as dirt, steel, concrete and wood.

8.7 Recycling Obligations and Public Education Program

8.7.1 Minimum Requirements for Collection of Recyclable Material and Organic Waste

Contractor shall utilize a truck dedicated for the purpose of Collecting Organic Waste from Customers, such that Organic Waste which has been separated prior to Collection, once Collected, is not commingled with Garbage or Recyclable Material. Similarly, Contractor shall utilize a truck dedicated for the purpose of Collecting Recyclable Material, such that Recyclable Material Collected in Recycling Containers or related Bins and Carts, once Collected, is not commingled with Garbage or Organic Waste.

8.7.2 Extent of Applicable Franchise Rights

Nothing in this Agreement shall be construed as giving Contractor the right to Collect Recyclable Material which, in accordance with Section 3.2(B) above, has not been discarded and placed for Collection by Contractor in the location designated for that purpose.

8.7.3 AB 939, AB 341, AB 1594, AB 1826, and SB 1383 Obligations

8.7.3.1 Warranties and Representations

Contractor warrants and represents that it is aware of and familiar with City's Source Reduction and Recycling Element (the "SRRE"), that it is familiar with City's waste stream, and that it has the ability to and will provide sufficient programs and services, subject to the rate adjustments covering the costs of additional programs and services, to help assist the City in meeting or exceeding the diversion goals (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in AB 939, AB 341, AB 1594, AB 1826, and SB 1383 and all amendments thereto. Contractor shall do so without imposing any costs or fees in an amount not to exceed the maximum rates as set forth in the attached **Exhibit A**, as adjusted in accordance with the terms of this Agreement. Notwithstanding any other provision in this Agreement, Contractor's only obligations in respect of SB 1383 are to: (a) provide Carts, Bins and Roll off Boxes in colors that meet SB 1383 regulatory requirements in accordance with Sections 8.1.8(C) and (K); (b) assure that the Recycling Facility or the Organics Facility to which Contractor or the Transfer Station delivers Recyclable Material or Organic Waste will process such Recyclable Material or Organic Waste in a method that will provide the City with diversion credit under SB 1383 in accordance with Sections 8.2.3., 8.2.4, 8.2.5 and 8.3.2; (c)

provide City with the total number of Multi-Family and Commercial customers that fall under the AB 341, AB 1826 or SB 1383 thresholds, and the total number of those Multi-Family and Commercial Customers that are not receiving Contractor's required services for Recyclables and/or Organic Waste in accordance with Section 21.3(B); and (d) provide the Commercial and Residential contamination monitoring services set forth in **Exhibit K** attached hereto. For the avoidance of doubt, City will be responsible for all other measures necessary to assure its compliance with SB 1383.

8.7.3.2 Mutual Cooperation

City and Contractor shall reasonably cooperate in good faith with all efforts by each other to meet City's diversion and other compliance requirements imposed by AB 939, AB 341, AB 1594, AB 1826, and SB 1383 and other Applicable Law. In this regard, City's obligations shall include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting diversion goals, or other exceptions from the terms of AB 939, AB 341, AB 1594, AB 1826, and SB 1383 and other Applicable Law and reasonable consideration of programs (and associated costs) offered by Contractor as set forth in Section 8.4.

8.7.3.3 Notwithstanding any other provision in this Agreement, Contractor's obligations under this Section 8.7.3 and under Section 24.1(B) below shall be subject to and limited to the extent expressly required by Section 40059.1 of the Public Resources Code.

8.7.4 Waste Generation/Characterization Studies

Contractor acknowledges that City may be required to perform Solid Waste generation and disposal characterization studies periodically to comply with the requirements of AB 939. Contractor agrees to perform such studies if required by City and further to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste Collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed to satisfy the requirements of AB 939.

8.7.5 Implementation of Additional Diversion Services

In the event City does not meet the diversion, program, and reporting requirements imposed by AB 939, AB 341, AB 1826, and SB 1383 with respect to all waste generated in City, City may direct Contractor to perform additional services (including the implementation of new diversion programs) or modify the manner in which it performs existing services, and Contractor agrees to do so at such cost as approved pursuant to Section 22.4. Pilot programs and innovative services which may entail new Collection methods and the use of new or alternative waste processing and disposal technologies are included among the kinds of changes which City may direct.

8.8 Additional Services

As part of the consideration for entering this Agreement, Contractor shall provide the following additional services at no charge, and shall not adjust its rates to Customers to offset costs incurred in providing any of the following services:

8.8.1 Collection From City Buildings and Facilities

Contractor shall, free of charge, provide Garbage, Recyclables, and Organic Waste Collection services to all City buildings, facilities, and parks located within the City (**Exhibit B**). Contractor shall provide Containers for such routine service as City deems appropriate for each of its various Premises (i.e., Carts, Containers, Bins, or Roll off Boxes). Such services explicitly exclude Construction and Demolition Debris pick-up and disposal unless paid for by the City or its construction/demolition contractor at the rates set forth in **Exhibit A**. Contractor will provide Collection in the same manner and on the same terms and conditions as service provided to Commercial Customers and City shall comply with the requirements for such Commercial Customers. Such services explicitly exclude the removal of Construction and Demolition Debris for City projects.

8.8.2 Assistance for Special Events

Contractor shall assist Persons designated by City (whether City employees or private individuals) who are responsible for coordinating special events or events in large venues (such as concerts or sporting events) in the implementation of recycling programs. Contractor will arrange for and staff a booth or table at events to promote source reduction, reuse, Recycling, Composting, and proper handling of E-Waste, and Hazardous Waste and answer questions about Collection services. Special event activities are identified in **Exhibit C**, scheduled, and coordinated through the City. Notwithstanding the foregoing, Contractor may charge for refuse boxes, recycle boxes, and other containers Contractor provides for said special events at rates that do not exceed the maximum rates set forth in **Exhibit A**.

8.8.3 Holiday Trees

For the first three regularly scheduled pickup days after Christmas Day, Contractor shall, free of charge, pick up all natural, organic holiday trees placed out for Collection by Customers. Such trees shall not be comingled with other Solid Waste and shall be delivered to the Transfer Facility for Transfer to the Organics Facility for processing, rather than disposal, as required by the provisions hereof. All ornaments, tree stands, and other decorations shall have been removed from the holiday trees.

8.8.4 Free Disposal and Processing of City Delivered Waste

Contractor shall provide City with free disposal and processing of waste generated within City Limits and delivered from City owned and operated vehicles or authorized contracted vehicles to the Transfer Facility. This waste may include Green Waste from City authorized Public Works operations, as well as street sweeping debris from City's contracted services. Such waste shall be accepted at no charge to City, up to an aggregate of 1,000 tons per calendar year. Any tons delivered in excess of such limit will be charged at rates not exceeding the transfer rates charged to the public by Turlock Transfer at the time(s) of delivery. Contractor may reject loads or charge for processing in the event current local, state, or federal regulations result in an increase in fees, rates, or eventual uses of the delivered waste. Should such waste be prohibited from use as alternative daily cover at local landfills at the current no charge rate, Contractor and City agree to negotiate in good faith to determine an alternative use and corresponding cost of diversion or

reimbursement to Contractor for the end costs of the delivered waste as set forth in Section 22.4 of this Agreement.

8.9 Special Services

Contractor may provide special pickup procedures or services in addition to the services described herein for Customers who request or require such services at reasonable rates established by Contractor, which rates are subject to approval by the Municipal Services Director. Contractor shall notify the Municipal Services Director of any such services prior to such time as they are provided in order to allow the City an opportunity to conduct necessary inspections, review the proposed rate, and impose appropriate regulations.

8.10 Street Sweeping

In addition to its other rights, responsibilities, and obligations, Contractor shall further provide street sweeping services and dispose of refuse collected thereby on the following terms and conditions.

8.10.1 Scope of Services

(A) Contractor shall sweep all streets (except those without curb or gutter) within the City Limits and dispose of the refuse collected by such operations. The frequency of the street sweeping for the different areas of the City shall be as set forth as per **Exhibit G**.

(B) Contractor shall sweep the downtown municipal parking lots as designated in **Exhibit H** attached hereto at least monthly and shall dispose of the refuse collected by such operations.

(C) Contractor shall sweep downtown commercial and industrial areas of the City between the hours of 1 a.m. and 7 a.m. only and shall submit for approval of the Municipal Services Director a detailed map and schedule indicating dates and times other areas of the City are to be swept.

(D) During the months of November, December, January, and through the first Friday of February, Contractor will coordinate the street sweeping schedule to facilitate and enhance the City's leaf pickup program. City shall be responsible for all processing and disposal fees for processing and disposal of leaves and debris collected during the City's leaf pickup program.

(E) Contractor shall provide all equipment, vehicles, material, and labor necessary to perform the services set forth herein and shall pay all fees for disposal, except during the months of the leaf pickup program, or any other cost connected with the obligations assumed herein. City agrees to provide at no cost all water necessary for the sweeping services and Contractor agrees to maintain and submit upon request a record of the water furnished under this paragraph.

(F) Contractor will provide City with copies of all dumping weight tags or other records which show the total tonnage disposed of and the disposal site location.

(G) Contractor may be required to perform extra sweeping services in addition to the routine sweeping called for by this Agreement.

8.10.2 Compensation

Compensation for street sweeping and related services shall not exceed the amount set forth in **Exhibit A**, attached hereto. Contractor shall comply with all applicable prevailing wage laws with respect to street sweeping; provided, however, that, notwithstanding any other provision in this Agreement, any increase in wages and/or benefits for Contractor's employees required to comply with such laws as of and after the Effective Date shall constitute an Extraordinary Cost Increase entitling Contractor to an appropriate adjustment in the rates in accordance with Section 22.4 below. Contractor shall defend, indemnify, and hold City harmless from its failure to comply with such laws.

8.10.3 Invoices and Payment

Contractor shall submit monthly invoices to City specifying the total lineal curb mile swept and the amount due. All payments by City shall be made in arrears, after satisfactory service, as determined and approved by City. Payment shall be made by City no more than thirty (30) days from City's receipt of invoice. City shall normally pay by voucher or check within ten (10) working days after each City Council meeting at which payments can be authorized, provided that City receives the invoice at least five (5) working days prior to the City Council meeting date. If City disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, City may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions and reasons for such deletions shall be documented to Contractor within fifteen (15) working days after receipt of invoice by City. City shall assign a sequential reference number to each deletion. If dispute is settled, payment shall be by voucher or check payable to and mailed to Contractor immediately upon dispute settlement. City reserves the right only to pay for such services rendered to the satisfaction of City.

8.10.4 Termination

Each Party reserves the right to terminate the obligations set forth in this Section 8.10 only, without legal cause or excuse, by giving ninety (90) days' written notice of such intent to the other Party. However, if during any 12 month period Contractor's capital expenditures exceed \$100,000, City may not exercise its power of termination for a period of 36 months beginning at the end of the contract year during which said expenditures were made. Only capital expenditures approved by City will be included in calculating whether such expenditures exceed \$100,000.

8.10.5 Special Provisions

(A) Complaints. Contractor shall maintain a local telephone number to receive complaints regarding the street sweeping service. All complaints shall be investigated and

corrected, if necessary, by the end of the next working day after they are received. A log of complaints shall be prepared by Contractor and submitted to City on a monthly basis. The log shall contain items listing the number and location of complaints, the time the complaint was received, the action taken on the complaint and, if available, the name and telephone number of the complainant. Complaints received by City regarding sweeping and dumping of street sweeper refuse shall be relayed to Contractor's local number. In addition, any complaint brought to the attention of City's Municipal Services Department will be investigated independently by that department, and if the complaint is determined by the Municipal Services Director (or his or her designee) to be valid, and action by Contractor to remedy the cause of the complaint has not been taken by the end of the next working day after receipt by City of the complaint, the Municipal Services Director (or his or her designee) may order corrective action taken by departmental staff. The cost of corrective action, plus an administrative fee of \$100 per occurrence, will be deducted by City from the subsequent monthly payment due Contractor.

(B) Equipment. All equipment used in the performance of the services provided herein must be approved by the Municipal Services Director. Contractor will place decals on all equipment used that clearly identify Contractor and shall provide a local telephone number.

(C) License and Permits. Contractor will obtain all permits and licenses, including a City business license, necessary to provide street sweeping services.

SECTION 9.

MINIMUM STANDARDS FOR CONTRACTOR'S SOLID WASTE HANDLING SERVICE COLLECTION VEHICLES

9.1 General

Contractor shall provide vehicles for the Collection of Solid Waste ("Collection Vehicles") that are sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms. Contractor is expressly obligated to provide such Collection Vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection Vehicle used to respond to complaints and emergencies. Contractor shall use commercially reasonable efforts to operate primary Collection Vehicles that do not exceed ten (10) years from the date of manufacture, except for backup and Roll-off Collection Vehicles. Contractor must notify City of a need to use any Collection Vehicle exceeding ten (10) years from the date of manufacture as a primary Collection Vehicle. Such notification must accompany documentation demonstrating that such Collection Vehicle is in good operating condition, meets required safety and emissions standards, and is free of leaks.

9.2 Specific Requirements

Each Collection Vehicle utilized by Contractor in the performance of this Agreement shall meet the following minimum standards:

(A) Each Collection Vehicle shall be registered with the California Department of Motor Vehicles.

(B) Each Collection Vehicle shall be inspected regularly by Contractor, and not less than once every other year, to ensure it meets the requirements of the California Vehicle Code and the California Highway Patrol. Contractor shall provide copies of its Biannual Inspection of Terminal ("BIT") inspection reports to City and shall make all records related to its Collection Vehicles, including Contractor's maintenance records, available to City upon request by the Municipal Services Director. It is the intention of this provision that all Collection Vehicles be inspected at least once per year – every other year through a BIT inspection, and in alternative years at least once (if not more often) by Contractor.

(C) Each Collection Vehicle shall be equipped with devices capable of covering every open section of the Collection Vehicle in which Solid Waste may be placed and, while operating upon the public rights-of-way, shall be covered so as to prevent any Solid Waste from falling or being blown or otherwise dislodged from the Collection Vehicle.

(D) Each Collection Vehicle shall be continuously maintained so as to both: (1) meet the highest industry standards with regards to efforts to prevent liquid from leaking and to the degree possible ensure each Collection Vehicle is "watertight" and "leak-proof," and (2) at all times comply with the provisions of all laws and regulations including the Vehicle Code and any applicable National Pollutant Discharge Elimination System (NPDES) permit, with regard to materials leaking from Collection Vehicles. Contractor shall be responsible to promptly clean any spillage or Solid Waste that leaks or otherwise escapes the Collection Vehicle.

(E) Each Collection Vehicle shall be painted periodically, which shall include all necessary body work, and shall be regularly cleaned, so that such Collection Vehicles do not become unsightly, as determined by Contractor. Each Collection Vehicle shall be painted with Contractor's colors and identifying information as required herein.

(F) Contractor's name, local or toll-free telephone number, and a Collection Vehicle number shall be visibly printed or painted in letters not less than three inches in height on both sides of each Collection Vehicle. Any other information or signage printed, painted, or displayed on Contractor's Collection Vehicles, when such Collection Vehicles are providing Collection services within City Limits, shall be subject to approval by City.

(G) Each Collection Vehicle shall be maintained in a clean and sanitary condition, both inside and out and shall be washed at least once every seven (7) calendar days.

(H) Each Collection Vehicle shall carry a broom, shovel, and operable fire extinguisher, and shall be equipped with a communication device sufficient to allow the driver to communicate directly with Contractor's dispatcher and/or main office.

(I) Each Collection Vehicle shall be kept in good repair and working order, and shall be equipped with appropriate safety equipment, including any new safety related

technologies that become standard in the waste industry, and at a minimum shall have a video monitor based back-up system, or its equivalent; provided, however, that any such new safety related technologies adopted by Contractor with City's approval shall constitute Changes in Scope subject to increased compensation pursuant to Section 22.4 below. Contractor shall keep a sufficient supply of replacement parts and equipment on hand to ensure adequate vehicle maintenance and timely and continuous performance of the services contemplated by this Agreement.

(J) Each Collection Vehicle shall be equipped with the so-called "GPS Technology" whereby Contractor can track the location of each Collection Vehicle. Upon request from City, Contractor shall provide any available data from this system, such as route tracking information and similar data that may be useful in investigating Customer complaints.

(K) Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles which are not operating properly shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule. Contractor shall repair, or arrange for the repair of, all of its Collection Vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall keep accurate records of all Collection Vehicle maintenance and repair, recorded according to date and mileage, including signed verifications that repairs and maintenance has been properly performed, and shall make such records available to City upon request.

(L) No Collection Vehicle shall be utilized if it is leaking brake, hydraulic, or other fluids, and Contractor shall clean up any leaks or spills from their Collection Vehicles per the NPDES permit in effect at the time. No fluids shall be washed into storm drains at any time. All NPDES dry-cleaning measures shall be complied with. All Collection Vehicles must be equipped with absorbent for such cleanup efforts.

(M) Upon request, Contractor shall furnish City a written inventory of all equipment, including Collection Vehicles, used in providing service pursuant to this Agreement. This inventory shall list all equipment by manufacturer, ID number, date of acquisition, type and capacity.

(N) Contractor shall utilize Collection Vehicles of a size, weight, nature, and type so as to not be unreasonably intrusive on the community with respect to noise, emissions, maneuverability, safety, and other factors and to avoid or minimize pavement damage and wear and tear of the street or adjacent properties, as approved by the Municipal Services Director.

9.3 Costs of Operation and Damages

Contractor shall be responsible for any costs incurred in connection with ensuring all Collection Vehicles comply with all Applicable Law, including, without limitation, any such laws

and regulations that may now exist or hereinafter be adopted relating to noise, fuels, emission standards, or weight limits, subject to the provisions of Section 22.4.

9.4 Air Quality/Fuel Requirements

Contractor's Collection Vehicles currently run on Renewable Natural Gas (RNG) and Clean Diesel. During the Term, to the extent required by law, Contractor shall provide its Collection Vehicles to be in full compliance with all Applicable Laws, including State and Federal clean air requirements that are adopted or proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in California Code of Regulations, title 13, sections 2020 et seq., the Federal EPA's Highway Diesel Fuel Sulfur regulations and all other applicable air pollution control laws. Collection Vehicles used for Collection of Large Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

9.5 Zero Emission Vehicles

At such time as it is technologically and economically feasible, Contractor shall purchase electric or other zero emission Collection Vehicles and procure electricity or other fuel from qualifying sources to support procurement goals. City and Contractor shall proactively take such steps as are necessary to plan for, and upon City direction, execute transition of the Contractor's Collection Vehicles to reliance on electricity or other zero emission technologies as a fuel source. Contractor shall report to the City no less than annually on the status of the transition. City and Contractor shall, no less than annually, confer on the degree to which it is technologically and economically feasible to transition some or all Collection Vehicles to electricity or other zero emission technology. In determining whether it is economically feasible to transition Collection Vehicles per this Section, City and Contractor shall review and evaluate Contractor's current and historical finances and profitability compared to the targeted Operating Ratio listed in **Exhibit J**. Upon a determination by City that it is technologically and economically feasible to transition some or all Collection Vehicles to electricity or other zero emissions technology, Contractor shall proceed to purchase and operate such vehicles on a schedule mutually agreed to by Contractor and City, and Contractor shall be entitled to or eligible for a change in Contractor's compensation for the cost, including depreciation and interest, of transitioning to electric or zero emission Collection Vehicles, subject to the provisions of Section 22.4.

Contractor shall also be entitled to a change in Contractor's compensation for construction of an electric charging or other fueling station, subject to the mutual agreement of City and Contractor and approval of the City Council. Contractor will coordinate with City in finding or constructing a suitable charging or other fueling station for Contractor's electric or other zero emission Collection Vehicles.

9.6 Correction of Defects and Removal of Vehicles from Use within City

Contractor agrees to immediately remove from service, and replace or repair, to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, unsafe, unsanitary, leaking, out of compliance with any law or regulation or this Agreement, or otherwise

in an unsatisfactory operating condition; and any such Collection Vehicle shall not be returned to service until the Municipal Services Director gives his written consent for its return.

**SECTION 10.
CONTRACTOR'S SOLID WASTE HANDLING
SERVICE PERSONNEL**

10.1 Uniforms

Each of Contractor's Collection employees shall wear a clean uniform bearing Contractor's name.

10.2 Identification of Employees

Contractor shall provide business cards or similar devices, for all of its employees, and all authorized subcontractors, who may make personal contact with Customers. City may require Contractor to notify Customers yearly of the form of said identification.

10.3 Driver's License

Each employee operating a vehicle as part of his or her duties shall, at all times, carry a valid operator's license for the type of vehicle he or she is operating. All employees who may have contact with Customers in the course of performing their duties shall possess the ability to communicate effectively with Customers.

10.4 Screening of Field Employees

Contractor shall make reasonable efforts to determine if its employees working in the field (i.e., drivers of Collection Vehicles, and employees otherwise involved in Collection at Customer Premises) have been convicted of a felony and shall monitor such employees closely.

10.5 Discontinued Use of Unsatisfactory Employees

Subject to applicable employment and collective bargaining agreements, Contractor will discipline or remove from involvement with the public any employee that Contractor determines to be discourteous, disorderly, inefficient, or otherwise objectionable (provided the term "otherwise objectionable" shall not permit Contractor to "ban" an employee for reasons that violate public policy).

10.6 Training and Legal Compliance

Contractor shall provide operating and safety training that meets minimum CalOSHA standards for all personnel and shall comply with all laws and regulations applicable to its employees and personnel.

10.7 Customer Service

10.7.1 Office Hours

Contractor shall maintain at least one office within Stanislaus County for communication with the public that, at a minimum, will be open from 8:00 a.m. to 5:00 p.m. Monday through Friday. Contractor shall use commercially reasonable efforts to assure that at least one responsible and qualified representative of Contractor, capable of communicating in English and Spanish, shall be present and available during all times that an office is required to be open as noted above ("Office Hours"), for personal communication with the public regarding Billing, the payment of Bills, complaints, customer service inquiries, etc., and that a similarly qualified Person shall be available for communication with the public by phone during any times other than Office Hours when Collection is occurring.

10.7.2 Telephone Customer Service Requirements

10.7.2.1 Local Number

Contractor shall maintain a local telephone number that rings at an office within Stanislaus County at all times during Office Hours.

10.7.2.2 Call Responsiveness

Contractor shall make reasonable attempts to answer all phone calls. If a call has been placed on hold for three (3) minutes, the caller will either be switched to a message center which shall be responsible to obtain the caller's address and phone number, or a Customer service representative will obtain the Customer's address and a number at which the call can be returned.

10.7.2.3 Government Liaison

Contractor shall designate in writing a "Government Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer complaints.

10.8 Community Outreach and Education

10.8.1 General

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of AB 939, AB 341, AB 1826 and SB 1383. Accordingly, Contractor agrees to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and recycle Solid Waste and to cooperate fully with City in this regard.

10.8.2 Sustainability Representative.

Contractor shall provide, at a minimum, one (1) half-time equivalent, with up to one (1) full-time equivalent, as needed, Sustainability Representative dedicated to City to promote high participation by Customers and high diversion from disposal for Contractor's provided

Recyclables and Organic Waste programs, including conducting site visits as requested by City and providing outreach and education in support of meeting CalRecycle Diversion requirements and to meet State mandates associated with AB 939, AB 341, AB 1826, AB 1594, SB 1016, and SB 1383, and all amendments and related subsequent legislation. Any need for additional staffing shall be subject to the mutual agreement of City and Contractor upon evaluation of initial level of effort needed to accomplish the tasks included in this Section 10.8 and other considerations such as new or amended State mandates.

Contractor's Sustainability Representative shall be responsible for implementation of the tasks listed in this Section and shall serve as a liaison between City and Contractor. Contractors' Sustainability Representative shall be available as needed to meet with the City, and/or the City's designated representative, Stanislaus County staff, and CalRecycle representatives.

Contractor shall maintain a program of providing information relevant to the need and the methods to reduce, reuse and recycle Solid Waste, and City upon request from Contractor, may include such information along with Bills provided to Customers. All public education materials shall be approved in advance by City. Contractor shall keep a record of all promotional and public education materials utilized and shall provide quarterly reports summarizing its public outreach and education efforts.

10.8.2.1 Corrective Action Notice

Contractor shall develop a corrective action notification form for use in instances where a Customer sets out inappropriate materials for Collection, that explains the appropriate manner for disposal of such items.

10.8.2.2 Community Relations

The Sustainability Coordinator shall as part of his or her job function routinely visit civic groups, and school assemblies to promote and explain the recycling options and other programs that Contractor offers and participate in demonstrations and civic events.

10.8.2.3 Annual Collection Notice

Contractor shall provide the following to all its customers under this Agreement annually:

- (A) Information on the customer's requirements to properly separate materials in appropriate Containers.
- (B) Information regarding how to recover Organic Waste.
- (C) A link to the Contractor's website for additional information.
- (D) The above information will be provided, at a minimum, through print and/or electronic media, and may also be provided through workshops, meetings and/or on-site visits.

(E) The information and materials described in this Section shall be provided in English, and Spanish.

10.8.2.4 Web Site Page

Contractor shall dedicate one page of its web site to City services, which shall include at least the following information: a listing of contact numbers for Customer Service; holiday schedules, recyclable items, downloadable copies of all the materials described in Section 10.8.2.3 and the following information as required by SB 1383:

(A) Information on methods for: the prevention of Organic Waste generation, recycling Organic Materials on-site, sending Organic Waste to community composting, and any other local requirements regarding Organic Waste.

(B) Information regarding the methane reduction benefits of reducing the landfill disposal of Organic Waste, and the methods of Organic Waste recovery contemplated by this Agreement.

(A) Information related to the public health and safety and environmental impacts associated with the landfill disposal of Organic Waste.

During the first six months following the implementation of new services hereunder, this web page shall also provide information explaining the new service, and the proper use of Containers.

SECTION 11. CONTRACTOR'S CONSIDERATION

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

11.1 Franchise Fee

11.1.1 Monthly Franchise Fee

Contractor shall pay to City, by way of City's deduction from the amounts City collects from Customers on Contractor's behalf, a Franchise Fee equal to fifteen percent (15%) of Gross Receipts each year, or portion thereof, during the entire Term of this Agreement (the "Franchise Fee"). City's monthly payment to Contractor shall be accompanied by a statement attesting to the accuracy of the amounts paid, the Franchise Fee withheld, and setting forth the basis for their calculation in a manner acceptable to Contractor. Contractor and City agree that the Franchise Fee and other administrative charges by City under this Agreement are intended to offset the actual costs to City of administering this Agreement, regulating the solid waste utility, and other recoverable costs. To the extent the Franchise Fee and such charges exceed such costs, they represent a reasonable charge paid by Contractor for use of the tangible right-of-way for Collection and related activities. The City may modify the Franchise Fee or impose new City fees with written one hundred and eighty (180) days' prior written notice to Contractor. City shall increase the

maximum service rates to reflect any increased costs due to any changes in the fees and shall decrease the maximum service rates to reflect any reduced costs due to any changes in the fees.

SECTION 12. BILLING SERVICES AND SYSTEMS

12.1 Billing

Billing of customers is conducted by City on a monthly basis in arrears for services being provided for all Customers at Single Family or Multi-Family Dwellings utilizing Carts, Bins, or other Containers for Collection, and on a monthly basis in arrears for all other Customers. Contractor shall provide City with monthly information enabling City to provide all Customers with itemized Bills, detailing charges for all services, including the applicable rates (subject to the maximum rates set forth in **Exhibit A**), as well as the period of service to which the Bill applies.

12.2 Billing System

12.2.1 Computerization of Account Information

Contractor shall provide and maintain, at its expense, computer equipment sufficient to operate pertinent computer programs and otherwise provide the services required by this Section.

12.2.2 Minimum Computer Programming Requirements

In addition to any other requirements set forth herein, the programs created by Contractor to operate and maintain the Service tracking system shall at a minimum be able to perform the following functions:

- (A) create a permanent record of any adjustment to a Customer's account; and
- (B) work in connection with a backup system such that all Customer account data and records is protected from a computer failure and permanently preserved on not less than a daily basis.

12.3 Payment, Accounting Systems

12.3.1 Collection and Processing of Payments

12.3.1.1 Accounting and Deposit of Funds

All payments received from Customers by City shall be paid to Contractor, minus the applicable Franchise Fee, on a monthly basis. All payments received by City shall be appropriately credited to Customer accounts, deposited in a bank account and accounted for in a businesslike manner utilizing generally accepted accounting principles.

SECTION 13. FAITHFUL PERFORMANCE

13.1 Surety

Contemporaneously with execution of this Agreement, as security for Contractor's faithful performance of all obligations of this Agreement, Contractor shall provide a surety mechanism (the "Surety") as more fully defined below in the amount of Five Hundred Thousand Dollars (\$500,000.00). The Surety may be comprised of either a performance bond or an irrevocable letter of credit, or a combination of both. If a letter of credit is utilized to satisfy some or all of the Surety requirement, it shall be drawn upon a financial institution of a financial strength satisfactory to the City Attorney which has an office within one hundred (100) miles of City and otherwise in a form acceptable to the City Attorney. The performance bond, if any, shall be issued by a duly authorized corporate surety company authorized to do business in California, and in a form acceptable to the City Attorney for the City. The cost of the Surety shall be the sole responsibility of Contractor. The Surety shall be released within thirty (30) days after both (i) the expiration of the Term of this Agreement and (ii) Contractor's satisfactory performance of all obligations hereunder.

13.1.1 Forfeiture of Surety

In the event Contractor shall for any reason (except as otherwise provided in this Agreement) become unable to, or fail in any way to, perform as required by this Agreement, City may declare a portion or all of the Surety, as may be necessary to recompense and make whole the City, forfeited to the City. Upon partial or full forfeiture of the Surety, Contractor shall restore the Surety to its original amount within thirty (30) days of the City's notice to do so. Failure to restore the Surety to its full amount within thirty (30) days shall be a material breach of this Agreement.

13.2 Replacement Letter of Credit

City may draw upon the entire letter of credit (if any) utilized to meet Contractor's obligations pertaining to the Surety, and convert it to a cash deposit, if Contractor fails to cause the letter of credit to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration.

SECTION 14. INSURANCE COVERAGE

Contractor shall procure and maintain during the entire Term of this Agreement the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Contractor's performance hereunder or the actions or inactions of any of Contractor's officers, agents, representatives, employees, or Subcontractors in connection with Contractor's performance. The insurance requirements hereunder in no way limit Contractor's various defense and indemnification obligations, or any other obligations as set forth herein.

14.1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

(A) The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).

(B) The most recent editions of Insurance Services Office form number CA 00 01 1001 covering Automobile Liability, code 1 "any auto."

(C) Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

14.2 Minimum Limits of Insurance

Contractor shall maintain in force for the Term of this Agreement limits no less than:

14.2.1 Comprehensive General Liability

Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per occurrence for bodily injury, personal injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

14.2.2 Automobile Liability

Ten Million Dollars (\$10,000,000.00) limit aggregate and Ten Million Dollars (\$10,000,000.00) limit per accident for bodily injury and property damage. Such limits can be achieved through a combination of primary and excess liability policies.

14.2.3 Workers' Compensation and Employers Liability

Workers' compensation limits as required by the Labor Code of the State of California and Employers Liability limits of One Million Dollars (\$1,000,000.00) per accident.

14.3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by City. If, in the reasonable opinion of the City, Contractor does not have sufficient financial resources to protect the City from exposure with respect to any deductibles or self-insured retentions Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

14.4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provision:

14.4.1 General Liability and Automobile Liability Coverage

City and its elected and appointed officials, officers, employees, agents and volunteers shall be named as additional insureds in connection with liability arising out of activities performed by or on behalf of Contractor; Premises owned, leased or used by Contractor; and vehicles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City or its elected and appointed officials, officers, employees,

agents and volunteers. Contractor's insurance coverage shall be the primary insurance for the City and its elected and appointed officials, officers, employees, agents and volunteers in connection with the above enumerated categories. Any insurance or self-insurance maintained by City or its elected and appointed officials, officers, employees, agents and volunteers shall be in excess of Contractor's insurance and shall not contribute with it. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to City or its elected and appointed officials, officers, employees, agents and volunteers. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

14.4.2 Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against City and its elected and appointed officials, officers, employees, agents and volunteers for losses arising from work performed by Contractor for City.

14.4.3 Environmental Pollution Control Insurance

Contractor shall maintain either an endorsement to its general liability policy, or a separate policy of insurance covering environmental pollution and contamination that names the City as an additional insured. Said coverage shall be in the amount of not less than Five Million Dollars (\$5,000,000) per occurrence, and Five Million Dollars (\$5,000,000) in the aggregate and shall substantially comply with all other provisions set forth in Section 14.4.1.

14.4.4 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, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

14.5 Acceptability of Insurers

The insurance policies required by this Section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better, unless otherwise approved by the Municipal Services Director, which approval shall not be unreasonably withheld, conditioned or delayed.

14.6 Verification of Coverage

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Article. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

14.7 Loss or Reduction in Insurance

If Contractor fails to retain or maintain insurance with the scope and amounts of coverage required hereunder, City shall have the right, but not the obligation to either terminate this Agreement, or obtain insurance coverage as required herein on behalf of Contractor and utilize funds from the Surety defined in Section 14 to pay the cost of providing such coverage.

SECTION 15. ASSIGNMENT, SUBLETTING, AND TRANSFER; REQUIREMENTS AND LIMITATIONS

15.1 General

Contractor shall not assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement (collectively referred to as an "Assignment") to any other Person without the prior approval by the City Council. The City Council has unfettered discretion to approve or deny such an Assignment. Any such Assignment made without the approval by the City Council shall be void and the attempted Assignment shall constitute a material breach of this Agreement.

15.2 Assignment to be Broadly Interpreted

For purposes of this Section the term "Assignment" shall be given the broadest possible interpretation and shall include, but not be limited to: (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of more than fifty percent (50%) of the outstanding shares of capital stock of Contractor to a third party; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Contractor (as defined below); (iv) any assignment by operation of law which results in a change of ownership or control of Contractor, including those resulting from mergers or acquisitions by or of Contractor, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which results in a change of ownership or control of Contractor. A change of ownership or control of Contractor will consist of the transfer of more than fifty percent (50%) of the outstanding shares of Contractor to one or more third parties, excluding transfers to Contractor, transfers between existing shareholders, or transfers by an existing shareholder to members of such shareholder's family or to a trust for the benefit of the members of such shareholder's family.

15.3 Nature of Agreement— Personal to Contractor

Contractor acknowledges that this Agreement involves rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Solid Waste Handling Services in a safe, effective and responsible fashion, at all times in keeping with

applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

15.4 Procedure for Consideration of Assignment

If Contractor requests City's consideration of and consent to an Assignment, the City Council may deny, approve or conditionally approve such request in its sole and absolute discretion. Under no circumstances shall City be obliged to consider any proposed Assignment if Contractor is in default at any time during the period of consideration. Should the City consent to any Assignment request, such Assignment shall not take effect until all conditions relating to the City's approval have been met. Any request for an Assignment shall be made in a manner to be prescribed by the Municipal Services Director, and no request by Contractor for consent to an Assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the Assignment if approved, made reasonable assurances that it will meet) the following requirements:

(A) If requested to do so, Contractor shall furnish City with audited financial statements of the proposed assignee's operations for the immediately preceding three (3) operating years.

(B) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with state, federal or local laws, including the Environmental Laws and that the assignee has provided City with a complete list of such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, state and local laws regulating the Collection and disposal of Solid Waste including Hazardous Substances; and (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

(C) Upon making a request to City for its consent to the Assignment, Contractor shall provide to City a payment of one hundred thousand dollars (\$100,000) for City's costs to perform its due diligence related to the requested Assignment.

(D) The proposed assignee shall execute an agreement assuming all of Contractor's rights and liabilities under this Agreement.

SECTION 16. REVIEW OF SERVICES AND PERFORMANCE

16.1 Customer Accounts/Financial and Performance Reviews.

The purpose of the review is to determine that the amount reported to the City for Billing purposes for each Customer is correct with regard to the level of service (i.e., frequency of collection, size of container, location of container) and Service Rates and charges in effect at the time. The Contractor shall review Customer accounts not less than every two (2) years and provide a written certification to the City that all such Billing reports provided to the City are correct. The documentation of the review, as well as verification that any errors have been corrected should be provided to the City within thirty (30) days of Contractor's completion of the Billing review.

16.2 Selection and Cost.

City may conduct customer account, financial and performance reviews (together, "reviews") of Contractor's performance at any time during the term of this Agreement. The reviews will be performed by the City or a qualified firm under contract to City. City will have the final responsibility for the selection of the firm. City may conduct reviews at any time during the Term of this Agreement.

16.3 Purpose.

The reviews will be designed to verify that Billings have been properly calculated and they correspond to the level of service received by the Customer, verify that Contractor is correctly instructing City on Billing and City is correctly Billing for all Collection Services provided, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify Contractor's records of solid waste dispensation, and verify any other provisions of this Agreement. City (or its designated consultant) may utilize a variety of methods in the execution of this review, including, but not limited to, analysis of relevant documents, on-site and field observations, and interviews. City (or its designated consultant) will review and document the items in this Agreement that require Contractor to meet specific performance standards, submit information or reports, perform additional services, or document operating procedures, that can be objectively evaluated. This information will be documented and be formatted in a "compliance checklist" with supporting documentation and findings tracked for each of the identified items. City (or its designated consultant) may review the customer service functions and structure utilized by Contractor. This may include Contractor's protocol for addressing complaints and service interruption procedures. Complaint logs may be reviewed, along with procedures and systems for tracking and addressing complaints. On-site and field observations by City (or its designated consultant) may include, but are not necessarily limited to:

- (A) Interviews and discussions with Contractor's administration and management personnel;
- (B) Review and observation of Contractor's customer service functions and structure;
- (C) Review of public education and outreach materials;

- (D) Interviews and discussions with Contractor's financial and accounting personnel;
- (E) Interviews with route dispatchers, field supervisors and managers;
- (F) Interviews with route drivers;
- (G) Interviews with Collection Vehicle maintenance staff and observation of maintenance practices; and
- (H) Review of on-route Collection services, including observation of driver performance and collection productivity and visual inspection of residential routes before and after collection to evaluate cart placement and cleanliness of streets.

16.3.2 Contractor's Cooperation.

Contractor shall cooperate fully with the review and provide all requested data, including operational data, financial data and other data reasonably requested by City within fifteen (15) Days of the request.

City Requested Program Review.

City reserves the right to require Contractor to periodically conduct reviews of the Residential and Commercial Garbage and Organic Waste collection programs, provided that such reviews are reasonable and can be accomplished at no additional cost to Contractor and without interfering with Contractor's operations. Such reviews could assess one or more of the following performance indicators: average volume of Organic Waste per setout per Customer, participation level, Contamination levels, etc. Prior to the program evaluation review, City and Contractor will meet and discuss the purpose of the review and agree on the method, scope, and data to be provided by Contractor.

SECTION 17. CITY'S REMEDIES; DEFAULT AND TERMINATION

17.1 Notice of Default

All provisions of this Agreement are considered material. Each of the following shall constitute a default hereunder:

- A. **Fraud or Deceit.** Contractor practices, or attempts to practice, any fraud or deceit upon City.
- B. **Insolvency or Bankruptcy.** Contractor becomes insolvent, unable, or unwilling to pay its debts, or upon entry of an order for relief in favor of Contractor in a bankruptcy proceeding.
- C. **Failure to Maintain Coverage.** Contractor fails to provide or maintain in full force and affect the insurance coverage required by this Agreement.

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

E. **Violations of Applicable Law.** Contractor has been found to be in violation of Applicable Law (other than any related to Criminal Activity) relative to this Agreement, provided that Contractor may contest any such allegation or finding by appropriate proceedings conducted in good faith, in which case no breach or default of this Agreement shall be deemed to have occurred until the conclusion of such proceedings.

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

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

H. **Acts or Omissions.** Any other act or omission by Contractor which violates the terms, conditions, or requirements of this Agreement, and which is not corrected or remedied within the time set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

I. **False, Misleading, or Inaccurate Statements.** Any representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement; and any Contractor-provided report containing a misstatement, misrepresentation, data manipulation, or an omission of fact or content explicitly defined by this Agreement, excepting non-numerical typographical and grammatical errors.

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

K. **Suspension or Termination of Service.** There is any termination or suspension of the transaction of business by Contractor related to this 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 two (2) calendar days.

L. **Criminal Activity.** Contractor, its officers, managers, or employees are found guilty of Criminal Activity related directly or indirectly to performance of this Agreement

or any other agreement held with the City.

M. **Assignment without Approval.** Contractor transfers or assigns this Agreement without the express written approval of the City pursuant to Section 15.1 and following the notice procedures defined in Section 15.4.

N. **Failure to Provide Proposal or Implement Change in Service.** Contractor fails to provide a proposal for new services or changes to services or fails to implement a Change in Scope as requested by the City as specified in Section 8.7.5., for example.

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

If the Municipal Services Director determines that a default has occurred, the Municipal Services Director will provide written notice to Contractor of such default. The Municipal Services Director may, in such written notice, set a reasonable time within which correction of such default shall be made. Unless a longer time is otherwise specified by the Municipal Services Director, a reasonable time for correction shall be thirty (30) days from the date such written notice is given.

17.2 Failure to Cure

If Contractor fails to correct, to the satisfaction of the Municipal Services Director, all deficiencies contained in the written notice thereof within the specified time, or if it is not reasonably possible to correct such deficiencies within the specified time, and Contractor fails to commence to correct or remedy such deficiencies within the specified time and diligently effect such correction or remedy thereafter, then the Municipal Services Director may refer the matter to the City Council for review, or review the matter himself.

17.3 Review by Municipal Services Director

If the Municipal Services Director reviews the matter and determines that Contractor has failed to properly or adequately cure any default set forth above, the Municipal Services Director, in the exercise of their discretion, may terminate this Agreement, or take such other action as they deem appropriate to pursue any remedy available to City. A decision or order of the Municipal Services Director shall be final and binding on Contractor unless Contractor files a "Notice of Appeal" with the City Clerk within five (5) business days of the date the notice of the Municipal Services Director's decision is given. The Municipal Services Director shall schedule any appeal for consideration by the City Council at the earliest feasible City Council Meeting following the date a Notice of Appeal is given to City.

17.4 City Council Review

If the Municipal Services Director refers the matter to the City Council without rendering a decision, the City Council shall set the matter for consideration before the City Council as a regular agenda item. In reviewing the matter, the City Council may consider any information reported by the Municipal Services Director regarding the deficiencies, and shall give Contractor, or its representatives and any other interested Person, a reasonable opportunity to be heard. The

City Council shall determine whether Contractor has failed to properly or adequately perform as set forth above, and if so whether to terminate this Agreement, or to pursue any other remedy available to City.

17.5 Performance During Reviews

Contractor's performance under this Agreement is not excused during any period of time when its performance is under review as set forth above, including at any time prior to a final decision as to whether such performance is deficient.

17.6 Termination without Right to Cure

The above right of termination as a result of Contractor's failure to timely cure any default is in addition to City's right to terminate this Agreement without affording Contractor an opportunity to cure in circumstances where Contractor is determined by City to have materially breached this Agreement. City shall thus be afforded the right to terminate this Agreement in the event of any material breach hereof by Contractor without affording Contractor the right to cure as a result of any action, inaction or circumstance which is defined herein as a material breach, as follows: a default described in Section 17.1A., B. or C., a failure to indemnify as required by this Agreement, a willful default described in Section 17.1D. or E., or a default described in Section 17.1K.

SECTION 18.

CONTRACTOR'S REMEDIES; ADMINISTRATIVE HEARING

18.1 Administrative Hearing

Should Contractor contend that City is in breach of any aspect of this Agreement, it shall give notice to the Municipal Services Director requesting an administrative hearing on the allegation. The hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the parties, and shall be held before an impartial hearing officer to be determined by the Municipal Services Director. The hearing officer shall make an advisory ruling on Contractor's allegations and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling and recommendations shall become final and binding if the parties agree in writing within thirty (30) days of the date notice of the decision is given to both parties. Otherwise, the hearing officer's ruling shall have no further force or effect.

18.2 Other Remedies; Claims

Contractor shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Contractor shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and the above noted thirty (30) day period to accept the hearing officer's decision has passed, or either City or Contractor has given timely written notice to the other that it will not accept the hearing officer's decision.

18.3 Actions for Damages

As a prerequisite to the filing and maintenance of any action for damages by Contractor against City arising out of this Agreement, Contractor shall present a claim to City, as required by Government Code Section 910 et seq., within thirty (30) days of the date of the occurrence giving rise to the claim for damages. Contractor shall have no right to assert a claim for damages related to City's failure to approve or delay in considering a rate adjustment. In such cases, County may file a petition for writ of mandate.

SECTION 19. RIGHTS OF CITY TO PERFORM DURING EMERGENCY

19.1 Provision of Service

Should Contractor, for any reason whatsoever, refuse or be unable to provide Solid Waste Handling Services for a period of more than seventy-two (72) hours, and if as a result thereof, Solid Waste should accumulate in City to such an extent or in such a manner that the Municipal Services Director finds that such accumulation endangers or menaces the public health, safety, or welfare, City shall have the right, upon twenty-four (24) hours prior written notice to Contractor, during the period of such emergency, to temporarily take possession of any or all equipment and facilities of Contractor previously used in providing Collection, transportation, and disposal of Solid Waste and provide, through its own forces or otherwise, Solid Waste Handling Services which Contractor otherwise would be obligated to provide pursuant to this Agreement. Contractor agrees that in such event it shall fully cooperate with City to affect such a transfer of possession for City's use.

19.2 Possession of Equipment

Contractor agrees, that in the event of circumstances described in Section 19.1 above, City may take temporary possession of and use all of said equipment and facilities without paying Contractor any rental or other charge provided that City shall pay to Contractor's bank or other lender the principal and interest payments due in respect of such equipment and facilities, possession of which is taken by City, for the period of City's possession. Upon Contractor giving City notice that it can resume its normal responsibilities under this Agreement City shall relinquish possession of all of the above-mentioned property to Contractor.

SECTION 20. PRIVACY

Each Party shall strictly observe and protect the privacy rights of Customers. Information identifying individual Customers Billing information pertaining to any Customers, shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, ordinance, or regulation of a governmental agency having jurisdiction, or upon valid authorization of the Customer. This provision shall not be construed to preclude either Party from preparing, participating in, or assisting in the preparation of waste characterization studies or waste audits which may be required by AB 939, SB 1383 or this Agreement. Neither Party shall market or distribute, outside the normal course of its business, mailing lists with the names and addresses of Customers. The rights afforded Customers pursuant

to this Section shall be in addition to any other privacy right afforded Customers pursuant to federal or state law.

SECTION 21. REPORTS AND ADVERSE INFORMATION

Contractor shall submit the following reports to City during the Term of this Agreement. The format of each report shall be approved by City. Contractor agrees to submit all reports in an electronic format approved by City, compatible with City's software/computers at no additional charge. All reports required under this Section shall be furnished at the sole expense of Contractor.

21.1 Daily Reporting. On a daily basis, Contractor will provide City with its report describing Service changes for existing Customers during the previous day.

21.2 Monthly Reporting. On a monthly basis, not later than the fifth day after the end of each calendar month, Contractor will provide City with a report enabling City to provide all Customers with itemized Bills detailing charges for all Services, including extra Service charges (such as number of Roll off Box pulls, number of Compactor pulls and Walk-Out Service), and non-recurring Service charges, as well as the period of service to which the Bill applies.

21.3 Quarterly Reporting. On a quarterly basis, not later than the fifth day after the end of each quarterly reporting period, Contractor will provide the City with a report that includes all items listed below in this Section 21.3.

(A) All public outreach and education efforts.

(B) AB 341, AB 1826, and SB 1383 Compliance Data. Contractor must report the total number of Commercial Service Units serviced and the number of Containers, container sizes and frequency of Collection for Garbage, Recyclables, and Organic Waste for each Commercial and Multi-Family Dwelling Service Unit. Contractor must also provide the following information separately for AB 341, AB 1826 and SB 1383:

(1) The total number of Multi-Family and Commercial customers that fall under the AB 341, AB 1826 or SB 1383 thresholds, and the total number of those Multi-Family and Commercial Customers that are not receiving Contractor's required services for Recyclables and/or Organic Waste.

21.4 Annual Reporting. On an annual basis, not later than 5:00 p.m. PT on April 1, 2024 and each April 1st thereafter, Contractor will submit an annual report to City for the previous Calendar Year. If April 1st falls on a day that City is closed, then the report will be due on the next business day. The Annual Report must include all items listed below in this Section 21.4.

(A) Organic Waste Data. Gross tons of Organic Waste collected from Single Family, Multi-Family, and Commercial Organic Waste service Customers. Include the total number of generators that receive each type of Organic Waste Collection Service provided by the Contractor. Indicate number of Containers distributed by size and service unit type.

(B) Recyclable Material Data. Gross tons of Recyclable Material collected from Single Family, Multi-Family, and Commercial Recyclable Material service Customers. Include the total number of generators that receive each type of Recyclable Material Collection Service provided by the Contractor. Indicate number of Containers distributed by size and service unit type.

(C) Garbage Data. Gross tons of Garbage collected from Single Family, Multi-Family, and Commercial Garbage service Customers. Include the total number of generators that receive each type of Garbage Collection Service provided by the Contractor. Indicate number of Containers distributed by size and service unit type.

(D) Pedretti and Sports Complex. Gross tons of Garbage and Recyclable Materials, respectively, collected from Pedretti Park and the Regional Sports Complex.

21.5 CalRecycle Reports.

Contractor will provide reasonable assistance to City, as requested, in preparing annual reports to CalRecycle, including but not limited to supplying required data for preparation of the reports.

21.6 Adverse Information

(A) Contractor shall provide City two copies of all reports and other material adversely affecting this Agreement submitted by Contractor to the United States Environmental Protection Agency, CalRecycle, the California Regional Water Quality Control Board, and any other federal, state, regional, or local regulatory agency. Copies shall be submitted to City simultaneously with Contractor's filing of such matters with said agencies. Contractor's routine correspondence to said agencies need not be automatically submitted to City but shall be made available to City upon written request.

(B) Contractor shall submit to City copies of all pleadings, applications, notifications, communications, and documents of any kind submitted by Contractor to, as well as copies of all decisions, correspondence, and actions by, any federal, state, and local courts, regulatory agencies, and other government bodies relating in any manner to Contractor's performance of services pursuant to this Agreement. To the degree authorized by law, any confidential data exempt from public disclosure shall be retained in confidence by City and its authorized agents and shall not be made available for public inspection.

21.7 Disaster Plan

Within ninety (90) days after a request by City, Contractor shall prepare a draft disaster plan that sets forth procedures for maintaining regular Collection service and Collection of debris following a major natural disaster such as an earthquake, fire or other similar emergency event (not including labor disputes). The disaster plan shall address arrangements to provide needed vehicles and personnel, priorities for cleanup at critical facilities, and procedures for reimbursement for costs, describe communication plans, list key contact persons, and provide maps showing proposed sites for stockpiling of disaster debris that cannot be transported to the landfill. Contractor shall coordinate the plan with City's emergency service teams. The draft plan

shall be presented to the Municipal Services Director for consideration and approval. The final plan shall be distributed to those employees of Contractor and City who would have a role in implementing it in the event of a disaster.

In addition, at City's request, Contractor shall assist City with such emergency Collection service and Collection of debris following a major natural disaster such as an earthquake, fire, or other similar emergency event. In the event of such a request, Contractor and City shall meet and confer in good faith to determine a fair and reasonable rate to compensate Contractor for providing such assistance.

SECTION 22. COMPENSATION

22.1 Contractor Rates

City charges to and collects from Customers service rates, which shall be set by Contractor, subject to approval by the City Council, and shall not exceed those set forth in the attached **Exhibit A**, subject to annual adjustments in accordance with Section 22.3 below and other adjustments in accordance with Section 22.4 below. The maximum rates set forth in **Exhibit A** are inclusive of all services to be provided, including transportation, disposal, and Container costs, and no other charges shall be imposed by Contractor for such services. Compensation to Contractor is made by the City based on what the City Bills to Customers, less the City's retention of collections for its Billing functions and the Franchise Fee.

22.2 Resolution of Disputes Regarding Rate Adjustments

Any dispute regarding an adjustment to the maximum rates Contractor may charge, or the computation thereof, shall be decided by the Municipal Services Director, subject to Contractor's right to submit the matter to a court of competent jurisdiction. The rates in effect at the time such dispute is submitted to the Municipal Services Director shall remain in effect pending resolution of such dispute. The effective date of the adjusted maximum rate following the resolution of any such dispute, whether retroactive or prospective, shall be determined by the Municipal Services Director, subject to Contractor's right to submit the matter to a court of competent jurisdiction.

22.3 Annual Rate Adjustments

Exhibit A sets forth the maximum rates for Rate Year 1 (the period from July 1, 2023 through December 31, 2023), Rate Year 2 (January 1, 2024 through December 31, 2024), Rate Year 3 (January 1, 2025 through December 31, 2025), and Rate Year 4 (January 1, 2026 through December 31, 2026).

Notwithstanding the foregoing, Rates for Rate Years 3 and 4 shall be adjusted as follows,

- Year 3 (January 1, 2025 through December 31, 2025):
 - o Cart rates will be increased by the increase, if any, in the Refuse Rate Index ("RRI") for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.2%.

- Bin rates will be increased by the increase, if any, in the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.3%.
 - Roll off Box rates will be increased by the increase, if any, in the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.1%.
- Year 4 (January 1, 2026 through December 31, 2026):
- Cart rates will be increased by the increase, if any, in the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.8%.
 - Bin rates will be increased by the increase, if any, in the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.8%.
 - Roll off Box rates will be increased by the increase, if any, in the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**, capped at 5% plus 1.7%.

Not later than June 30, 2026, City and Contractor will conduct a detailed rate review in accordance with **Exhibit J** attached hereto to set rates for implementation in Rate Year 5 (January 1, 2027 through December 31, 2027). Commencing with Rate Year 8 and every three (3) years thereafter, either Party may elect to conduct a detailed rate review in accordance with **Exhibit J** to set rates for implementation on the next January 1, provided that such election is made in writing not later than June 30 of the current Rate Year in the case of Contractor and not later than March 31 of the current Rate Year in the case of City.

Starting in Rate Year 6 (January 1, 2028 through December 31, 2028) and on each subsequent January 1st during the Term hereof (except in Rate Years when a detailed rate review is conducted) the maximum rates will be adjusted by the RRI for the twelve (12) month period prior to the applicable Adjustment Date, in accordance with **Exhibit I**. At least ninety (90) days prior to any rate increase due to an increase in the RRI, Contractor shall obtain the Municipal Services Director's approval of the new rates. The Municipal Services Director shall approve such a request unless it is determined, based upon substantial evidence, that the requested adjustment to the maximum rate does not meet the requirements as set forth herein.

22.4 Changes in Scope; Changes in Law; Changes in Fees; Extraordinary Cost Increase

In the event of any Change in Scope or Change in Law (each as described below) that results in an increase or decrease in Contractor's costs or revenues, in the event of an Extraordinary Cost Increase (as defined below), or in the event of any Change in Fees (as defined below), an appropriate adjustment will be made in the rates in order to compensate, to the maximum extent possible, for such increase or decrease in costs, revenues or Fees, commencing from the date(s) such increase or decrease first occurs while maintaining Contractor's Operating Ratio (as defined

in **Exhibit J**). Any rate adjustment due to a Change in Scope, a Change in Law or an Extraordinary Cost Increase shall be in the reasonable discretion of City.

“Change in Fees” shall mean any change in the Franchise Fee and/or other fees charged to Contractor by any governmental agency (including, without limitation, City) in connection with the Solid Waste Handling Services provided by Contractor under this Agreement, including, without limitation, the cancellation of any existing fees, and the adoption of any new fees.

“Extraordinary Cost Increase” shall mean a substantial increase in Contractor’s operating or capital costs or expenses that is outside of Contractor’s control but not due to a Change in Scope or a Change in Law, including, without limitation, additional wage and/or benefit costs for employees that become subject to a collective bargaining agreement.

In the case of a Change in Scope, a Change in Law or an Extraordinary Cost Increase, Contractor shall provide City with projected operational, cost and revenue data reflecting the entire financial effect of such Change or Increase, including any projected change in Contractor’s Profit. City reserves the right to require that Contractor supply any additional operational, cost and revenue data, or any other information it may reasonably need, to ascertain the appropriate financial impact of the Change or Increase and any necessary adjustment to rates resulting from such Change or Increase.

Rate adjustments for a qualifying Change in Scope or Change in Law, for a Change in Fees, or for an Extraordinary Cost Increase shall take effect as of the beginning of the next Year, subject to the first sentence in this Section 22.4. The underlying service, cost, revenue or Fee changes supporting any rate adjustment under this Section 22.4 will be added to the appropriate category in **Exhibit I** and **Exhibit J** for purposes of future rate adjustments.

22.5 Proposition 218

Contractor understands and agrees that City may elect to or be required to comply with California Constitution Article XIII D (Proposition 218) or other Applicable Law before approving any new maximum service rate or any maximum service rate increase. All costs incurred in providing notices required under California Constitution Article XIII D or other applicable law in connection with a rate adjustment shall be paid by City.

City shall not be in breach of this Agreement if its residents lawfully delay or prevent City from raising or imposing the rates. In such event, City and Contractor shall meet in good faith to consider alternatives and options. If, at any time, a rate adjustment determined to be appropriate by both City (which determination shall not be unreasonably withheld) and Contractor cannot be implemented for any reason, Contractor shall be granted the option to negotiate with City, in good faith, a reduction of services equal to the value of the rate adjustment that cannot be implemented. If City and Contractor are unable to reach agreement about such a reduction in services, then Contractor may terminate this Agreement upon one hundred eighty (180) calendar days prior written notice to City, in which case Contractor and City shall each be entitled to payment of amounts due for contract performance through the date of termination but otherwise will have no further obligation to one another pursuant to this Agreement after the date of such termination.

Should a court of competent jurisdiction determine that Contractor or City cannot charge and/or increase its rates for charges related to the Franchise Fee, other City fees or payments to City, and/or other governmental fees and charges, City shall reduce the rates it charges Customers on Contractor's behalf a corresponding amount and Contractor shall be relieved from paying such Franchise Fee, fees or charges, provided that said fees, rates and/or charges disallowed by the court were determined not to be related to the cost of providing service hereunder and had been incorporated in the rates charged by City or Contractor to Customers.

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

This Section 22.5 shall survive the expiration or earlier termination of this Agreement and shall not be construed as a waiver of rights by City to contribution or indemnity from third parties.

SECTION 23. IDENTIFICATION OF CONTRACTOR

Contractor has agreed to use the name "Turlock Scavenger Company" to identify itself to the public as the specific organization that shall provide all services under this Agreement. Unless otherwise approved in writing by City, this name shall be used for all correspondence, Billing statements, directory listings, references, signs, and vehicle and Bin identification.

SECTION 24. FLOW CONTROL

24.1 Flow Control

(A) City shall have the option to approve which Transformation facility, recycling facility, material recovery facility, landfill, or other facility (other than the Approved Facilities listed in Exhibit D as of the Effective Date) Contractor shall select to retain, recycle, process, and dispose of Solid Waste and other materials generated within the Franchise Area. Contractor expressly consents to City's ability to approve the location for disposal of Solid Waste hereunder and waives any and all rights to challenge City's ability to do so, including without limitation any rights under the Commerce Clause of the United States Constitution. Notwithstanding the foregoing, any such change with City's approval in a Transformation facility, recycling facility, material recovery facility, landfill, or other facility Contractor shall use to retain, recycle, process, and dispose of Solid Waste and other materials generated within the Franchise Area shall constitute a Change in Scope subject to an adjustment in compensation pursuant to Section 22.4 above.

(B) Contractor represents and warrants that it can and will perform its duties in connection with this Agreement in such a manner as to ensure that City does not breach the terms of any current or future agreement with the County or any State law or regulation, including but not limited to CalRecycle's waste diversion requirements, as a result of Contractor's actions or inactions.

SECTION 25. INDEMNIFICATION

25.1

(A) General. Contractor hereby agrees to and shall indemnify and hold harmless City, its elected and appointed boards, commissions, officers, employees, volunteers, and agents (collectively the "Indemnities") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding, or suit, in law or equity, of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising out of, resulting from, and/or in any way connected with Contractor's performance of, or its failure to perform, its obligations under this Agreement, including, but not limited to: (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, and/or Subcontractors to comply in all respects with the provisions of this Agreement, all Applicable Law (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Contractor, its officers, employees, agents, and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws); and (4) subject to Section 7.4, any challenge to the award of, or any provisions of this Agreement (including any claim that the application of any provision hereof violates any provision of the California Constitution). The foregoing indemnity and hold harmless provisions shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of Indemnities' negligence, but shall not extend to matters resulting from Indemnities' sole negligence, or willful misconduct. Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys acceptable to City) City, its elected and appointed boards and commissions, officers, employees, volunteers, and agents against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City incurs in providing any such defense, either before, during or after the time Contractor elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Contractor.

(B) Hazardous Waste. Contractor shall indemnify, defend with an attorney selected by City, protect and hold harmless City, its officers, officials, employees, agents, assigns and any successor or successors to City's interest from and against all claims, actual damages (including, but not limited to, special and consequential damages), natural resources damages, punitive damages, injuries, costs, response, remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including, but not limited to, reasonable attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, City or its officers,

employees or agents arising from or attributable to any 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 Waste at any place where Contractor stores or disposes of Solid Waste pursuant to this Agreement. The foregoing indemnity is intended to and shall be construed to operate as an agreement pursuant to Section 107(c) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA", 42 U.S.C. Section 9067e and California Health and Safety Code Section 25364, to insure, protect, hold harmless and indemnify City from liability.

(1) Notwithstanding any other provision in this Agreement, the indemnity obligations in the foregoing subparagraph (B): (a) shall not apply to the extent of any costs or damages that arise out of the sole negligence or willful misconduct of City, its agents, employees, officers and contractors; (b) is for the exclusive benefit of the City and in no event shall such indemnity inure to the benefit of any third party; and (c) shall not apply with respect to: (i) any Hazardous Waste or Hazardous Substance generated by City or its agents and delivered by City or its agents; or (ii) the disposal or release of Hazardous Substances or Hazardous Waste, to the extent such disposal or release has resulted from the negligence or willful misconduct of City or its agents.

(C) Contractor, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend City and its elected officials, officers, employees, volunteers, and agents, in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other Persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, asserting rights under the Dormant Commerce Clause or any other federal or state laws to provide Collection services in the City.

(D) The provisions of this Section shall not terminate or expire, shall be given the broadest possible interpretation, and shall survive the expiration or earlier termination of this Agreement.

SECTION 26.

CONTRACTOR'S BOOKS AND RECORDS; AUDITS

26.1 Maintenance and Inspection of Records

Contractor shall maintain all records relating to the services provided hereunder, including but not limited to Customer lists; Billing records; accounts payable records; maps; AB 939, AB 341, SB 1383, and AB 1826 compliance records; records reflecting the number and type of routes and route hours by service category (such as residential, multi-family, commercial, roll off, and special services); records demonstrating facilities, equipment and personnel used to perform services; Garbage, Recyclables, and Organics Containers in service by frequency of Collection for each Customer group (such as single family, multi-family, commercial, roll off); records reflecting the number of Roll off Box pulls; and such other documents and materials which reasonably relate

to Contractor's compliance with the provisions of this Agreement (the "Records"), for the full Term of this Agreement, and an additional period thereafter of not less than three (3) years, or any longer period required by law. City shall have the right, upon five (5) business days advance notice, to inspect the Records. Such Records shall be made available to City at Contractor's regular place of business, but in no event outside the County of Stanislaus.

26.2 CERCLA Defense Records

City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) for not less than five (5) years following the termination of this Agreement, and agrees to notify City's Risk Manager, City Clerk and City Attorney before destroying such records thereafter. At any time, including after the expiration of the Term hereof, Contractor shall provide copies of such records to City. The requirements of this Section shall survive the expiration of the Term of this Agreement.

SECTION 27. TRANSITION OBLIGATIONS

At the end of the Term, or in the event this Agreement is terminated for default prior to the end of the Term, Contractor shall cooperate fully with City and any subsequent Solid Waste enterprise it designates to assure a smooth transition of services. Contractor's cooperation shall include, but not be limited to, providing route lists, Billing information and other operating records needed to service all Premises covered by this Agreement. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Contractor shall provide any new Solid Waste enterprise with all keys, security codes and remote controls used to access garages, gates and bin enclosures. Contractor shall be responsible for coordinating transfer immediately after its final Collection activities, so as to not disrupt services. Contractor shall provide City with detailed route sheets containing service names and addresses, Billing names and addresses, monthly rate and service levels (number and size of Containers and pickup days) at least 90 days prior to the transition date, provide an updated list two weeks before the transition, and a final updated list with any changes the day before the transition. Contractor shall provide means of access to the new Solid Waste enterprise at least one full business day prior to its first day of Collection, and within sufficient time so as to not impede in any way the new Solid Waste enterprise from easily servicing all Containers.

SECTION 28. GENERAL PROVISIONS

28.1 Force Majeure

Notwithstanding any other provision in this Agreement, Contractor shall not be in default under this Agreement in the event that its ability to provide Solid Waste Handling Services or

Temporary Services, in compliance with its obligation to do so hereunder, is temporarily interrupted or discontinued for any of the following reasons: (a) riots, wars, sabotage, civil disturbances, insurrections, epidemics or pandemics, explosions, natural disasters such as floods, earthquakes, landslides, and fires, or "other catastrophic events" which are beyond the reasonable control of Contractor, or (b) governmental actions (including judicial action) or inactions, laws or regulations, including, without limitation, restrictions, directives or orders, that actually negatively impact Contractor's ability to provide services. The term "other catastrophic events" does not include: (i) the financial inability of Contractor to perform; (ii) failure of Contractor to obtain any necessary permits or licenses from other governmental agencies; (iii) the failure to obtain the right, or the loss of the right, to use the facilities of any public utility where such failure is due in substantial part to the acts or omissions of Contractor; or (iv) strikes or other labor disturbances conducted by Contractor's employees or directed at Contractor lasting longer than 10 days. In the case of labor unrest or job action directed at a third party over whom Contractor has no control, the inability of Contractor to provide services in accordance with this Agreement due to the unwillingness or failure of the third party to: (I) provide reasonable assurance of the safety of Contractor's employees while providing such services, or (II) make reasonable accommodations with respect to Container placement and point of Delivery, time of Collection, or other operating circumstances to minimize any confrontation with pickets or the number of Persons necessary to make Collections shall, to that limited extent, excuse performance. The foregoing excuse shall be conditioned on Contractor's cooperation in performing Collection services at different times and in different locations.

28.2 Independent Contractor

Contractor is an independent contractor and not an officer, agent, servant, or employee of City. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, and subcontractors, if any. Nothing in this Agreement shall be construed as creating a partnership or joint venture between City and Contractor. Neither Contractor nor its officers, employees, agents, or subcontractors shall obtain any rights to retirement or other benefits which accrue to City employees.

28.3 Pavement Damage

Contractor shall be responsible for the cost of repair of any extraordinary damage to the public streets located within the City resulting from providing the services required hereunder.

28.4 Property Damage

Any physical damage caused by the negligent or willful acts or omissions of employees, agents, or subcontractors of Contractor to private or public property shall be promptly repaired or replaced at Contractor's expense.

28.5 Right of Entry

Contractor shall not have the right, until Contractor receives permission from the property owner, to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Temporary Services and/or Solid Waste Handling Services pursuant to this Agreement.

28.6 Law to Govern; Venue

The internal laws of the State of California, irrespective of choice of law principles, shall govern this Agreement. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Stanislaus.

28.7 Amendment

This Agreement is intended to carry out City's obligations to comply with the provisions of AB 939, AB 1826, and AB 341, and certain provisions of SB 1383, as implemented by regulations of CalRecycle, as they from time to time may be amended. In the event that, after the Effective Date of this Agreement, other state or federal laws or regulations are enacted and prevent or preclude compliance with one or more provisions of this Agreement, such provisions (including those relating to rates set forth in **Exhibit A**) shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. Except as otherwise expressly stated herein, no other amendment of this Agreement shall be valid unless it is in writing and duly executed by the Parties.

28.8 Notices

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by United States certified mail, postage prepaid, return receipt requested, and addressed as follows:

To City: City of Turlock
 Attn: Municipal Services Director
 156 S. Broadway
 Turlock, CA 95380

To Contractor: Turlock Scavenger Co.
 Attn: Alan Marchant, President
 P.O. Box 1865
 Turlock, CA 95381

or to such other address as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed given on the date served if served personally between the hours of 8:00 a.m. to 5:00 p.m. on any regular business day for City's business offices. If mailed, notice shall be deemed given three (3) business days from the date such notice is deposited in the United States mail in the manner proscribed above.

28.9 Savings Clause

If any non-material provision of this Agreement is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such

provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

28.10 Exhibits Incorporated

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Exhibits A through K are attached to and incorporated in this Agreement by reference. In the event of a conflict between the provisions of this Agreement and such Exhibit, the terms of this Agreement shall govern.

28.11 Joint Drafting

This Agreement shall be interpreted as if it were drafted jointly by the Parties to this Agreement.

28.12 Attorneys' Fees and Litigation Costs

In the event either party brings any action or proceeding to enforce or interpret the terms or provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable attorneys' fees and other litigation costs and expenses, including, without limitation, expert witness fees, consultant fees, and costs. Without limiting its scope in any way, this provision is expressly intended to, and shall, apply to fees and costs incurred in any appeal.

28.13 City's Authorized Agent

Notwithstanding anything contained herein to the contrary, and excepting amendments hereto and such actions set forth herein specifically calling for City Council action or approval, the Municipal Services Director is designated as the City's authorized agent to take any action with regard to any matter, or enforce any right, set forth herein requiring action by the City.

28.14 Integrated Agreement

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals, and agreements between the Parties, whether written or oral, with respect to such subject matter. The Parties acknowledge this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other party to execute this instrument.

28.15 Section Headings

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

28.16 Compliance with Law

In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all Applicable Law, including the laws and regulations of the United States, the State of California, the provisions of the Municipal Code, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended.

28.17 Dispute Resolution

In the event of any dispute, claim or controversy between the parties arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, the parties may submit the dispute to the Judicial Arbitration and Mediation Service (JAMS) for non-binding mediation. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals, and in promptly scheduling the mediation proceedings. The mediation shall take place in Stanislaus County, California. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by either of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are and shall be, confidential, privileged, and inadmissible for any purpose, including impeachment, in any other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. If the dispute is not resolved within thirty (30) days from the date of the submission of the dispute to mediation (or such later date as the parties may mutually agree in writing), either party may pursue any legal remedy available under applicable law, including litigation. This Section shall not preclude either of the parties from seeking provisional remedies from a court of appropriate jurisdiction. The mediation may continue, if the parties so agree, after the appointment of the mediator. The pendency of mediation shall not preclude a party from seeking provisional remedies from a court of appropriate jurisdiction, and the parties agree not to defend against any application for provisional relief on the ground that mediation is pending.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

“Contractor”

Turlock Scavenger Company, a California corporation

By: Alan Marchant

Print Name: Alan Marchant

Title: President

Date: 06/26/2023

“City”

CITY OF TURLOCK, a California municipal corporation


By: 
Reagan M. Wilson, City Manager

Date: 6/27/23

APPROVED AS TO SUFFICIENCY:

By: 
Dale Goodman, Municipal Services Director

APPROVED AS TO FORM:

By: 
George A. Petrulakis, City Attorney

ATTEST:

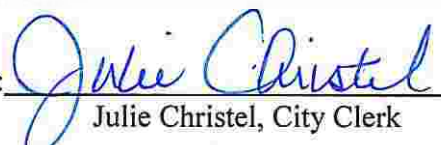
By: 
Julie Christel, City Clerk

EXHIBIT A

MAXIMUM RATE SCHEDULE FOR SOLID WASTE HANDLING AND RELATED SERVICES

Solid Waste Rates (Effective January 1, 2023)						
Residential Collection Rate			Commercial Cart Collection			
96-Gallon Garbage (Bundled)	\$	36.51	Each Cart (Garbage, Recycling, Organics)	\$	36.82	
Commercial Garbage Bin Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 131.17	\$ 232.39	\$ 332.97	\$ 436.07	\$ 536.64	\$ 636.50
3 Cubic Yard	\$ 163.29	\$ 297.05	\$ 426.76	\$ 563.51	\$ 696.94	\$ 830.37
4 Cubic Yard	\$ 199.95	\$ 369.23	\$ 538.50	\$ 708.02	\$ 877.55	\$ 1,047.07
6 Cubic Yard	\$ 263.55	\$ 495.94	\$ 726.31	\$ 961.78	\$ 1,192.48	\$ 1,424.87
Additional Recycling Bin Volume Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 131.17	\$ 232.39	\$ 332.97	\$ 436.07	\$ 536.64	\$ 636.50
3 Cubic Yard	\$ 163.29	\$ 297.05	\$ 426.76	\$ 563.51	\$ 696.94	\$ 830.37
4 Cubic Yard	\$ 199.95	\$ 369.23	\$ 538.50	\$ 708.02	\$ 877.55	\$ 1,047.07
6 Cubic Yard	\$ 263.55	\$ 495.94	\$ 726.31	\$ 961.78	\$ 1,192.48	\$ 1,424.87
Drop Box						
				Per Pull Rate*		
All Sizes (Maximum 7 Day Rental)				\$	477.65	
*Drop Box Rates will include the posted Per Pull Rate plus actual the per ton Tipping fees incurred.						
Special Fees						
Special Item				Rate		
Carts						
Additional Residential Carts						
Garbage Cart				\$	11.06	
Recycling Cart				\$	12.17	
Garden Refuse				\$	13.17	
Damaged Cart Replacement						
96-Gallon Garbage				\$	82.95	
Cart Clean/Exchange (first time)				\$	27.65	
Non proper service placement for handicap or elderly				\$	22.12	
Special Pick-Up (Go Back) /Overrate				\$	16.59	
Contamination				Special Pickup Charge = \$25 fee for the second and each additional occurrence.		
Bins						
3 Cubic Yard Temporary Bin				\$	108.53	
Additional Dump				\$	108.53	
Compactor (Per Yard Per Pull)				\$	23.25	
Special Pick-Up				\$	39.98	
Clean & Replace (Plus Extra Dump Fee)				\$	39.98	
Extra Collection (Plus Extra Dump Fee)				\$	39.98	
Gate Rate				\$	22.85	
Push Out Fee per each dump				\$	22.85	
Lock bar install/maint-monthly				\$	4.57	
Replacement/damage/other than normal wear				\$	57.12	
Special Pick-Up (Go Back) /Overrate				25% of Monthly Service Rate		
Contamination				Special Pickup Charge = 2.5% of monthly rate for the second and each additional occurrence.		
Large Item Collection Items						
Console/Big Screen TV				\$	26.54	
Computer Monitor				\$	26.54	
Small E-Waste				\$	11.06	
Large E-Waste				\$	27.65	
Universal Waste Non Refrig appls				\$	27.65	
Refrig, A/C, etc.				\$	33.18	
Fees						
Passenger				\$	7.74	
Passenger w/ Equip				\$	13.17	
Truck				\$	16.59	
Truck with Equip				\$	24.31	
Tractor and Heavy Equip				\$80-5600		
Mattress/Box Spring				\$	11.06	
Hard To Handle fee				\$	145.99	

Solid Waste Rates (Effective January 1, 2024)						
Residential Collection Rate			Commercial Cart Collection			
96 Gallon Garbage (Bundled)	\$	38.92	Each Cart (Garbage, Recycling, Organics)	\$	38.92	
Commercial Garbage Bin Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 138.63	\$ 245.61	\$ 351.91	\$ 460.87	\$ 567.16	\$ 672.70
3 Cubic Yard	\$ 172.58	\$ 313.95	\$ 451.03	\$ 595.56	\$ 736.58	\$ 877.60
4 Cubic Yard	\$ 211.32	\$ 390.23	\$ 569.13	\$ 748.29	\$ 927.46	\$ 1,106.62
5 Cubic Yard	\$ 278.54	\$ 524.15	\$ 767.62	\$ 1,016.48	\$ 1,260.90	\$ 1,505.91
Additional Recycling Bin Volume Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 138.63	\$ 245.61	\$ 351.91	\$ 460.87	\$ 567.16	\$ 672.70
3 Cubic Yard	\$ 172.58	\$ 313.95	\$ 451.03	\$ 595.56	\$ 736.58	\$ 877.60
4 Cubic Yard	\$ 211.32	\$ 390.23	\$ 569.13	\$ 748.29	\$ 927.46	\$ 1,106.62
5 Cubic Yard	\$ 278.54	\$ 524.15	\$ 767.62	\$ 1,016.48	\$ 1,260.90	\$ 1,505.91
Drop Box						
All Sizes (Maximum 7 Day Return)				Per Pull Rate*		
				\$		504.88
*Drop Box Rates will include the posted Per Pull Rate plus actual time per bin Tipping Fees Incurred.						
Special Fees						
Special Item				Rate		
Carts						
Additional Residential Carts						
				Garbage Cart	\$	11.79
				Recycling Cart	\$	12.97
				Garden Waste	\$	14.15
Damage to Cart (Residence)				95-Gallon Garbage	\$	88.43
				Cart Delivery/Exchange (first time)	\$	29.48
Not proper service placement for landscape or debris					\$	28.8
Special Pick-Up (Go Back) /Overage					\$	17.60
Contamination				Special Pickup Charge + \$25 fee for the second and each additional occurrence.		
Bins						
3 Cubic Yard Temporary Bin				\$		115.70
Additional Dump				\$		115.70
Connector (Per Yard Per Pull)				\$		24.79
Special Pick-Up				\$		42.62
Clean & Replace (Plus Extra Dump Fee)				\$		42.62
Extra Collection (Plus Extra Dump Fee)				\$		42.62
Gate Fee				\$		24.36
Push Out Fee per each dump				\$		24.36
Lock for metal/maint - monthly				\$		4.87
Replacement/damage (other than normal wear)				\$		60.89
Special Pick-Up (Go Back) /Overage				25% of Monthly Service Rate		
Contamination				Special Pickup Charge + 25% of monthly rate for the second and each additional occurrence.		
Large Item Collection Rates						
Washer/Dish Screen TV				\$		28.29
Computer Monitor				\$		28.29
Small - Waste				\$		11.79
Large - Waste				\$		29.48
Universal Waste Non Refrig appl				\$		29.48
Refrig/Appl -				\$		35.37
Fees						
Passenger				\$		8.25
Passenger or Bin				\$		14.15
Truck				\$		17.69
Truck with Bin				\$		25.94
Tractor and Heavy Equip						\$80-\$600
Mattress/Box Spring				\$		11.79
Hard to handle fee				\$		155.63

Solid Waste Rates (Effective January 1, 2025)*						
* Rates shown include maximum Refuse Rate Index of 5%						
Residential Collection Rate			Commercial Cart Collection			
6 Gallon Garbage (Bundled)	\$	41.35	Each Cart (Garbage, Recycling, Organics)		\$	41.34
Commercial Garbage Bin Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 147.30	\$ 250.00	\$ 373.91	\$ 489.59	\$ 602.62	\$ 714.75
3 Cubic Yard	\$ 183.37	\$ 333.58	\$ 479.23	\$ 632.80	\$ 782.64	\$ 932.47
4 Cubic Yard	\$ 214.53	\$ 414.63	\$ 604.72	\$ 795.08	\$ 985.45	\$ 1175.81
6 Cubic Yard	\$ 295.96	\$ 556.92	\$ 815.62	\$ 1,082.04	\$ 1,339.10	\$ 1,600.97
Additional Recycling Bin Volume Collection						
Subscription Size	Collection Frequency					
	1/week	2/week	3/week	4/week	5/week	6/week
2 Cubic Yard	\$ 147.30	\$ 260.97	\$ 373.91	\$ 489.59	\$ 602.62	\$ 714.76
3 Cubic Yard	\$ 183.37	\$ 335.58	\$ 479.23	\$ 632.80	\$ 782.64	\$ 932.47
4 Cubic Yard	\$ 214.53	\$ 414.63	\$ 604.72	\$ 795.08	\$ 985.45	\$ 1175.81
6 Cubic Yard	\$ 295.96	\$ 556.92	\$ 815.61	\$ 1,082.04	\$ 1,339.10	\$ 1,600.97
Drop Box						
AS Sizes (Maximum 7 Day Rental)				Per Pull Rate*		
				\$ 535.75		
*Drop Box Rates will include the posted Per Pull Rate plus actual the per ton Tipping Fees incurred.						
Special Fees						
Special Item				Rate		
Carts						
Additional Residential Carts						
Garbage Cart				\$	12.52	
Recycling Cart				\$	13.78	
Garbage Refuse				\$	15.03	
Damage of Cart Rental						
Use-Gallon Garbage				\$	93.94	
Cart Damage/Exclusion (first time)				\$	31.32	
Non proper service placement for curbside or elderly				\$	25.05	
Special Pick-Up (Go Back) /Overage				\$	16.79	
Contamination				Special Pickup Charge \$25 fee for the second and each additional occurrence.		
Bins						
3 Cubic Yard Temporary Bin				\$	122.93	
Additional Dump				\$	122.93	
Composter (Per Yard Per Pull)				\$	26.34	
Special Pick-Up				\$	45.78	
Clean & Replace (Plus Extra Dump Fee)				\$	45.78	
Extra Collection Plus Extra Dump Fee				\$	45.78	
Gate Rate				\$	25.68	
Push Out Fee per each dump				\$	25.68	
Lock bar Rental/Unlaid- monthly				\$	5.17	
Replacement/ Damage (other than normal wear)				\$	64.70	
Special Pick-Up (Go Back) /Overage				25% of Monthly Service Rate		
Contamination				Special Pickup Charge + 25% of monthly rate for the second and each additional occurrence.		
Large Item Collection Items						
Couches/Big Screen TV				\$	30.05	
Computer Monitor				\$	30.05	
Small E-Waste				\$	12.52	
Large E-Waste				\$	31.32	
Universal Waste Non Refrig appl				\$	31.32	
Refrig. A/C etc.)				\$	37.57	
Trucks						
Passenger				\$	8.75	
Passenger or RVs				\$	15.03	
Truck				\$	16.79	
Truck with Bin				\$	27.56	
Tractor and Heavy Equip				\$80	\$600	
Machinery/Box Springs				\$	12.52	
Hard to Handle Fee				\$	165.33	

Solid Waste Rates (Effective January 1, 2026)*								
* Rates shown include maximum Refuse Rate Index of 5%								
Residential Collection Rate				Commercial Cart Collection				
96-Gallon Garbage (Bundles)			\$	44.17	Each Cart (Garbage, Recycling, Organics)		\$	44.17
Commercial Garbage Bin Collection								
Subscription Size	Collection Frequency							
	1/week	2/week	3/week	4/week	5/week	6/week		
2 Cubic Yard	\$ 157.38	\$ 278.83	\$ 399.49	\$ 523.20	\$ 643.85	\$ 763.67		
3 Cubic Yard	\$ 195.92	\$ 356.40	\$ 512.02	\$ 676.10	\$ 836.19	\$ 996.27		
4 Cubic Yard	\$ 239.89	\$ 443.00	\$ 646.10	\$ 849.48	\$ 1,052.85	\$ 1,256.26		
5 Cubic Yard	\$ 316.21	\$ 595.03	\$ 871.43	\$ 1,153.94	\$ 1,430.71	\$ 1,709.55		
Additional Recycling Bin Volume Collection								
Subscription Size	Collection Frequency							
	1/week	2/week	3/week	4/week	5/week	6/week		
2 Cubic Yard	\$ 157.38	\$ 278.83	\$ 399.49	\$ 523.20	\$ 643.85	\$ 763.67		
3 Cubic Yard	\$ 195.92	\$ 356.40	\$ 512.02	\$ 676.10	\$ 836.19	\$ 996.27		
4 Cubic Yard	\$ 239.89	\$ 443.00	\$ 646.10	\$ 849.48	\$ 1,052.85	\$ 1,256.26		
5 Cubic Yard	\$ 316.21	\$ 595.03	\$ 871.43	\$ 1,153.94	\$ 1,430.71	\$ 1,709.55		
Drop Box								
All Sizes (Maximum 7 Day Rental)				Per Pull Rate*				
				\$ 571.60				
*Drop Box Rates will include the posted Per Pull Rate plus actual the per ton Tipping Fees incurred.								
Special Fees								
Special Item				Rate				
Carts								
Additional Residential Carts								
				Garbage Cart	\$	13.37		
				Recycling Cart	\$	14.71		
				Cartier Refuse	\$	16.05		
Damaged Cart Replacement								
				96-Gallon Garbage	\$	100.35		
				Cart Damage/Exchange (first time)	\$	33.45		
				Non proper service/accident or damage to property	\$	26.76		
				Special Pick-Up Two Back/Damage	\$	20.07		
				Contamination	Special Pickup Charge + \$25 fee for the second and each additional occurrence.			
Bins								
				3 Cubic Yard Temporary Bin	\$	131.34		
				Additional Dump	\$	131.34		
				Compressor (Per yard/Per Pull)	\$	28.14		
				Special Pick-Up	\$	48.38		
				Clean & Replace (Plus Extra Dump Fee)	\$	48.38		
				Extra Fee on IP Plus Extra Dump Fee	\$	48.38		
				Gate Rate	\$	27.63		
				Pick-Up Fee per each dump	\$	27.63		
				Lock bin install/maint - monthly	\$	5.50		
				Regulation of damage/other than normal wear	\$	69.13		
				Special Pick-Up/Go Back/Damage	25% of Monthly Service Rate			
				Contamination	Special Pickup Charge +15% of monthly rate for the second and each additional occurrence.			
Large Item Collection Items								
				Console/Big Screen TV	\$	32.10		
				Computer Monitor	\$	32.10		
				Small E-Waste	\$	13.37		
				Large E-Waste	\$	33.45		
				Universal Waste Non Refrig appl	\$	33.45		
				Refrig. AC Unit	\$	40.13		
Tires								
				Passenger	\$	9.35		
				Passenger w/ Rim	\$	16.05		
				Truck	\$	20.07		
				Truck w/ Rim	\$	29.44		
				Tractor and Heavy Equip	580 \$600			
				Mattress/Box Spring	\$	13.37		
				Hard Inherable fee	\$	176.60		

Exhibit A
Street Sweep Compensation

- A. City shall pay hauler \$25.50 for each lineal curb mile swept.
- B. City shall pay hauler a fixed monthly rate of \$190.00 for sweeping the downtown municipal lots.
- C. When required by City to perform extra sweeping service, hauler will be paid at the rate of \$60.00 per hour.

Beginning with January 1, 2025, street sweeping rates will be adjusted by an annual CPI index as listed below:

CPI Index – All

Series ID: CUURS49BSAO

All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

The CPI should be calculated based on the percentage change between the 12-month annual Average of each Index for the preceding fiscal year (or, if such index is not published for such period, the most recent twelve-month period for which such Index is published prior to September 30th following the most recent ended fiscal year.

EXHIBIT B

LIST OF CITY BUILDINGS AND FACILITIES

A07159-001 - Inactive
CITY OF TURLOCK
900 N PALM ST
CL000639-001 - Active

CITY OF TURLOCK
351 CRANE AVE
CL000639-001

CITY OF TURLOCK
GEER RD
CL000644-001 - Active

CITY OF TURLOCK
115 S GOLDEN STATE BLVD
CL000645-001 - Active

CITY OF TURLOCK
LANDER AVE
CL000646-001 - Inactive

CITY OF TURLOCK
301 STARR AVE
CL000647-001 - Active

CITY OF TURLOCK
2220 ROTH WAY
X000661-001 - Inactive

CITY OF TURLOCK
4232 N GOLDEN STATE BLVD
CK000705-001 - Active

CITY OF TURLOCK
1555 E CANAL DR
T00352-001 - Inactive

CITY OF TURLOCK
695 HIGH ST
CL000270-002 - Active

CITY OF TURLOCK
TANBARKLN
I900311-001 - Inactive

CITY OF TURLOCK
144 S BROADWAY
CL000343-001 - Active

CITY OF TURLOCK
1490 COUNTRYSIDE DR
X000344-001 - Inactive

CITY OF TURLOCK
NTEGNERRD
CL000345-001 - Active

CITY OF TURLOCK
NTEGNERRD
CL000346-001 - Active

CITY OF TURLOCK
NTEGNERRD
CL000347-001 - Active

CITY OF TURLOCK
W TUOLUMNE RD
CL000349-001 - Active

CITY OF TURLOCK
FOUR SEASONS DR
CK000350-001 - Active

CITY OF TURLOCK
I73MEMORYLN
CL000351-001 - Active

CITY OF TURLOCK
GEER RD
CL000353-001 - Active

CITY OF TURLOCK
SUNDAY DR
CL000354-001 - Active

CITY OF TURLOCK
GEER RD

CL000356-001 - Active

CITY OF TURLOCK
W HAWKEYE AVE
CK000355-001 - Active

CITY OF TURLOCK
2400 N TEGNER RD
CL000359-001 - Active

CITY OF TURLOCK
N GOLDEN STATE BLVD
CL000361-001 - Active

CITY OF TURLOCK
WCANALDR
CL000362-001 - Active

CITY OF TURLOCK
ECANALDR
CL000363-001 - Active

CITY OF TURLOCK
ECANALDR
CL000364-001 - Active

CITY OF TURLOCK
PASEO BELLEZA
CL000366-001 - Active

CITY OF TURLOCK
LANDERAVE
CL000367-001 - Active

CITY OF TURLOCK
WMAINST
CL000369-001 - Active

CITY OF TURLOCK
BLUSH CT
CL000370-001 - Active

CITY OF TURLOCK
W TUOLUMNE RD
CL000371-001 - Active

CITY OF TURLOCK
ECANALDR
CL000372-001 - Active

CITY OF TURLOCK
GEER RD
CK000373-001 -Active

CITY OF TURLOCK
PINTO WAY
CL000374-001 - Active

CITY OF TURLOCK
NTEGNERRD
CL000375-001 - Active

CITY OF TURLOCK
W TUOLUMNE RD
CL000380-001 - Active

CITY OF TURLOCK
N BERKELEY AVE
CL000381-001 - Active

CITY OF TURLOCK
N BERKELEY AVE
CL000389-001 - Active

CITY OF TURLOCK
EMONTE VISTA AVE
CL000390-001 - Active

CITY OF TURLOCK
WMAINST
CL000391-001 - Active

CITY OF TURLOCK
W CHRISTOFFERSEN PKWY
CL000392-001 - Active

CITY OF TURLOCK
SUNDAY DR
CL000393-001 - Active

CITY OF TURLOCK
N GOLDEN STATE BLVD

CL000394-001 - Active

CITY OF TURLOCK
E CHRISTOFFERSEN PKWY
CL000395-001 - Active

CITY OF TURLOCK
N GOLDEN STATE BLVD
CL000396-001 - Active

CITY OF TURLOCK
PASEO DE LEON
CL000397-001 - Active

CITY OF TURLOCK
CAPRICE DR
CL000398-001 - Active

CITY OF TURLOCK
PASEO DEL SOL
CL000399-001 - Active

CITY OF TURLOCK
W SPRINGER DR

C179140-003 - Inactive
CITY OF TURLOCK - HOUSING DIVISION
434 S LAUREL ST
CL000565-001 - Active

CITY OF TURLOCK HOUSING
491 PINEWOOD ST
163805-002 - Active

CITY OF TURLOCK HOUSING
901 HIGH ST A
743054-004 - Active

CITY OF TURLOCK HOUSING
1205 LAMBERT WAY
301159-002 - Active

CITY OF TURLOCK HOUSING
591 BIRCHWOOD WAY
T00703-004 - Active

CITY OF TURLOCK HOUSING
831 VERMONT AVE
587583-004 - Active

CITY OF TURLOCK HOUSING
1827 SHADOW PARK DR
117870-003 - Active

CITY OF TURLOCK HOUSING
573 BIRCHWOOD WAY
214752-005 - Active

CITY OF TURLOCK-HOUSING PROGRAM SERVICES
2065 CODY CT

EXHIBIT C
LIST OF SPECIAL EVENTS

- Go Green Week
- Independence Day (aka: fourth of July) Parade
- Beautify Turlock (aka: Embrace Turlock, Free Dump) Day
- Holiday Parade (aka: Christmas Parade)
- Household Hazardous Waste Day

EXHIBITD

LIST OF APPROVED FACILITIES

Turlock Transfer, Inc
1100 S. Walnut Rd
Turlock, CA 95380

Forward Landfill
9999 S. Austin Rd
Manteca, Ca 95336

Turlock Recycling
1020 S. Walnut Rd
Turlock, CA 95380

Recology
3909 Gaffrey Rd
Vernalis, CA 95385

Fink Road Landfill
4000 Fink Rd
Crows Landing, CA 95313

Frank Coelho & Sons
2031 E. Washington Rd
El Nido, CA 95317

Covanta Waste to Energy Facility
4040 Fink Rd
Crows Landing, CA 95313

Mid Valley Disposal
2721 S. Elm Ave
Fresno, CA 93706

Highway 59 Landfill
7040 North Highway 59
Merced, CA 95348

Cal Waste
175 Enterprise Ct. STE A
Galt, CA 9563

EXHIBITE
LIST OF SUBCONTRACTORS

Turlock Transfer, Inc
1100 S. Walnut Rd
Turlock, CA 95380

Turlock Recycling
1020 S. Walnut Rd
Turlock, CA 95380

Marchant Waste Managers, Inc
1020 S. Walnut Rd
Turlock, CA 95380

EXHIBIT F
CONTAINER/BIN SPECIFICATIONS

Solid Waste

95-Gallon Gray Cart

2yd Bin

3yd Bin

4yd Bin

6yd Bin

15yd Box

20yd Box

30yd Box

48yd Box

Recycle

95-Gallon Blue Cart

2yd Bin

3yd Bin

4yd Bin

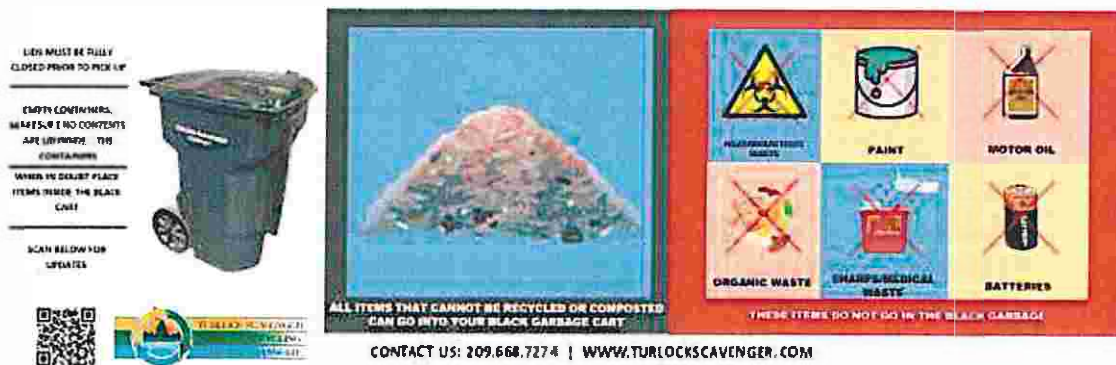
6yd Bin

Organics

95-Gallon Green Cart

All Carts will have labels and colors in compliance with CalRecycle's SB 1383 Standards

All Bins will have labels and be compliant with lid colors according to CalRecycle's SB 1383 Standards



PLACE RECYCLABLES
EITHERLY INSIDE
BLUE CART

EMPTY CONTAINERS,
BAGS & BULKY CONTAINERS
ARE LEFT IN SIDEWALK
CONTAINERS

WHEN IN DOUBT PLACE
ITEMS IN THE BLACK
CART

SCAN BELOW FOR
UPDATES





 ALUMINUM & TIN CANS	 MIXED PAPER & CARDBOARD
 GLASS JARS & BOTTLES	 PLASTIC BOTTLES

RECYCLE PROPERLY FOCUS ON RECYCLING THESE BASIC TYPES OF MATERIALS

 PLASTIC BAGS	 STYROFOAM	 CLOTHING
 FOOD WASTE/SCRAPS	 SCRAP METALS	 WOOD

THESE ITEMS DO NOT GO IN THE BLUE RECYCLING CART

CONTACT US: 209.668.7274 | WWW.TURLOCKSCAVENGER.COM

PLACE ORGANICS EITHERLY
INSIDE GREEN CART

WHEN IN DOUBT PLACE
ITEMS IN THE BLACK
CART

SCAN BELOW FOR
UPDATES





 FOOD WASTE/SCRAPS	 TREE BRANCHES
 GRASS CLIPPINGS	 LEAVES

DISPOSE PROPERLY FOCUS ON THESE BASIC TYPES OF MATERIALS

 NO PLASTIC BAGS	 TREATED WOOD	 GARDEN HOSE
 SCRAP GLASS/BOTTLES	 ROCKS/CONCRETE	 OUTDOOR FURNITURE

THESE ITEMS DO NOT GO IN THE GREEN ORGANICS CART

CONTACT US: 209.668.7274 | WWW.TURLOCKSCAVENGER.COM

EXHIBIT G

STREET SWEEPING FREQUENCY

City streets will be swept once every four weeks according to the schedule posted on Contractor's website www.turlockscavenger.com, except during the months of leaf pickup as described below. Turlock Transit center to be swept weekly and Pedretti Park is swept every two weeks from February to October.

During the months of November through the first Friday of February, Contractor will coordinate with City and sweep the streets following behind the City leaf pick up program route. City is responsible for the processing and disposal of leaves and debris that are collected.

EXHIBIT H

STREET SWEEPING OF DOWNTOWN MUNICIPAL PARKING LOTS

Downtown Municipal Parking Lots

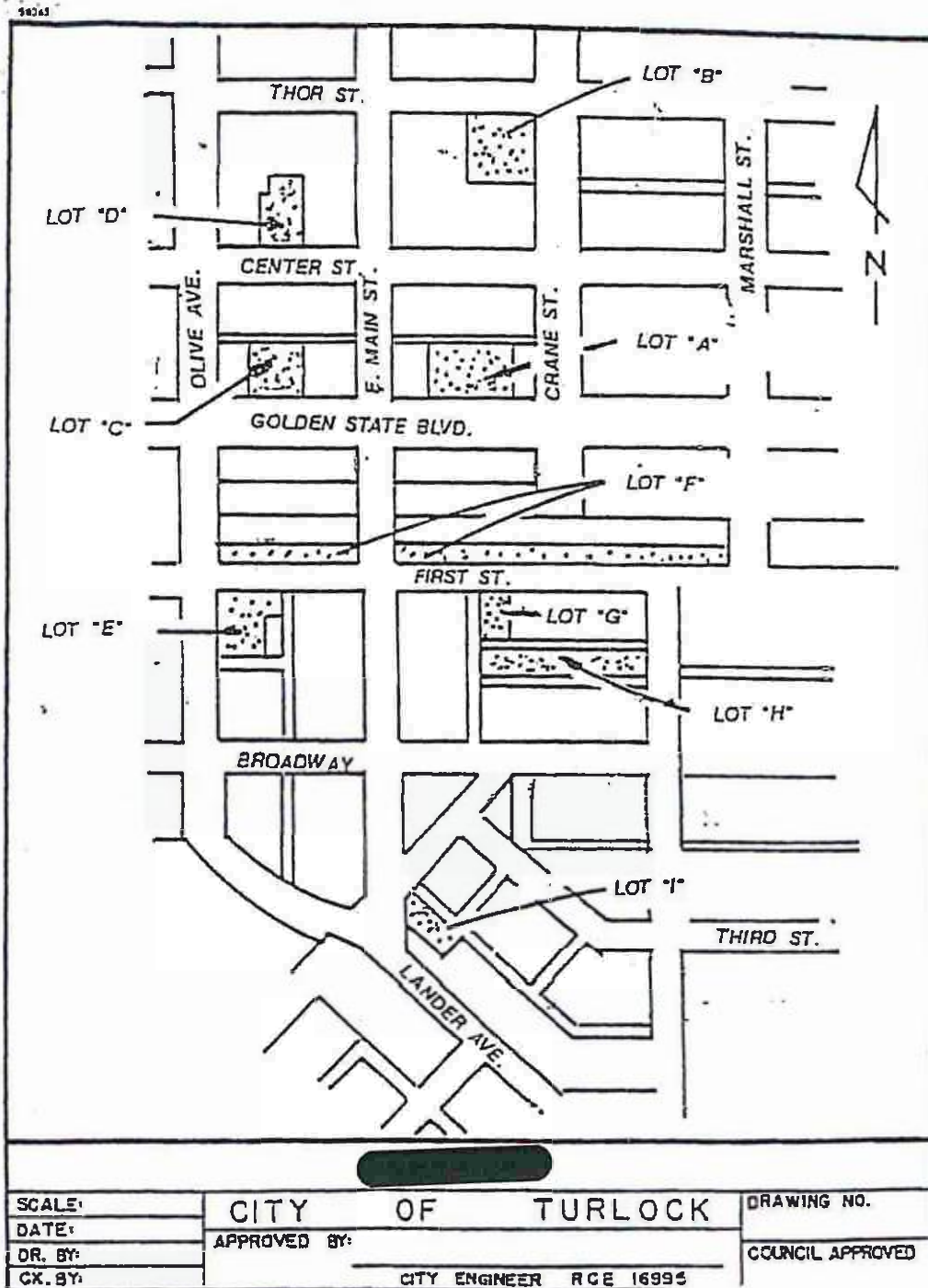


EXHIBIT I
RRI RATE METHODOLOGY

1. Adjustments to the Rates Using the Refuse Rate Index (RRI). Beginning on January 1, 2025, and annually thereafter during the Term of the Agreement, each of the rates then in effect shall be adjusted by the RRI adjustment set forth below in Section 2 of this Exhibit I. In any year that the calculation of the RRI adjustment results in a negative number, there shall be no adjustment in the rates.
2. 12-Month Annual Average. The RRI adjustment shall be the weighted average percentage change in the four Refuse Rate Indices between the Base Year, and the Preceding Year, as contained in the most recent release of the source documents listed at the end of this Exhibit, (the "Refuse Rate Index") which is attached to and included in this Agreement. The Base Year for each Refuse Rate Index shall be the twelve-month period ending June 30 of the Rate Year prior to the next rate adjustment date (or, if such Index is not published for such period, the most recent twelve-month period for which such Index is published prior to September 30 of the Rate Year prior to the next rate adjustment date), and the Preceding Year for such Index shall be the twelve-month period immediately preceding the Base Year. By way of example, the first rate adjustment under this Section 2 will be based on the percentage change between the 12-month annual average of each Refuse Rate Index for the Preceding Year ending June 30, 2022 (or, if such Index is not published for such period, the most recent twelve-month period for which such Index is published prior to September 30, 2022), and the annual average of such Refuse Rate Index for the Base Year ending June 30, 2023 (or, if such Index is not published for such period, the most recent twelve-month period for which such Index is published prior to September 30, 2023). The RRI shall be calculated using the RRI methodology Included at the end of this Exhibit.
3. RRI Financial Information. On or before September 30, 2024, and annually thereafter during the Term of this Agreement, Contractor shall deliver to City the Contractor- prepared financial information in conjunction with the RRI submission. Such financial information shall be in the format as set forth herein, and shall be allocated between curbside collection services and all other collection and disposal services, or as may be further revised by agreement of the Parties. If Contractor fails to submit the financial information in the required format by September 30th, it is agreed that Contractor shall be deemed to have waived the RRI adjustment for the following year.
4. Annual adjustments to an individual rate shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making adjustments. The indices shall be truncated at four (4) decimal places for the adjustment calculations.
5. If Contractor's failure to submit the required financial information by September 30th is the result of extraordinary or unusual circumstances as demonstrated by Contractor to the

reasonable satisfaction of City, City at its sole discretion, may extend its review period to consider the request for the annual RRI rate adjustment.

6. As of October 31, 2024, and annually thereafter during the Term of the Agreement, City shall notify Contractor of the RRI adjustment to the rates to take place on January 1st of the following year.

20XX increase based on 20PY numbers - EXAMPLE

Item #	Category	Data Source	Percent Change ⁽¹⁾	RATE YEAR 2025			Adjusted Category Costs
				Category Costs	Category Weight ⁽²⁾	Weighted Percentage Change ⁽³⁾	
1	Labor	Series ID: CEU6066210008 Average hourly earnings of production and nonsupervisory employees, waste collection, not seasonally adjusted	3.45%	\$5,000,000	49.02%	1.69%	\$5,172,690
2	Diesel Fuel	California No 2 Diesel Ultra Low Sulfur (0-15 ppm) Retail Prices (Dollars per Gallon) http://www.eia.gov/dnav/pet/pet_pri_gnd_dcus_soa_mh.htm	-13.51%	\$300,000	2.94%	-0.40%	\$259,475
3	Vehicle Maintenance	Series ID: pcu33392433924 Industrial truck, trailer and stacker mfg.	1.26%	\$200,000	1.96%	0.02%	\$202,515
4	All Other	Series ID: CUURS49BSA0 All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted	3.09%	\$2,200,000	21.57%	0.67%	\$2,287,965
5	Depreciation and Interest	Set to actual	4.25%	\$5,000,000	4.90%	0.21%	\$521,250
6	Disposal	Average change in to fee	3.00%	\$7,000,000	19.61%	0.59%	\$7,060,000
RRI				\$10,200,000	100.00%	2.78%	\$10,483,896

⁽¹⁾ Assumes these are the percentage changes in the indices from year to year.

⁽²⁾ Assumes the categories represent these percentages as a total of CONTRACTORS operating costs.

⁽³⁾ Represents the product of Percentage Change x Category Weight.

Additions/Reductions to Rate Base			
Category	Description	One-Time	Cost

Total Reductions to Rate Base **\$0**

Total Adjusted Costs **\$10,483,896**

Additional Required Rate Adjustment **0.00%**

Total Rate Adjustment **2.78%**

EXAMPLE

Scenario: One-Time Adjustment to One-Time Adjustment				
Example Rate:	\$ 10.00		\$ 10.00	
RY Increase:	2.78%	10.278	2.78%	10.278

EXHIBITJ

DETAILED RATE METHODOLOGY

This Exhibit describes the procedures to adjust rates pursuant to a detailed rate review under Section 22.3 of the Agreement. Unless defined differently in this Exhibit, the definitions in the Agreement shall control the interpretation of this Exhibit. In the event of any inconsistency between the terms in the Agreement and the terms in this Exhibit, the defined terms herein shall control the interpretation of this Exhibit.

1. DEFINITIONS

The definitions set forth below shall govern the interpretation of this Exhibit.

Allowable Operating Margin. The calculation described in Section 3(c) of this Exhibit (or Calculated Operating Margin).

Base Year. A Rate Year where the rates are adjusted using the Detailed Rate Methodology in Section 3 of this Exhibit.

Base Year Application. The submittal by Contractor when Detailed Rate Methodology is used pursuant to Section 3 of this Exhibit.

Collection Revenue. Revenue billed to customers, determined on an accrual basis, for services provided under the Agreement.

Detailed Rate Methodology. The methodology used to adjust rates in the manner described in Section 3 of this Exhibit.

Operating Ratio. A value, expressed as a percentage, used to calculate profit in Section 3 of this Exhibit. The Operating Ratio to be used in each Rate Year is as follows: 88.5%.

Operating Margin. Total Current Revenue (Section 3(f)) minus the sum of Allowable Cost of Operations (Section 3(b)).

Rate Year. When the term "Rate Year" is used in this Attachment, it refers to the calendar year for which rates are being set. For example, Rate Year 2 is the period from January 1, 2024 to December 31, 2024.

2. CONTRACTOR'S RATE APPLICATION

In the event that a detailed rate review is scheduled, or elected by either Party, for the next Rate Year pursuant to Section 22.3 of the Agreement, Contractor shall submit a Base Year Application not later than June 30 of the current Rate Year setting forth the anticipated rate adjustment for the next Rate Year.

(a) Detailed Rate Methodology. Unless the use of the Detailed Rate Methodology is initiated by City, Contractor must pay City's reasonable costs to review the Base Year Application, including the costs of accountants, attorneys and/or consultants. Contractor shall pay these costs when they become due and no later than thirty (30) days after receiving an invoice therefor from City. These costs will be considered an allowable cost (i.e., administrative expense) of Contractor. The Base Year Application shall be based on: Contractor's audited financial statements for the most recently concluded fiscal year; year-to-date internally-generated financial results of operations for the current Rate Year; and Contractor's forecasted costs for the next Rate Year. The Detailed Rate Methodology's cost projections shall be directly derived from and directly reference revenues and costs by category as listed in Contractor's audited financial statements such that all figures presented as the basis for the Base Year Application can be tied back to the financial statements for the most recently completed fiscal year preceding the Base Year Application due date. Contractor shall clearly explain in the Base Year Application the methods used to produce such adjustments and forecasts.

2. CALCULATION OF CONTRACTOR'S BASE YEAR RATE REVENUE REQUIREMENT

The Base Year Application shall clearly document Contractor's calculation of the Base Year Rate Revenue Requirement and proposed rate adjustment based on the methodology described in this Section 3. Contractor's Base Year Rate Revenue Requirement shall equal the sum of the forecasted amounts set forth in this Section 3, each of which shall be calculated in accordance with this Section 3. The application will be presented in the format set forth in Section 4.

(a) Forecasted Annual Allowable Cost of Operations. The forecasted allowable cost of operations consists of the forecasted sum of the following expenses, adjusted to remove excluded costs described in Section 3(b)(2):

1. Wage expense;
2. Benefits expense (including workers' compensation);
3. Maintenance & other operating expense;
4. Depreciation expense;
5. Disposal, Processing and Transfer Fees
6. Fuel and oil expense; and
7. General and administrative expenses.

(b) Methodology for Forecasting Annual Allowable Cost of Operations.

1. Determine Actual Costs. Contractor's audited financial statements shall be reviewed to determine Contractor's actual costs necessary to perform all of the services in the manner required by the Agreement. Contractor's auditor shall ensure costs have actually been incurred and have been assigned to the appropriate cost category.
2. Calculate Adjusted Costs. Contractor shall adjust actual costs calculated pursuant to Section 3(b)(1) to eliminate costs that are unnecessary or

unreasonable for the performance of the services required by the Agreement. These excluded costs include the following:

- a. Costs of any category or type not actually incurred, not necessary for the provision of services under the Agreement or unreasonable in amount;
- b. Fines or penalties of any nature;
- c. Federal or state income taxes;
- e. Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which City and Contractor are adverse parties, unless Contractor is the prevailing party in such proceeding;
- f. Attorneys' fees and other expenses incurred by Contractor arising from any act or omission by Contractor in violation of the Agreement;
- g. Attorneys' fees and other expenses incurred by Contractor in any court proceeding in which Contractor's own negligence, violation of law or regulation, or wrongdoing are at issue; and
- h. Goodwill.

3. Forecasted Allowable Cost of Operations. The allowable cost of operations for the Base Year shall be forecasted in the following manner:

- a. Wage expense for the Base Year shall be reasonably forecasted based on negotiated labor agreements for represented employees as well as reasonable wage and salary adjustments for non-represented employees.
- b. Benefit expense for the Base Year shall be reasonably forecasted based on negotiated labor agreements for represented employees, reasonable adjustments for non-represented employees, and changes in insurance premiums net of any refunds. Benefits include workers' compensation expense, which shall be calculated by multiplying the wages established in Section 3(b)3.a above by the applicable premium rates from Contractor's insurance carrier for the projected Rate Year.
- c. Maintenance and other operating expense for the Base Year shall be reasonably forecasted based on historical costs adjusted for Contractor's forecasts.
- d. Depreciation expense for the Rate Period shall be forecasted based on Contractor's actual depreciation, which shall reflect the retirement and addition of assets. Projected depreciation shall include anticipated capital purchases for the Base Year and reflect decreased depreciation expense due to assets reaching the end of their depreciable lives during the Base Year. If Contractor does not make the projected capital purchases in the Base Year as projected, the Allowable Cost of Operations forecasted for the next Base Year will be reduced by the sum of the overcollection of depreciation in the previous Base Year, divided by the number of Years between the two Base Years.
- e. Disposal, Processing and Transfer Fees for the Base Year shall be reasonably forecasted based on actual increases determined by County resolutions for disposal sites, actual processing costs from third party vendors and transfer expenses forecasted based on historical costs adjusted for inflation and Contractor's prior year expense.

- f. Fuel and oil expense for the Base Year shall be reasonably forecasted based on historical costs adjusted for inflation and Contractor's reasonably projected fuel consumption.
- g. General and administrative expense for the Base Year shall be reasonably forecasted based on historical costs adjusted for Contractor's forecasts.

(c) Calculated Allowable Operating Margin. Contractor's forecasted calculated operating margin for the Base Year shall be derived by dividing the forecasted allowable cost of operations (Section 3(b)(3)a. through f. above) by the Operating Ratio, and subtracting the forecasted allowable cost of operations. For example, if the forecasted allowable cost of operations was \$100 and the Operating Ratio was 0.885 or 88.5%, the Calculated Margin will be \$12.99.

Forecasted interest expense for the Base Year shall be based on Contractor's actual interest from money paid on loans with periodic payments based on a loan agreement made by Contractor. Interest expense shall be forecasted in a similar manner to depreciation expense (Section 3(b)(3)d. above). Forecast for expenses which do not occur throughout the Base Year shall be modified to be recovered evenly over the Base Year. If Contractor does not make the projected capital purchases in the Base Year as projected, the interest expense forecasted for the next Base Year will be reduced by the sum of the overcollection of interest in the previous Base Year, divided by the number of Years between the two Base Years.

Forecasted Franchise Fee for the Base Year shall be calculated by multiplying the applicable Franchise Fee percentage times the projected Collection Revenue for the Base Year. Projected Collection Revenue for the Base Year is calculated by multiplying current Collection Revenue times the Rate Adjustment Factor (calculated in accordance with Section 3(h) below).

Note the above calculation creates a circular relationship because the Rate Adjustment Factor is dependent on the Total Contractor's Rate Revenue Requirement (calculated in accordance with Section 3(e) below); Contractor's Total Rate Revenue Requirement is dependent on the forecasted Franchise Fee; the forecasted Franchise Fee are dependent on the projected Collection Revenue for the Base Year; and the projected Collection Revenue for the Base Year are dependent on the Rate Adjustment Factor. Because of this circular relationship, it is necessary to use a computer which can run iterative calculations to resolve this circular reference and yield accurate calculations for each of the interdependent elements described in this Section.

Note the above calculation creates a circular relationship because the Rate Adjustment Factor is dependent on the Total Contractor's Rate Revenue Requirement (calculated in accordance with Section 3(e) below); Contractor's Total Rate Revenue Requirement is dependent on the forecasted City fees; the forecasted City fees are dependent on the projected Collection Revenue for the Base Year; and the projected Collection Revenue for the Base Year are dependent on the Rate Adjustment Factor. Because of this circular relationship, it is necessary to use a computer which can run iterative calculations to resolve this circular reference and yield accurate calculations for each of the interdependent elements described in this Section.

(d) Total Forecasted Revenue Requirement. Contractor's Total Forecasted Revenue Requirement shall consist of the sum of the following items:

1. Forecasted Allowable Cost of Operations (determined in accordance with Section 3(b)3. above); plus
2. Calculated Allowable Operating Margin (determined in Section 3(c) above).

(e) Total Forecasted Revenue. Contractor's Total Forecasted Revenue equals the following:

1. Forecasted Collection Revenue at Existing Rates. Current Collection Revenue shall be based on the most recently concluded Rate Year multiplied by the most recently applied Rate Adjustment Factor.

(f) Revenue (Shortfall/Excess). Revenue (shortfall/excess) shall be as follows: Total Forecasted Revenue (Section 3(f)) minus Total Forecasted Revenue Requirement (Section 3(e)).

(g) Rate Adjustment Factor. The Rate Adjustment Factor shall be calculated as follows:

1. The calculation in Section 3(g) will yield either a negative Shortfall (requiring a rate increase) or a positive Excess (requiring a rate decrease).
2. The Rate Adjustment Factor is calculated by dividing the Shortfall or Excess by Forecasted Collection Revenue at Existing Rates (Section 3(f)1.) and rounding to the nearest hundredth percent.
3. For example, assume the following: the Forecasted Collection Revenue at Existing Rates is \$12,500,000; the Total Forecasted Revenue is \$13,000,000; and the Forecasted Contractor's Total Revenue Requirement is \$13,500,000. The Rate Adjustment Factor would be calculated as follows: \$13,000,000 minus \$13,500,000 equals negative \$500,000 Revenue Shortfall divided by \$13,000,000, equals a 3.85% Rate Adjustment Factor (rate increase).

(h) Adjustment of Rates. Each rate approved for the current Rate Year shall be multiplied by one (1) plus the Rate Adjustment Factor to calculate the effective rate for the Base Year. For example, if a rate in the current Rate Year was \$5.00 and the Rate Adjustment Factor is 3.85%, the effective rate for the Base Year will be \$5.19.

EXHIBIT K

CONTAMINATION MONITORING SERVICES

1. General Requirement. At least once annually, beginning in 2023, Contractor or its approved designee shall conduct a Route Review for each Collection Route. The number of accounts to review per Collection Route shall be calculated on the basis of the number of garbage accounts provided service by a specific Collection Route for one week. For example, "Route A" collects garbage from 250 accounts, 4 days per week for a total of 1,000 accounts per week; include a minimum of 25 accounts for Route Review of "Route A". For each Route Review of a Collection Route, Contractor shall inspect at least the following minimum number of accounts but may inspect more if Contractor deems necessary; and shall inspect all Containers placed for collection (including Recycling Containers, Organics Containers, and Garbage Containers). Each inspection shall involve lifting the Container lid and observing the contents but shall not require Contractor to disturb the contents or open any bags. Contractor may select the accounts to be inspected at random, or (if mutually agreed with City) by any other method not prohibited under the SB 1383 Regulations. For the avoidance of doubt, Contractor shall not be required to annually inspect every Container on a Collection Route.

Route Size (# of garbage accounts/week)	Minimum Number of Accounts
Fewer than 1,500	25
1,500-3,999	30
4,000-6,999	35
7,000 or more	40

2. Notice of Contamination. For purposes of determining if Garbage, Recyclable Materials or Organic Waste are deemed to be contaminated, if, by visual or digital inspection, Garbage is commingled with ten percent (10%) by weight or volume of Prohibited Container Contaminants, Recyclable Materials are commingled with ten percent (10%) by weight or volume of Prohibited Container Contaminants, or Organic Waste is commingled with three percent (3%) by volume of Prohibited Container Contaminants, then Garbage, Recyclable Materials and/or Organic Waste will be deemed to be contaminated, and Contractor shall notify the customer of the violation in writing. The written notice shall include information regarding the requirement to properly separate materials into the appropriate Containers. The notice may be left on the customer's Container, gate, or door at the time the violation is discovered, and/or be mailed, e-mailed, electronically messaged or delivered personally to the customer within thirty (30) days. Contractor may dispose of the contents of any Container found to contain Prohibited Container Contaminants and may charge a contamination fee at a cost not to exceed the maximum rates as set forth in Exhibit A. The notice shall be provided in English and Spanish.

3. Reporting. Findings will be recorded on site with all inspections kept in a spreadsheet at Contractor's office, and provided to City within sixty (60) days of each Route Review conducted which shall include:

- The name or account name of the generator
- A description of the Collection Route and the addresses where Prohibited Container Contaminants were found
- Dates Route Reviews were conducted
- Person or persons conducting the Route Review
- Findings regarding compliance, including educational materials issued
- Relevant evidence supporting the findings

The following information will be provided to city for EAR Reporting:

- The number of Route Reviews conducted for Prohibited Container Contaminants.
- The number of times notices, violations, or targeted education materials were issued to generators for Prohibited Container Contaminants.
- Copies of all notices issued to generators with Prohibited Container Contaminants.