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Contract Number

22-1198

SAP Number

Public Works

Department Contract Representative
Telephone Number

Darren Meeka, Deputy Director
(909) 386-8703

Contractor
Contractor Representative
Telephone Number
Contract Term
Original Contract Amount
Amendment Amount
Total Contract Amount
Cost Center

USA WASTE OF CALIFORNIA, INC.
Michael Hammer, President
(888) 905-8898
Evergreen - Rolling 8 years

IT IS HEREBY AGREED AS FOLLOWS:

This Franchise Agreement is entered into this 13th day of December, 2022, by and between San Bernardino County ("County") and USA WASTE OF CALIFORNIA, INC., ("Grantee") for the collection and transportation of Solid Waste and for other services as further specified herein in the Exhibit "A" for County Franchise Area 3.

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IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

FRANCHISE AGREEMENT BETWEEN SAN BERNARDINO COUNTY

AND

USA WASTE OF CALIFORNIA, INC.

**FOR THE COLLECTION AND TRANSPORTATION
OF SOLID WASTE AND OTHER SERVICES SPECIFIED HEREIN**

This Franchise Agreement ("Franchise Agreement") is entered into this 13th day of December, 2023, by and between San Bernardino County ("County") and USA Waste of California, Inc. ("Grantee") for the Collection and Transportation of Solid Waste and for other services as further specified herein in Exhibit "A." (Provided Services).

R E C I T A L S

WHEREAS, 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 within the public interest to authorize and require local agencies to make adequate provisions for Solid Waste Handling within their jurisdiction; and,

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

WHEREAS, SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Disposal and Processing facilities, and other entities to support achievement of Statewide Organic Waste Disposal reduction targets; and,

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

WHEREAS, pursuant to California Public Resources Code Section 40059 (a), the Board of Supervisors has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified Solid Waste enterprise for the Collection and

recovery of Solid Waste from certain Residential, industrial, and Commercial Business areas in San Bernardino County; and,

WHEREAS, the County has specifically determined that the public health, safety, and well-being requires that an exclusive franchise be awarded to Grantee for the Collection, Processing, and Disposal of Discarded Materials, and the providing of the other services specified herein, in the portion of the Unincorporated County set forth in Exhibit "B" of this Franchise Agreement; and,

WHEREAS, County and Grantee are mindful of the provisions of the laws governing the safe Collection, Transport, Recycling, Processing, and Disposal of Solid Waste, including AB 939, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C §§ 9601 et seq., the Electronic Waste Recycling Act of 2003 (SB 20, Chapter 526, Statutes of 2003; SB 50, Chapter 863, Statutes of 2004; AB 575, Chapter 59, Statutes of 2005), and laws governing Universal Waste and Electronic Waste; and,

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

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

WHEREAS, the Board of Supervisors of the County declares its intention of ensuring the delivery of adequate Solid Waste Handling Services and of maintaining reasonable rates for the provision of such handling services within the Unincorporated County;

NOW, THEREFORE, THE GRANTEE AND THE COUNTY AGREE AS FOLLOWS:

SECTION 1. COVENANTS, REPRESENTATIONS AND WARRANTIES

- (a) **Covenants, Representations, and Warranties of Grantee.** Grantee hereby makes the following covenants, representations, and warranties for the benefit of the County as of the date of this Franchise Agreement.
- (1) Grantee is duly organized and validly existing as a Delaware corporation in good standing under the laws of the State of California.
 - (2) Grantee has full legal right, power, and authority to execute, deliver, and perform this Franchise Agreement, and has duly authorized the execution and delivery of this Franchise Agreement.
 - (3) Each Person signing this Franchise Agreement on behalf of Grantee has been authorized by Grantee to do so, and this Franchise Agreement has been duly executed and delivered by Grantee, and constitutes a legal, valid, and binding obligation of Grantee enforceable against Grantee in accordance with its terms.
 - (4) To the best of Grantee's knowledge, there is no action, suit, or proceeding before any court or governmental entity against Grantee or affecting Grantee, wherein an unfavorable decision, ruling, or finding would adversely affect the validity or enforceability of this Franchise Agreement, or which would have a material adverse effect on the financial condition of Grantee.
 - (5) Grantee has sufficient financial resources to perform all aspects of its obligations hereunder. There has been no material adverse change in Grantee's or in Grantee's parent company's (if applicable) financial circumstances that would have a material impact on Grantee's ability to perform its obligations under this Franchise Agreement since the date of the most recent financial statements or information, submitted to the County or reviewed by the County at the offices of Grantee.
 - (6) Grantee has the expert, professional, and technical capability to perform all of its obligations under this Franchise Agreement.
 - (7) On or before the Effective Date, Grantee will have provided to the Director the Security, certificates of insurance, and liquidated damages accounts, as provided in Section 9 of this Franchise Agreement.
 - (8) On or before the Effective Date, Grantee will have provided to the Director proof that the Grantee has obtained all necessary permits, authorizations, and licenses that are required for furnishing such service, including, without limitation, a Health and Safety Permit.
 - (9) Grantee has read Division 6 of Title 4 of the County Code, a copy of which is attached hereto and incorporated herein as Exhibit "C," and is aware of its provisions. Grantee further agrees that the entry into this Franchise Agreement constitutes its acknowledgment and confirmation of certain matters as specified in the County Code. If Grantee believes an amendment to the County Code violates this Section, Grantee shall notify the County within thirty (30) days of the effective date of the amendment changing the County Code.
- (b) **Covenants, Representations, and Warranties of the County.** The County hereby makes the following covenants, representations, and warranties to and for the benefit of Grantee as of the date of this Franchise Agreement:

- (1) The Grantee and the County, executing this Franchise Agreement on behalf of the County, are duly authorized to do so. This Franchise Agreement constitutes the legal, valid, and binding Franchise Agreement of the County and is enforceable against the County in accordance with its terms.
- (2) To the best of the County's knowledge, there is no action, suit, or proceeding against the County before any court or governmental entity wherein an unfavorable decision, ruling, or finding would adversely affect the validity or enforceability of this Franchise Agreement.

SECTION 2. DEFINITIONS

Whenever any term used in this Franchise Agreement has been defined by Applicable Law, including AB 939 or in the County Code, the definitions therein, as presently defined and as they may be amended in the future, shall apply unless the term is defined in this Franchise Agreement. In the event of conflict between a term defined by Applicable Law and the definitions set forth in this Agreement, the parties shall meet and confer in good faith to reconcile the definitions to be consistent with Applicable Law. In the event the parties cannot come to an agreement, the parties shall resolve the dispute in accordance with Section 16. County reserves the right to impose stricter regulations after meeting and conferring with Grantee. The definitions are set forth in the attached and incorporated Exhibit "D."

SECTION 3. GRANT AND ACCEPTANCE OF EXCLUSIVE FRANCHISE

- (a) **Grant of Franchise.** Pursuant to the provisions of Division 6 of Title 4 of the County Code and pursuant to AB 939, and subject to the terms and conditions of this Franchise Agreement (including all extensions or renewals), County hereby grants to Grantee the exclusive right, privilege, and franchise to provide the Solid Waste Handling Services described in Exhibit "A" (Provided Services) and Exhibit "A-1" (Services to be Provided) to this Franchise Agreement within the portion of the Unincorporated County specified in Exhibits "B" (Map of Franchise Area) and "B-1" (Legal Description of Franchise Area) to this Franchise Agreement. Grantee is authorized to use the County streets and roads for such purpose to provide the Solid Waste Handling Services specified in Exhibit "A" and to make and enter into independent arrangements with residents of Single-Family Dwelling Units, residents and/or owners of Multi-Family Dwelling Units, and Persons in charge of commercial, industrial, institutional, and other entities in the Franchise Area for the Collection, Transportation, and removal to Solid Waste Processing and/or Disposal facilities, of all Residential, industrial, and commercial Solid Waste (including discarded Recyclables and Organic Waste) generated or accumulated within the Franchise Area that has been placed in an authorized Solid Waste Container, in the areas covered by this Franchise Agreement, as described in Exhibit "B" and Exhibit "B-1" now constituted or may hereafter be amended, at the Rates specified in Exhibit E.

The County shall protect the Grantee's exclusive rights through the adoption of proper resolutions, ordinances, and programs and shall have the right to enforce the exclusivity provisions hereof if, in its absolute and sole discretion, if it chooses to do so, but the County shall have no obligation to do so for the benefit of Grantee or otherwise. Should the County take administrative, law enforcement, or other legal action to protect Grantee's exclusive rights, Grantee shall actively participate in, and fund, the same, and shall reimburse the County for its reasonable administrative, law enforcement, or other legal costs and fees

related to any such action unless Grantee provides advance written notice to the County of its opposition to such activity. Nothing herein shall preclude Grantee from taking such legal action against third parties as it deems appropriate to protect the exclusive nature of its Franchise, in which event, the County shall reasonably cooperate with Grantee in such action, provided that the County is reimbursed for its reasonable expenses in connection therewith.

- (b) **Acceptance of Franchise.** Grantee agrees to be bound by and comply with all the requirements of this Franchise Agreement. Grantee waives any right or claim to serve any part of the Franchise Area under any prior grant of franchise, contract, license, or permit issued or granted by any governmental entity.
- (c) **Exceptions to Exclusivity.** The foregoing grant of franchise excludes the following:
 - (1) **Self-Haul.** Any Solid Waste otherwise within the scope of this Franchise Agreement that is removed and personally Transported from any premises by the owner or occupant using their own equipment thereof for the purpose of lawfully delivering the same to a Disposal or Processing facility authorized to receive and handle Solid Waste. The use of a subcontractor is not "Self-Haul" within the meaning of this exception.
 - (2) **Gardeners and Landscapers.** The Collection, Transportation, and Disposal by a gardener or landscaper of Green Waste or yard trimmings that are generated as an incidental part of providing gardening, landscaping, or landscape maintenance services, provided that the gardener or landscaper is not a hauling service or Solid Waste enterprise, does not separately or additionally charge for the incidental service of removing, Transporting, or Disposing (except for tipping fee) of the Green Waste or yard trimmings, and utilizes only his or her own employees and equipment to Collect, Transport, and Dispose of same.
 - (3) **Construction and Demolition Projects.** The Collection, Transportation, and Disposal by a construction and/or demolition contractor of inert materials or Construction and Demolition debris (C&D) from construction and demolition jobs that are generated as an incidental part of providing such services, provided that the construction/demolition contractor is not a hauling service or Solid Waste enterprise, does not separately or additionally charge for the incidental service of removing, Transporting, or Disposing (except for tipping fee) of the inert materials or C&D, and utilizes only his or her own employees and equipment to Collect, Transport, and Dispose of same.
 - (4) **Sale or Gift of Recyclables and/or Organic Waste.** Recyclables and/or Organic Waste that are either donated or sold by the Generator to a party other than Grantee. A mere discount or reduction in price of the franchise hauler's charges for the handling of such materials is not a sale or donation within the meaning of this Franchise Agreement. The materials shall be deemed "solid waste" within the meaning of California Public Resources Code Section 40191, and for purposes of this Franchise Agreement shall be regulated as such, whether or not they may be potentially Recycled, in either of the following instances: (a) the material is mixed or commingled with other types of "solid waste," or (b) the payment of a fee, charge, or other consideration, in any form or amount, is directly or indirectly solicited or received from the Generator by any Person or combination of Persons in exchange for Collection, removal, Transportation, storage, Processing, handling, consulting, container rental,

or Disposal services (“fee for service” Recycling), whether or not arranged by or through a subcontractor, broker, agent, consultant, or affiliate of the provider of such service.

- (5) **Food Waste Used as Animal Feed.** Food Waste or other Organic Waste Diverted from Disposal by delivery to hog farms or otherwise used as animal feed, pursuant to the provisions of PRC Section 40059.4.
- (6) **Edible Food Recovered for Human Consumption.** Edible Food that is collected from a Generator by other Person(s), such as a Person from a Food Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or that is Transported by the Generator to another Person(s), such as a Person from a Food Recovery Organization, for the purposes of Food Recovery, regardless of whether the Generator donates, sells, or pays a fee to the other Person(s) to collect or receive the Edible Food from the Generator.
- (7) **Exempt Persons.** A Person or entity that has been given an exemption by the County from the uniform handling Collection ordinance.

SECTION 4. TERM

- (a) The initial Term of this Franchise Agreement shall commence on July 1, 2023 (the “Effective Date”) and expire on June 30, 2031. Thereafter, beginning on July 1, 2024, and on each July 1 anniversary date thereafter, the Term of this Franchise Agreement will be extended automatically for one (1) additional year, so as to have a rolling term of eight (8) years. Should either party desire that said automatic renewal and extension provision be terminated, such party shall give the other written notice of nonrenewal no later than sixty (60) days prior to the automatic renewal date. Any such notice, properly given, shall serve to terminate the automatic one (1) year renewal and extension provision only, and this Franchise Agreement shall remain in effect for the balance of the Term then outstanding. In the event that either party exercises its right to terminate the automatic renewal and extension provision under this paragraph, the Grantee and the County may subsequently reinstate the automatic renewal and extension provision by mutual written agreement prior to the initial termination date.
- (1) **Transition to Next Company.** Prior to, and at the end of, the Term, or in the event this Franchise Agreement is terminated by either party, or for cause prior to the end of the Term, Grantee shall cooperate fully with County, and any subsequent Solid Waste enterprise the County designates, to ensure a smooth transition of services. Grantee’s cooperation shall include, but not be limited to, providing both the Director and subsequent Solid Waste enterprise with route lists, billing information, lists of gate or other access codes, and information needed for entry to service areas, Container placement areas by address, levels of service including any special needs or services required by each location, and other operating records needed to service all premises covered by this Franchise Agreement. In recognition of the Subscriber’s inherent difficulty or inability to store two sets of Containers, Grantee shall remove its Containers in coordination with the distribution of Containers by the incoming service provider. Grantee shall cooperate with the County and incoming service provider in agreeing to the timing of Container removal; if Grantee and the County cannot agree on a phase-out schedule and Grantee does not remove Containers in a timely manner that requires Subscribers to store two (2) Containers, County, incoming service

provider, or another entity may remove Grantee's Containers and seek cost reimbursement from Grantee through Security or other means. The failure to cooperate with County 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.

Grantee shall, to the maximum extent feasible, provide a new service provider with all keys, security codes and remote controls used to access garages and Bin enclosures. Grantee shall be responsible for coordinating transfer immediately after Grantee's final pickups, so as not to disrupt service. Grantee shall provide Director with detailed route sheets containing service names and addresses, billing names and addresses, monthly rate, and service levels (quantity, material type, and size of Containers and pickup days) at least ninety (90) days prior to the transition date, and provide an updated list two (2) weeks before the transition and a final list of changes the day before the transition. Grantee shall provide means of access to the new service provider at least one (1) full calendar day (excluding Saturdays, Sundays and holidays) prior to the first day of Collection by another party, and always within sufficient time so as not to impede in any way the new service provider from easily servicing all Containers.

Grantee shall provide documentation of any Subscriber that declines a request to provide keys, security codes, and/or remote controls used to access garages and Bin enclosures.

Notwithstanding the foregoing, Grantee shall not be required to disclose or provide information to any person or entity with confidential information, proprietary information, trade secrets, or any other information that is otherwise protected by applicable California privacy laws.

- (b) Whether or not specifically mentioned or incorporated in this Franchise Agreement, exercise of the Franchise granted herein, and every provision of this Franchise Agreement, are subject to the terms, conditions, and provisions of Division 6 of Title 4 of the County Code. With respect to each extended Term of this Franchise Agreement, exercise of the Franchise granted herein, and every provision of the Franchise Agreement, are subject to the terms, conditions, and provisions of Division 6 of Title 4 of the County Code, so long as the amendment to the Division has been adopted by the Board prior to the date by which the Board is required to determine that this Franchise Agreement shall not be extended (as provided in Section 4), whether or not such amendment is effective prior to such date.

SECTION 5. FRANCHISE AREA

The Franchise Area granted by this Franchise Agreement is the portion of the Unincorporated County described in Exhibit "B" and as shown on Exhibit "B-1," both of which are attached hereto and incorporated herein by this reference as if fully set forth. Grantee shall perform Solid Waste Handling Services pursuant to this Franchise Agreement only in such Franchise Area.

SECTION 6. SERVICES PROVIDED BY GRANTEE

In addition to the minimum operating requirements and special Collection programs set forth in this Section 6, Grantee shall provide the Solid Waste Handling Services specified in Exhibit "A"

with the specific manner specified in Exhibit "A." The Grantee shall also, upon written request of the Director, provide optional services in the Franchise Area in accordance with the terms set forth in Exhibit "A," and the rates set forth in Exhibit "E." Exhibits "A" and "E" are attached hereto and incorporated herein by reference as if fully set forth.

The following minimum operating requirements shall apply to Grantee, except to the extent any operating requirement is specifically eliminated or modified in Exhibit "A":

(a) **Employees.**

- (1) Each employee or other Person driving Grantee's vehicle shall at all times have a valid California vehicle operator's license appropriate for the vehicle being driven.
- (2) All Grantee employees shall wear clean clothing of a uniform type when engaged in Collection operations.
- (3) Each employee dealing with Subscribers including, without limit, those engaged in Collection or billing, shall at all times behave in a courteous manner.

(b) **County Liaison.** The Grantee shall designate a Person to serve as agent and liaison between the Grantee and the County and shall maintain a telephone and a means for contact at all times, including during periods of strike or other emergencies. Grantee shall not change this designation without prior notification to the Director, excluding cases of termination of the employee.

(c) **Hours of Collection.** To preserve peace and quiet, Discarded Materials shall only be Collected within a Residential area or Commercial Business area that is contiguous to a Residential area between the hours of 6:00 a.m. and 10:00 p.m. Monday through Friday. Grantee may not make exceptions to these Collection days and times without advanced written approval from the Director. If the regularly scheduled Collection day falls on' New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day, Collection days for the remainder of that week shall all be postponed one (1) Collection day and Residential Collection is permitted on Saturday between the hours of 6:00 a.m. and 6:00 p.m. during the make-up week.

(d) **Office for Inquiries, Complaints, and Acceptance of Billings.** Grantee shall maintain a local office at an approved location (see Exhibit "A") within the County limits 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, holidays excepted. At least one (1) responsible and qualified representative of Grantee, 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 for personal communication with the public regarding billings, complaints, customer service inquiries, etc. The Grantee shall notify the Director, in writing, seven (7) days prior to the effective date of any change in business name, office location, or telephone number. Such notice shall set forth the corrected information. Grantee shall not be required to maintain an office that is different than, or separate from, the office for inquiries and complaints maintained by Grantee under Chapter 8 of Division 3 of Title 3 of the County Code.

(e) **Records and Reports.** Grantee shall prepare, maintain, and provide to the Division such records and reports as required in this Franchise Agreement, as well as those required under any other Applicable Law.

- (f) **Requested Service.** Grantee shall provide Solid Waste Handling Services to all Subscribers within its approved Franchise Area who request such service, except when denial or discontinuance of service is specifically authorized by this Franchise Agreement. Such service shall commence within seven (7) Business Days of the 'Subscriber's request. For Franchise Areas subject to Uniform Handling Service, pursuant to the County Code and this Franchise Agreement, Grantee shall provide Solid Waste Handling Services to all Generators subject to Uniform Handling Service within its approved Franchise Area.
- (g) **Collection Frequency.** For health and safety purposes, minimum Collection frequency for all Solid Waste Handling Services Subscribers shall be as prescribed by the Department of Public Health, Division of Environmental Health Services. Grantee shall correct any missed Collection of a 'Subscriber's Discarded Materials within two (2) Business Days of notice thereof, unless the next regular Collection of such waste is scheduled to occur within three (3) Business Days of such notice.
- (h) **Containers.** In addition to any requirement Grantee is subject to under its Health and Safety Permit, each Container shall be replaced in its proper place in a neat and orderly manner and any litter spilled from a Container by Grantee's employees while emptying a Container shall be cleaned up.
- (1) **Container Reparability or Replacement.** Grantee shall be responsible for Container repair and maintenance and replacing lost, stolen or damaged Containers within two (2) Business Days of notification (excluding Saturdays, Sundays, and holidays listed in Section 6(c), and for graffiti removal within two (2) Business Days of notification, at no additional charge to the Subscriber or to County, unless Grantee can demonstrate to the County's reasonable satisfaction that the damage or loss was due exclusively to the Subscriber's intentional or negligent behavior. Director shall make the final determination. If County permits a repair or replacement charge to be assessed against a Subscriber, the charge shall be no more than the actual cost of repair or the Grantee's purchase price for a new Container, plus a reasonable delivery charge. All repairs must restore the Container to its full functionality. Unsightly/worn-out Containers shall be replaced by Grantee upon Subscriber request at no additional cost to Subscriber.
- All Containers placed in service shall comply with color and labeling requirements of 14 CCR § 18984.7 and 14 CCR § 18984.8, respectively.
- (i) **Noise.** In addition to any requirement Grantee is subject to under its Health and Safety Permit or other Applicable Law, Grantee shall not create any noise in excess of what is reasonable and necessary in providing Solid Waste Handling Services to its Subscribers.
- (j) **Collection Equipment.** Grantee shall provide an adequate number of vehicles and equipment to provide the Solid Waste Handling Services required under its Franchise Agreement. No vehicle shall be used for the Collection and Transportation of Discarded Materials prior to such initial and/or periodic inspection and approval by the Department of Public Health, Division of Environmental Health Services to the extent required under the Grantee's applicable Health and Safety Permit.
- (1) All on-road motor vehicles used by Grantee under its Franchise Agreement shall be registered with the Department of Motor Vehicles of the State of California (unless otherwise allowed in writing by the Director), shall be kept clean and in good repair, and shall be uniformly painted. In addition, vehicles must be in compliance with the

California Air Resources Board requirements and any other Applicable Law, including, but not limited to, South Coast Air Quality Management District's Rule 1193 recordkeeping requirements for vehicle specific records to be kept by fleet operators for a minimum of two (2) years. Records shall be submitted to County within thirty (30) days of the execution of this Franchise Agreement, and annually thereafter.

- (2) Discarded Materials Collection motor vehicles used in operations under any Franchise Agreement shall be washed at least once every seven (7) calendar days, weather permitting.
 - (3) Grantee's name, local or toll-free telephone number, and vehicle number (in letters and figures no less than three inches (3") high), shall be visibly displayed on all motor vehicles used by Grantee in operations under this Franchise Agreement.
 - (4) The number of toll-free telephone lines provided shall be sufficient to adequately service the public.
- (k) **Privacy.** Grantee shall strictly observe and protect the rights of privacy of its Subscribers. Information identifying individual Subscribers or the composition or contents of a Subscriber's Solid Waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless as part of a legitimate inquiry by a governmental unit, or as authorized by a court of law or by statute, or upon written authorization of the Subscriber. This provision shall not be construed to preclude Grantee from preparing, participating in, or assisting in the preparation of Solid Waste characterization studies or Solid Waste stream analyses, which may be required by Applicable Law or the County, provided that no such analysis shall identify any Person or connect any Person to any particular Solid Waste. In addition, Grantee shall not market, sell, convey, or donate to any Person any list with the name or address of Subscribers except that Grantee may provide such lists to authorized employees and authorized representatives of the County as necessary to comply with this Franchise Agreement.

(l) **Subscriber Complaints.**

- (1) All Subscriber complaints shall be directed to Grantee. Grantee agrees to use its best efforts to resolve all complaints received by mail, telephone, or in person by close of business of the second Business Day following the date on which such complaint is received. Service complaints may be investigated by the Director and Grantee shall provide reasonable cooperation to the Director in the event of such investigation. Grantee shall maintain records listing the date of Subscriber complaint, the name, address and telephone number of Subscriber, the nature of the complaint or request, and the date and nature of the action taken by the Grantee to resolve the complaint. All such records shall be maintained for at least seven (7) years after Grantee's receipt of the complaint or inquiry and shall be available for inspection by County during all business hours.
- (2) The Grantee shall designate a "government liaison Person," which shall be responsible for working with the Division to resolve Subscriber complaints.
- (3) The Grantee shall notify Subscribers in writing of the complaint resolution procedure set forth in Section 10.3 of this Franchise Agreement at the time Subscribers apply for or are provided service, and annually thereafter.
- (4) The Grantee shall address and document SB 1383 Subscriber non-compliance complaints received by Grantee in accordance with Exhibit "A".

(m) **Property Damage.**

- (1) Any physical damage caused by the act or omissions of employees, officers, or agents of the Grantee to private or public property in operations under its Franchise Agreement shall be promptly repaired or replaced by Grantee at Grantee's sole expense.
 - (2) With respect to driving surfaces, Grantee shall be responsible for damage (excluding normal wear and tear), whether or not paved, resulting from the weight of vehicles providing Solid Waste Handling Services on public or private property when it can be demonstrated that such damage is the result of vehicles exceeding speed limits or maximum weight limits set by the State of California or by other negligent operation of vehicles by Grantee's employees.
- (n) **Gratuities.** Grantee shall not, nor shall it permit any officer, agent, or employee employed by it, to request, solicit, or demand, either directly or indirectly, any gratuity for services authorized or required under its Franchise Agreement.
- (o) **Unlawful Discrimination.** In performing the Solid Waste Handling Services under its Franchise Agreement, and in exercising the rights and privileges granted thereunder, Grantee shall not unlawfully discriminate for or against any Person on the ground of race, sex, age, creed, color, religion, or national origin.
- (p) **Laws and Licenses.** Grantee shall comply with all federal, state, and County laws, ordinances, rules, and regulations applicable to the performance of the Solid Waste Handling services provided under this Franchise Agreement and shall obtain and maintain in full force and effect all licenses and permits necessary to perform such services throughout the Term of this Franchise Agreement.
- (q) **Removable Signs on Grantee's Vehicles.** County may request, from time to time, Grantee's approval for the placement of removable magnetic signs on Grantee's Collection vehicles to promote County programs. These signs will be designed and sized in a manner that is acceptable to, and compatible with, Grantee's vehicles/equipment. The costs of such signs shall be paid by the County and Grantee shall pay costs of installation, if any.
- (r) **Services During Strikes, Lockouts, or Other Labor Disturbances.** In the event of labor strikes, lockouts, or other labor disturbances, Grantee and County agree to cooperate fully in developing and implementing contingency plans for the continued Collection and handling of Discarded Materials in in order to safeguard public health and avert imminent and substantial threats to public health and safety. Without limitation, these cooperation efforts may include prioritizing the Collection of Discarded Materials from certain businesses in order to control the accumulation of Discarded Materials that may lead to more immediate threats to public health such as Putrescible Waste, sewage sludge, and manure or other animal waste.
- (s) **Solid Waste Handling Services and Performance Review Hearing.** County may hold a meeting on or about the two (2) year anniversary of the start of this Franchise Agreement, and every two (2) years thereafter, at which time Grantee shall be present and shall participate, to review the Solid Waste Collection, source reduction, Processing, and other Diversion services, and overall performance under this Franchise Agreement. The purpose of the meeting is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, Processing, and Disposal to

achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling, and Disposal system; and to ensure services are being provided with adequate quality, effectiveness, and economy.

Forty-five (45) days after receiving notice from Director of a Solid Waste Handling Services and performance review meeting, Grantee shall, at a minimum, submit a report to County indicating the following:

- (1) Changes recommended and/or new services to improve County's ability to meet the Recycling/waste Diversion goals.
- (2) Inventory of Compliance with the Collection programs included in Exhibit "A" and the Processing, Transfer, and Disposal services and facility standards included in Exhibit "J."
- (3) Any specific plans and proposed costs for provision of changed or new services by Grantee.
- (4) Results of the most recent route audit as described in Exhibit "A."

The reports required by this Franchise Agreement regarding Subscriber complaints shall be used as one basis for review. Grantee may submit other relevant performance information and reports for consideration. County may require Grantee to submit specific information in a specific format for the meeting.

Topics for discussion and review at the Solid Waste Handling Services and performance review meeting shall include, but shall not be limited to, services provided, route audit results, feasibility of providing new services, application of new technologies, Subscriber complaints, amendments to this Franchise Agreement, developments in Applicable Law, new initiatives for meeting or exceeding AB 939's goals, regulatory constraints, and Grantee performance. County and Grantee may each select additional topics for discussion at any Solid Waste Handling Services and performance review meeting.

Not later than ninety (90) days after the conclusion of each Solid Waste Handling Services and performance review meeting, County may issue a report. As a result of the review, the Director may require Grantee to provide expanded or new services within a reasonable time and for reasonable rates and compensation in accordance with Section 13.2(d) and County may direct or take corrective actions for any performance inadequacies.

- (t) **Performance Satisfaction Survey.** Grantee will conduct a survey at Grantee's expense at request of Director or in preparation for this hearing, but not more than once every two (2) years. The County shall notify the Grantee of their requirement to perform the survey at least one hundred twenty (120) days prior to the Solid Waste Handling Services and performance review hearing. The purpose of the survey is to determine Subscriber satisfaction with current Collection services and customer service provided by the Grantee. Survey will be distributed to a minimum of ten percent (10%) of Residential Subscribers and ten percent (10%) of Commercial Business Subscribers, selected at random. Grantee will prepare separate Residential and Commercial Business Subscriber surveys and will seek Director approval of survey content and format prior to distribution. Grantee will incorporate County content, at Director's request. Survey results must be made available to the County thirty (30) days prior to the hearing.

SECTION 7. OWNERSHIP OF SOLID WASTE, RECYCLABLES, AND ORGANIC WASTE

Except as provided in State law, ownership of Solid Waste, Recyclables and Organic Waste shall transfer to Grantee at such time as the Solid Waste, Recyclables and Organic Waste is abandoned and discarded by the Solid Waste Handling Service Subscriber of Grantee and is Collected by Grantee in the location provided in Exhibit "A."

SECTION 8. WASTE DELIVERY DESIGNATION

The Grantee shall deliver all Discarded Materials Collected pursuant to this Franchise Agreement for Disposal to the County Solid Waste Disposal System. Grantee shall notify the Director in writing within ninety (90) days in advance of any desired change in the primary Designated Disposal Facility for the Franchise Agreement.

Grantee shall Transport all Discarded Materials to the Designated Facility(ies) specified in Exhibit "J" and shall Transfer, Process, and Dispose of Discarded Materials in accordance with Exhibit "J."

Grantee shall not commingle County Discarded Materials Collection routes with other jurisdiction routes. If this is not feasible, upon approval by the Director, Grantee may commingle routes, but must submit to the County the methodology used to segregate the loads between jurisdictions.

SECTION 9. INDEMNIFICATION AND INSURANCE; SECURITY

Section 9.1. Indemnification of County

- (a) **General.** To the fullest extent permitted by law, the Grantee assumes liability for and agrees, at the Grantee's sole cost and expense, to promptly and fully indemnify, protect, hold harmless, and defend (even if the allegations are false, fraudulent, or groundless), the County and its authorized officers, employees, agents, representatives, and volunteers ("indemnitees"), from and against any and all claims, actions, suits, arbitrations, administrative proceedings, regulatory proceedings, or other legal proceedings, causes of action, demands, costs, judgments, liens, penalties, liabilities, damages, punitive damages related to third party claims, losses, anticipated losses of revenue, and expenses (including, but not limited to, any reasonable fees of accountants, attorneys, experts, or other professionals, or investigation expenses), or losses of any kind or nature whatsoever, arising out of, resulting from, or in any way (either directly or indirectly) related to Grantee's performance of this Franchise Agreement, or any breach of this Franchise Agreement by Grantee or any of its officers, agents, employees, subcontractors, or any Person performing any of the subject work of this Franchise Agreement on behalf of Grantee ("Indemnity Claims"). Such Indemnity Claims include, but are not limited to, claims for:
- (1) Any activity on, or use of, the County's premises or facilities by Grantee or any of its officers, agents, employees, or subcontractors in its performance of this Agreement;
 - (2) Any liability incurred due to Grantee acting outside of the scope of its authority pursuant to this Franchise Agreement;

- (3) The failure of Grantee in its performance of the Franchise Agreement to comply with any Applicable Law, permit, or orders;
 - (4) Any misrepresentation, misstatement, or omission with respect to any statement made in the Franchise Agreement or any document furnished by the Grantee in connection therewith;
 - (5) Any breach of any duty, obligation, or requirement under the Franchise Agreement, including, but not limited to, any breach of Grantee's warranties, representations, or agreements set forth in the Franchise Agreement;
 - (7) Bodily or personal injury, emotional injury, sickness or disease, or death at any time to any Person including without limitation employees of Grantee arising out of Grantee's performance of this Franchise Agreement;
 - (8) Damage or injury to real property, personal property, equipment, or materials arising out of Grantee's performance of this Franchise Agreement;
 - (9) Any liability imposed by Applicable Law including, but not limited to, criminal, civil, or administrative fines or penalties arising out of Grantee's performance of this Franchise Agreement;
 - (10) Any activity conducted by Grantee under or pursuant to the provisions of this Franchise Agreement;
 - (11) Any acts, errors, omission, or negligence of Grantee;
 - (12) To the extent authorized by Applicable Law, any fines or penalties imposed by the State of California including, but not limited to, the California Environmental Protection Agency, the California Department of Resources Recycling and Recovery, and the California Department of Toxic Substances Control under, but not limited to, Public Resources Code § 41780, et seq., SB 1383, and Title 22 California Code of Regulations, Division 4.5, as may be amended from time to time, where such fines or penalties are: (i) due to the failure of Grantee to meet its obligations under this Franchise Agreement; (ii) due to Grantee's performance under this Franchise Agreement, or, (iii) due to Grantee's delays in providing information that prevents County from submitting reports required by AB 939, AB 341, AB 1826, and/or SB 1383, in a timely manner.
- (b) **Effect of Indemnitees' Active Negligence.** Grantee's obligations to indemnify and hold the indemnitees harmless exclude only such portion of any Indemnity Claim that is attributable to the active negligence or willful misconduct of the indemnitee, provided such active negligence or will misconduct is determined by agreement of the Grantee and the County or by findings of a court of competent jurisdiction. In instances where an indemnitee's active negligence accounts for only a percentage of the liability for the indemnity claim involved, the obligation of Grantee will be for that entire percentage of liability for the indemnity claim not attributable to the active negligence or willful misconduct of the indemnitee(s). Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist, as to any party or Person described in this paragraph. Subject to the limits set forth herein, the Grantee, at its own expense, shall satisfy any resulting judgment that may be rendered against any indemnitee resulting from an Indemnity Claim. The indemnitees shall be consulted with regard to any proposed settlement.
- (c) **Independent Defense Obligation.** The duty of the Grantee to indemnify and hold harmless the indemnitees includes the separate and independent duty to defend the indemnitees,

which duty arises immediately upon receipt by Grantee of the tender of any indemnity claim from an indemnitee. The Grantee's obligation to defend the indemnitee(s) shall be at Grantee's sole expense, and not be excused because of the Grantee's inability to evaluate liability or because the Grantee evaluates liability and determines that the Grantee is not liable. This duty to defend shall apply whether an indemnity claim has merit or is meritless, or that involves claims or allegations that any or all of the indemnitees were actively, passively, or concurrently negligent, or that otherwise asserts that the indemnitees were responsible, in whole or in part, for any indemnity claim. The Grantee shall respond within twenty (20) calendar days to the tender of any indemnity claim for defense unless the indemnitee agrees in writing to an extension of this time. The defense provided to the indemnitees by Grantee shall be by well qualified, adequately insured, and experienced legal counsel reasonably acceptable to the County. In the event the Grantee does not timely assume the defense as required in this Section or assumes the defense but does not use approved counsel, the County may elect to secure its own attorneys (including County Counsel) to defend such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by Grantee within thirty (30) days. Additionally, if Grantee, after receipt of written notice from County, fails to make any payments due under this Franchise Agreement to County, Grantee shall pay any reasonable attorneys' fees and costs incurred by County in securing any such payment from Grantee. County must provide Grantee with reasonable notice of any claim, demand, action or suit, of any and every kind and description for which County seeks indemnification under this Agreement. County will provide Grantee with reasonable cooperation in connection with the defense of any Indemnity Claims and may participate in the defense at its own expense.

- (d) **Waiver of Indemnity Rights Against Indemnitees.** With respect to third-party claims against the Grantee, to the fullest extent permitted by law, the Grantee waives any and all rights to any type of express or implied indemnity against the indemnitee.
- (e) **No Limitation or Waiver of Rights.** Grantee's indemnification and defense obligations set forth in this paragraph are separate and independent from the insurance provisions set forth herein, and do not limit, in any way, the applicability, scope, or obligations set forth in such insurance provisions. The purchase of insurance by the Grantee with respect to the obligations required herein shall in no event be construed as fulfillment or discharge of such obligations. Failure of the County to monitor compliance with these requirements imposes no additional obligations on the County and will in no way act as a waiver of any rights hereunder.
- (f) **Survival of Indemnity Obligations.** Grantee's obligations under this Section 9.1 are binding on Grantee and its successors, heirs, and assigns and shall survive expiration or termination of the Franchise Agreement.

Section 9.2. Hazardous Waste Indemnification

Without limiting the generality of the foregoing, if Grantee has negligently or willfully acted or failed to act with respect to the Collection, handling, or Transportation of Hazardous Waste, Grantee shall indemnify, defend with counsel approved by County, protect, and hold harmless the County and its respective officers, employees, agents, volunteers, assigns, and any successor or successors harmless from and against all claims, actual damages (including, but not limited to, special and consequential damages), natural resources damage, 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, attorney 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, County or its respective officers, employees, agents, or Grantees 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 that Grantee has negligently or willfully acted or failed to act with respect to its Collection, handling, or Transportation at any place where Grantee stores, handles, Transports, or Disposes of Discarded Materials pursuant to this Franchise Agreement. The foregoing indemnity is intended to operate and shall operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 U.S.C. Section 9607(e) and California Health and Safety Code Section 25364, to insure, protect, indemnify, and hold the County harmless from liability. The presence of household Hazardous Waste in de minimis amounts in deliveries to the Disposal system does not necessarily constitute negligence on the part of the Grantee.

Section 9.3. Diversion Program

- (a) The County and Grantee agree that the essential element to meeting State-mandated waste Diversion requirements is to develop robust programs and program elements to maximize opportunities for Diversion, and to maximize participation in those program elements. Grantee shall conduct Diversion programs in accordance with the County's approved Source Reduction and Recycling Element including, but not limited to, programs set forth in Exhibit "A" and Exhibit "A-1."
- (b) Annually, preferably in February, the Grantee and the Director will review the Diversion programs being implemented by Grantee for effectiveness. Elements of effectiveness include, but are not limited to, net volume of Recyclables Collected, net volume of Organic Waste Collected, Subscriber participation, and cost. As determined by the Grantee and Director, programs may be modified, added, or deleted. Programs that require modification without a change in rates may be approved by the Director. Programs proposed for elimination, addition, or that require a change in rates, will require approval by the Board of Supervisors. Grantee will provide information reasonably requested by the Director as necessary to determine the effectiveness of the program(s) and such information may be in addition to information provided under Section 12. Grantee may be entitled to such adjustment in rate(s) resulting from the elimination, addition, or modification of any program in accordance with Section 13.2(d).
- (c) If the County finds that additional programs are necessary to meet any State law required Diversion goals, the County may require Grantee to provide proposals for additional Diversion programs to meet the Diversion requirements. Compensation for such additional programs shall be established under the terms of this Franchise Agreement as a Change in Service Level Adjustment.

In the event that Grantee is unable or unwilling to provide a service as requested by the County, Grantee must provide written explanation to the Director within fifteen (15) Business Days of the initial request documenting the reason(s) they are unable or unwilling to provide service.

If County and Grantee cannot agree on new or additional services and/or corresponding compensation, then the County Board of Supervisors, at a properly noticed meeting, shall be the final decisionmaker whether to accept the Grantees proposal or whether the County may contract with other parties for such services, and such services shall be considered exempt from the exclusivity provisions of Section 3.

- (d) Grantee shall Divert from landfilling Source Separated Recyclables and Organic Waste it Collects under this Franchise Agreement, as specified in Exhibit "A," in compliance with Applicable Law. In this regard, Grantee shall take all of the following actions:
- (1) Grantee shall provide all Subscribers with Containers that comply with SB 1383 requirements, with the exception of Subscribers where an allowable waiver is granted in accordance with SB 1383 Regulations.
 - (2) Except for Organic Waste Collected from homeless encampments or material subject to quarantine by the California Department of Food & Agriculture, and except as provided in Exhibit "A" due to the presence of Prohibited Container Contaminants when the material is Collected for Disposal, Grantee shall collect and deliver all Organic Waste to the Designated Transfer Facility, if applicable, and/or then to the Designated Organic Waste Processing Facility for Processing and Diversion.
 - (3) Except as provided in Exhibit "A" due to the presence of Prohibited Container Contaminants when the material is Collected for Disposal, Grantee shall Collect and deliver all Recyclables to the Designated Transfer Facility, if applicable, and/or to the Designated Source Separated Recyclables Processing Facility for Processing and Diversion of that material.
 - (4) Grantee shall Collect and deliver all Gray/Black Container Waste to Designated Transfer Facility, if applicable, and/or the Designated Disposal Facility.
 - (5) Grantee shall Collect and deliver all C&D to a Designated C&D Processing Facility (or other certified C&D facility that meets California requirements of 65% minimum Diversion) for Processing and Diversion.
 - (6) Only contaminated Containers, Residue, or Gray/Black Container Waste Collected in Gray/Black Containers Carts will be delivered to the Designated Disposal Facility. All other material must go to the Designated Facility for Processing and Diversion.
 - (7) Grantee must take all commercially-reasonable and lawful actions to maximize Diversion of materials from landfills.

Compliance will be measured on a calendar year basis. Discarded Materials Collected shall only be considered to have been Recycled or Diverted as required under this Franchise Agreement if it is deemed to be Diversion by CalRecycle in connection with efforts to meet County's Diversion goals. Grantee shall make reasonable efforts to ensure that Recyclables and Organic Waste are Transported, handled, and Processed at a suitable facility, so as to prevent or minimize the amount of such materials being taken to a landfill and to maximize Diversion credits for the County. Grantee shall provide documentation to the County within thirty (30) days of the end of each calendar year stating and supporting that calendar year's Diversion rate. Transformation may be used as a method to achieve the minimum Recycling requirements to the extent that is allowable as Diversion as defined by CalRecycle.

Grantee shall Process all recoverable C&D loads Grantee Collects under this Franchise Agreement. Grantee shall provide weight tickets and/or Diversion reports to customers upon request within fifteen (15) days of the end of the month in which the request is made.

If CalRecycle determines that County has failed to comply with Applicable Law due to Grantee's failure to undertake the actions described in this Section 9.3, Grantee must prepare and submit, at its cost and expense, a corrective action plan to County sufficient to demonstrate good faith efforts by County to comply with Applicable Law and that is otherwise acceptable to CalRecycle.

Grantee must implement all measures identified in the corrective action plan at its sole cost and expense, unless the failure to comply with Applicable Law was due to a Change in Law or due to the negligent acts or omissions of the County, and, in such case, Grantee shall be entitled to a rate adjustment in accordance with Section 13.2(d).

- (e) **Failure of Recyclables Market.** Notwithstanding any other provision of this Agreement to the contrary, where CalRecycle has determined that there are no commercially-viable markets for a specific type of Recyclable Materials, or with written notice to County and County is in concurrence, Grantee is unable to identify a market for one or more Recyclable Materials despite the exercise of commercially-reasonable efforts to Process and market the material, and determines to Dispose of the Recyclable Material(s), such a determination shall not constitute a failure to implement service, a failure to implement a program, or an event of default under this Agreement.
- (f) **Representations and Warranties.** Grantee represents and warrants that it is aware of and familiar with the Applicable Laws, and County's waste stream. Grantee represents and warrants that it has the capacity, skill, and ability to undertake the actions identified in this Section 9.3 without imposing any costs or fees other than those set forth in Exhibit "E," as may be adjusted as provided for in this Agreement. Where Applicable Law is modified by a Change in Law, Grantee agrees to develop and implement such actions, programs, and measures designed to bring County into compliance and County agrees that it will meet and confer with Grantee within ninety (90) days regarding such actions, programs, and measures, their implementation, and Grantee shall be entitled to an adjustment to rates reasonably necessary to effectuate same in accordance with Section 13.2(e).
- (g) **Mutual Cooperation.** County and Grantee will reasonably cooperate in good faith with all efforts by each other to comply with Applicable Law. In this regard, County's obligations include, without limitation, making such petitions and applications as may be reasonably requested by Grantee for time extensions in meeting Diversion Compliance, implementing corrective actions plans, seeking reasonable and applicable exemptions where allowed under Applicable Law, and implementing additional programs in accordance with this Franchise Agreement. County agrees to authorize such changes to Grantee's Collection services or Collection service programs as may be reasonably requested by Grantee in order to achieve the Diversion Compliance or new Diversion Compliance as required by a Change in Law in accordance with Section 13.2(e).
- (h) **Guarantee.** Except for programs currently required by Applicable Law but not set forth in this Agreement, or that Grantee is expressly instructed by County not to implement, services that a Subscriber declines to accept, or to the extent arising from the negligent acts or omissions of the County, Grantee guarantees that it will carry out its obligations under this Franchise Agreement such that: (i) Grantee will at all times be in compliance with the requirements of Applicable Law; and, (ii) County will meet or exceed the Diversion Compliance set forth in Applicable Law. In this regard Grantee agrees that it will, in addition to any other Franchise Agreement requirement, at its sole cost and expense:

- (1) Subject to the restrictions set forth in Public Resources Code Section 40059.1, indemnify, defend, and hold County harmless from the imposition of any fee, charge, penalty, fine, or similar monetary exaction by, from any enforcement proceeding or action undertaken by, and from the cost of any measure the County is required to undertake or implement by a court or CalRecycle to enforce against the County or Grantee the Diversion Compliance;
- (2) Assist County in responding to inquiries from CalRecycle;
- (3) Assist County in preparing for, and participating in, CalRecycle's biannual review of County's Source Reduction and Recycling Element, as the requirement for or name of may be amended or changed from time to time, pursuant to Public Resources Code section 41825;
- (4) Assist County in applying for any extension, including under Public Resources Code section 41820.5, if so directed by County;
- (5) Assist County in any hearing conducted by CalRecycle relating to County's compliance with Applicable Law;
- (6) Assist County with the development and implementation of a public awareness and education program that is consistent with County's plans and policies; and,
- (7) Provide County with Recycling, source reduction, and other technical assistance as may be needed to comply with Applicable Law.

Section 9.4. CalRecycle Indemnification

Grantee's duty to defend and indemnify herein includes payment of all fines and/or penalties imposed by CalRecycle, subject to the restrictions set forth in Public Resources Code Section 40059.1, if the requirements of AB 939, AB 341, AB 1826, and/or SB 1383 are not met by the Grantee with respect to the Discarded Materials Collected under this Franchise Agreement, and such failure is: (i) due to the failure of Grantee to meet its obligations under this Franchise Agreement, or, (ii) due to Grantee delays in providing information that prevents Grantee or County from submitting reports required by State law in a timely manner. The provisions of this Section shall survive the termination or expiration of this Franchise Agreement.

Section 9.5. Insurance Requirements

Grantee agrees to provide insurance set forth in accordance with the requirements herein. If the Grantee uses existing coverage to comply with these requirements, and that coverage does not meet the specified requirements, the Grantee agrees to amend, supplement, or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided, and in addition thereto, the Grantee shall secure and maintain throughout the contract Term the following types of insurance with limits as described below:

- (a) **Workers' Compensation/Employers Liability.** A program of Worker's Compensation insurance or a State-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with two hundred and fifty thousand dollars (\$250,000.00) limits covering all Persons

including volunteers providing services on behalf of the Grantee and all risks to such Persons under this contract.

- (b) **Commercial/General Liability Insurance.** The Grantee shall carry General Liability Insurance covering all operations performed by or on behalf of the Grantee providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000.00), per occurrence. The policy coverage shall include:
 - (1) Premises operations and mobile equipment.
 - (2) Products and completed operations.
 - (3) Broad form property damage (including completed operations).
 - (4) Explosion, collapse and underground hazards, if necessary.
 - (5) Personal Injury.
 - (6) Contractual liability.
 - (7) Two million dollars (\$2,000,000.00) general aggregate limit.
- (c) **Automobile Liability Insurance.** Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired, and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000.00) for bodily injury and property damage, per occurrence.
- (d) **Environmental Liability Insurance.**
 - (1) With a combined single limit of not less than five million (\$5,000,000.00) per claim or occurrence, the required additional insured endorsement shall protect the County without any restrictions.
 - (2) If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.
- (e) All required insurance policies, except for the Workers' Compensation coverage, shall contain endorsements naming the County, and its employees, agents, volunteers, and officers as additional insureds with respect to liabilities arising out of operating under the Franchise Agreement. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability, but shall allow coverage for the County to the full extent provided by the policy. Grantee may comply with this requirement if its policies include blanket additional insured endorsements that provide additional insured status when required by written contract. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, GC 2010.
- (f) The Grantee shall require the carriers of the above required insurance coverage to waive all rights of subrogation against the County, its officers, agents, volunteers, employees, contractors, and subcontractors with respect to liabilities arising out of operating under the Franchise Agreement. All general or auto liability insurance coverage shall not prohibit the Grantee and Grantee's employees or agents from waiving the right of subrogation prior to a loss or claim. The Grantee hereby waives all rights of subrogation against the County with respect to liabilities arising under the Franchise Agreement.

- (g) All policies required by this Section 9.5 must be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
- (h) Prior to commencing operations under the Franchise Agreement, Grantee shall furnish to the Division, certificates of insurance evidencing the insurance coverage required above. Each such certificate shall provide that the insurance coverage evidenced thereby shall not be, expired, canceled, or terminated without at least thirty (30) days advance written notice to the Division. Proofs of renewal or of substitution of carriers shall be provided to the Division promptly as such events occur. The insurance policy shall be made available for inspection by the County within fifteen (15) days of County request at Grantee's headquarters in Sun Valley, CA.
- (i) All insurance requirements are subject to annual review by the County, with the results of such review to be provided to a Grantee on or before the anniversary of the Effective Date of the Franchise Agreement. If the County's Risk Manager determines at any annual review that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the County's Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk. Any such change shall be treated as a Change in Law Adjustment, under the provisions of this Franchise Agreement.
- (j) Grantee shall not be required to maintain separate policies of insurance for any type of insurance required under both this Section 9.5 and Chapter 8 of Division 3 of Title 3 of the County Code. However, Grantee must maintain the level of insurance which is the higher of that required in this Section 9.5 and Chapter 8 of Division 3 of Title 3 of the County Code, and must obtain and maintain insurance coverage that satisfies all of the provisions of this Section 9.5 and Chapter 8 of Division 3 of Title 3 of the County Code, including without limit, providing certificates of insurance to all specified divisions of the County and requiring notification of the cancellation or termination of any insurance policy be given by the insurance company to all specified divisions of the County.
- (k) Grantee agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross-liability exclusions that preclude coverage for suits between Grantee and the County or between the County and any other insured or additional insured under the policy.
- (l) Unless approved by the Risk Management Department of the County, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A-VII."
- (m) Any and all deductibles or self-insured retentions in excess of ten thousand dollars (\$10,000.00) shall be declared to and approved by Risk Management. In the event any deductibles or self-insured retentions are not approved by Risk Management, Grantee may obtain a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses for any unapproved amount.
- (n) In the event that any policy or insurance required under this Franchise Agreement does not comply with the requirements, is not procured, or is cancelled and not replaced, the County has the right, but not the obligation or duty, to cancel the contract or obtain insurance if it

deems necessary and any premiums paid by the County will be promptly reimbursed by the Grantee or County payments to the Grantee will be reduced to pay for County purchased insurance.

Section 9.6 Performance Bonds or Other Security

Grantee shall furnish to the County, without additional charge, a corporate surety bond or a letter of credit acceptable to the Director as Security for performance under this Franchise Agreement. The amount of the Security shall be the average of one (1) month's expected Gross Receipts Less Disposal Charges. Adequate proof of the existence of the Security shall be provided to the Director. The bank on which the Security may be drawn shall be a company acceptable to the Director and shall be authorized to do business in the State of California.

Section 9.7. Liquidated Damages Deposit

Each Grantee shall be required to maintain a bank account from which the Division will have the ability to remove, on the sole signature of the Director, sums of money equal to any liquidated damages assessed against Grantee under the provisions of Section 10.2 and Exhibit "M" of this Franchise Agreement. Grantee shall be required to maintain a minimum balance of two thousand five hundred dollars (\$2,500.00) in the account; the Grantee must restore the account to such minimum balance within ten (10) days after the mailing of any monthly statement from the bank showing, or written notice from the Division stating, that the balance of the account has fallen below the two thousand five hundred dollars (\$2,500.00) required minimum. The sums on account shall belong to Grantee and all interest on said account belongs to, and all costs related to such account shall be the responsibility of, Grantee. To the extent possible, Grantee shall require the bank to provide a copy of a monthly account statement to the Division. In the event that the bank is unwilling to provide such a statement, Grantee shall provide a true and complete copy of its monthly account statement to the Division within five (5) working (waste Collection) days of its receipt by the Grantee.

Section 9.8 . Modification

The requirements of this Section 9 may be modified or waived in writing by the Board upon the request of Grantee, provided the Board reasonably determines such modification or waiver is in the best interest of County and of the public welfare, considering all relevant factors, including acceptable financial guarantees provided by Grantee or by a parent company of Grantee.

SECTION 10. FAILURE TO PERFORM AND REMEDIES

The rights of the Grantee and County upon the failure of either to perform as required under this Franchise Agreement shall be as provided below:

Section 10.1. Administration, Enforcement and Remedies

- (a) If the Director determines at any time that the Grantee's performance of the Solid Waste Handling Services authorized/required in this Franchise Agreement, or any of its other actions, are not in conformity with the provisions of the Franchise Agreement, the provisions of the County Code, the requirements of the Department of Resources Recycling and

Recovery (CalRecycle) or its successor agency, including, but not limited to, requirements for source reduction and Recycling (as to the waste stream subject to the Franchise Agreement) or any other applicable federal, State, or local law or regulation, including, but not limited to, the laws governing Collection, Transfer, storage, and/or Disposal of Solid Waste or Discarded Materials, the Director will notify Grantee in writing of such deficiencies ("Notice of Deficiency").

Without limiting the generality of the forgoing, the County may provide a notice of deficiency for any of the following:

- (1) If the Grantee practices, or attempts to practice, or if it is determined by the Division that the Grantee has heretofore practiced, any fraud or deceit upon the County or upon any member of the public, including any Subscriber of the Grantee;
- (2) If the Grantee becomes insolvent, unable or unwilling to pay its debts, or upon listing on an order in a bankruptcy proceeding for relief related to operations pursuant to this Franchise Agreement in favor of Grantee and acting to the detriment of County or of a Subscriber of the Grantee;
- (3) If the Grantee fails to provide or maintain in full force and effect the indemnifications, insurance, Security, bank account, or any other item required by Section 9 of this Franchise Agreement;
- (4) If the Grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over the Grantee in the operation of its business under this Franchise Agreement;
- (5) If the Grantee ceases or fails to provide Solid Waste Handling Services as required under this Franchise Agreement to a substantial number of Subscribers within its Franchise Area or over all, or a substantial portion of, its Franchise Area, for a period of seven (7) days or more, for any cause that was reasonably within the ability of the Grantee to have prevented or overcome, and where such cessation or failure causes an imminent and substantial threat to public health and safety. As used in this provision, a "substantial number of Subscribers" can be as few as one (1) if the Grantee's cessation or failure to provide Solid Waste Handling Services creates an imminent and substantial threat to public health or safety;
- (6) If the Grantee willfully fails to make any payments required under the provisions of either Division 6 of Title 4 of the County Code or of this Franchise Agreement and/or refuses to provide or does not provide to the County within thirty (30) days the requested information, manifests, reports, and/or test results in a timely manner as provided in Division 6 of Title 4 of the County Code or of this Franchise Agreement;
- (7) If the Grantee fails to cooperate with audits by failing to complete, perform, or cooperate with any audit as described by this Franchise Agreement;
- (8) If the Grantee fails to submit reports or documentation. Grantee shall complete or provide required reports or documents to County as required by this Franchise Agreement;
- (9) If the Grantee fails to submit operational and/or financial data and information related to the performance of this Agreement as reasonably requested by the County;
- (10) If the Grantee violates the terms, conditions, or requirements of this Franchise Agreement, the California Integrated Waste Management Act of 1989, as it may be amended from time to time (AB 939), or any law, statute, ordinance, order, directive,

- rule, or regulation issued pursuant to AB 939 through any acts or omissions by Grantee related to the performance of this Agreement;
- (11) If the Grantee willfully and persistently, and without the consent of the Director, fails to deliver the Discarded Materials to the Designated Facility specified in this Franchise Agreement for each Discarded Material type;
 - (12) If during the course of the administration of this Franchise Agreement, the County determines that Grantee has made a material misstatement or misrepresentation or that materially inaccurate information has been provided by Grantee;
 - (13) If there is any felony conviction for a violation of any federal or State law relating to: bribery of public officials or other acts of public corruption; fraud; anti-trust; or unfair trade practices, including predatory pricing:
 - (A) of any employee of Grantee, where such felony conviction relates to actions taken by such employee in respect to Grantee's Franchise Agreement; or
 - (B) of the Chief Executive Officer, Chief Operating Officer, or Chief Financial Officer of Grantee;
 - (14) If Grantee negligently or willfully empties Containers of properly set out Recyclables or Organic Waste into a Solid Waste load, or Transports a load of Recyclables or Organic Waste to a landfill or other location at which the material will not be Diverted from landfilling;
 - (15) If Grantee fails to implement Collection programs that comply with the requirements of Exhibit "A", which is essential for the County to achieve compliance with State laws;
 - (16) If Grantee fails to provide adequate Processing capacity in accordance with Exhibit "J", which is essential for the County to achieve compliance with State laws;
 - (17) If Grantee fails to achieve the Processing standards specified in Exhibit "J" including achievement of minimum Organic Waste recovery rates, which are essential for the County to achieve SB 1383 compliance; or,
 - (18) If Grantee fails to comply with other requirements of the Franchise Agreement including public education, reporting, contamination monitoring, recordkeeping, or other obligations of this Franchise Agreement that delegate County's responsibility and/or authority under SB 1383 to Grantee.
- (b) The notice of deficiency may provide a reasonable time within which correction of all noted deficiencies is to be made. Unless a shorter or longer period of time is specified in the notice of deficiency sent by the Director, a reasonable time for correction shall be sixty (60) days from the receipt by the Grantee of such written notice. If the Grantee cannot reasonably correct or remedy a noted deficiency within the time specified in the notice of deficiency, but the Grantee immediately commences to correct or remedy such deficiency within the time set forth in the notice of deficiency and diligently pursues such correction or remedy thereafter Grantee shall not be deemed to have failed to correct or remedy the notice of deficiency. Some deficiencies are by their nature not curable, and no time period to correct or remedy such deficiency shall be given in the notice of deficiency (by way of example but not limitation, the deficiencies noted in Sections 10.1(a)(1), (2), (4), or (13), generally are not curable.
 - (c) The Director shall review the Grantee's response to the notice of deficiency. The Director shall inform Grantee, in writing, of the specific facts found and evidence relied upon, the legal basis for the Director's decision, and any remedial action taken or ordered. Grantee shall

cure any deficiencies in a reasonable time as agreed by the parties and as detailed in Director's notice.

Thereafter, in the event that Grantee fails to cure and if the Director reasonably determines that the Grantee has not cured the deficiency in timely manner or that the deficiency is not, given its nature, curable, the Director shall either:

- (1) Refer the matter directly to the Board for decision pursuant to subsection (d) of this Section 10.1; or
 - (2) Decide the matter and notify the Grantee of that decision, in writing.
 - (A) The decision of the Director may be to terminate the Franchise Agreement or may be to impose some lesser sanction;
 - (B) The decision of the Director shall be final and binding on Grantee unless the Grantee files a "notice of appeal" with the Director within thirty (30) days of receipt of the Director's decision. The notice of appeal shall be in writing, shall contain a detailed and precise statement of the basis for the appeal, and shall be accompanied by the fee, if any, which is applicable to the filing of such an appeal.
 - (C) Within ten (10) Business Days of receipt of a notice of appeal, the Director shall either refer the appeal to the Board for proceedings in accordance with subsection (d) of this Section 10.1, or refer the matter to a hearing officer for proceedings pursuant to Chapter 27 of Division 2 of Title 1 of the County Code.
- (d) Should the Director refer the notice of deficiency to the Board in the first instance, or if the matter reaches the Board pursuant to a notice of appeal, the Board shall either:
- (1) Refer the matter to a hearing officer for proceedings pursuant to Chapter 27 of Division 2 of Title 1 of the County Code; or
 - (2) Set the matter for hearing.
- (e) If the Board sets the matter for hearing:
- (1) The Board shall give Grantee, and any interested Person requesting the same, fourteen (14) days' written notice of the time and place of the hearing. At the hearing, the Board shall consider the report of the Director indicating the deficiencies, and shall give the Grantee, or its representatives and any other interested Person, a reasonable opportunity to be heard.
 - (2) Based on the evidence presented at the public hearing, the Board shall decide the appropriate action to be taken. If, based upon the record, the Board determines that as noted in the notice of deficiency the Grantee's performance of the Solid Waste Handling Services authorized/required in this Franchise Agreement, or any of its other actions, are not in conformity with the provisions of the Franchise Agreement, the provisions of the County Code, the requirements of the Department of Resources Recycling and Recovery (CalRecycle) or its successor agency, including but not limited to, requirements for source reduction and Recycling (as to the waste stream subject to the Franchise Agreement) or any other applicable federal, State, or local law or regulation, including but not limited to the laws governing Collection, Transfer, storage, and/or Disposal of Solid Waste, then the Board, in the exercise of its sole discretion, may terminate this Franchise Agreement forthwith, order Grantee to take

remedial actions to cure the breach or impose such lesser sanction as it deems appropriate. The decision of the Board shall be final and conclusive. Grantee may then pursue any and all legal remedies available under Applicable Law, including filing an action with a court of competent jurisdiction.

- (f) Grantee's performance under this Franchise Agreement is not excused during the period of time prior to the Director's or the Board's final determination, as the case may be, regarding the validity of, and appropriate response to, the deficiencies noted in the notice of deficiency.
- (g) In the event Grantee: (i) has received a notice of deficiency and fails to perform Solid Waste Handling Services; or, (ii) has had its Franchise Agreement terminated; the County, acting through the Division, reserves the right, in addition to all other rights available to the County, to take any one or combination of the following actions:
 - (1) To rent or lease from Grantee, at its respective fair and reasonable rental value, all or any part of the Grantee's equipment (including Collection Containers utilized by Subscribers and office equipment and billing programs), equipment yard and office utilized by Grantee in providing the Solid Waste Handling Services required under this Franchise Agreement. The County may rent or lease such equipment and real estate for a period not to exceed six (6) months, for the purpose of performing the Solid Waste Handling Services, or any part thereof, which Grantee is (or was), obligated to provide pursuant to its Franchise Agreement. The County may use said rented equipment and real estate to directly perform such Solid Waste Handling Service Grantee shall be held responsible for the costs to insure the County from all liability resulting from the operation of Grantee's equipment. In the case of equipment or real estate not owned by Grantee, Grantee shall assign to the County, to the extent Grantee is permitted to do so under the instruments pursuant to which Grantee possesses and uses such equipment or real estate, the right to possess and use the equipment or real estate.
 - (2) As used in this subsection, "reasonable rental value" means the rate for such equipment as listed in the State Division of Transportation publication, "Labor Surcharge and Equipment Rental Rates," in effect at the time the County leases the equipment. If a particular piece of equipment is not listed in said publication or if said publication is not current, the reasonable rental value may be established by the agreement of the Parties by any equitable alternative method within 5 business days. If no agreement is reached in said 5 business days, the Director may establish the reasonable rental value. For real estate, the "reasonable rental value" means its market rental rate as established by agreement of the Parties using an equitable method within 5 business days. If no agreement is reached in said 5 business days, the Director may establish the reasonable rental value.
 - (3) If the County exercises its rights under this subsection, the County shall pay or owe Grantee the reasonable rental value of the equipment and real estate so taken for the period of the County's possession thereof. The County may offset any amounts due to Grantee pursuant to this agreement and not including liquidated damages, against any amounts due to County from Grantee.
 - (4) All revenues owed by Subscribers that are attributable to services performed by or at the direction of the County during County's assumption of Grantee's Solid Waste Handling Services duties shall be billed by and paid to the County. To the extent

Grantee receives such revenue after County's assumption of Grantee's Solid Waste Handling Services duties, Grantee shall pay such revenue to County promptly after receipt thereof (or promptly after County has performed the services related to such revenue, if the revenue was received by the Grantee prior to the County's assumption of duties) and Grantee shall be deemed to have assigned to County all of Grantee's right and interest to any such revenues.

- (h) The County rights set forth in this Section 10.1 are in addition to, and not in limitation of, any other powers or rights available to the County upon failure of Grantee to perform its obligations under Division 6 of Title 4 of the County Code or of this Franchise Agreement. Further, by entering into this Franchise Agreement Grantee acknowledges that its violation of the terms of Division 6 of Title 4 of the County Code or its breach of the terms of this Franchise Agreement shall cause the County to suffer irreparable injury and damages sufficient to support injunctive relief to enforce the provisions of the Franchise Agreement, and to enjoin the breach thereof.
- (i) This Section shall not apply to violations or deficiencies that fall within the sole jurisdiction of the County's Division of Public Health, Division of Environmental Health Services under Grantee's required Health and Safety Permit and that are not, and do not become, violations or deficiencies under this Franchise Agreement or of Division 6 of Title 4 of the County Code.

Section 10.2. Liquidated Damages

- (a) A high level of Collection service quality and Subscriber satisfaction and therefore consistent and reliable service, is of the utmost importance to the County and the Solid Waste Handling Services Subscriber. County has considered and relied on Grantee's representations as to its quality of service commitment in approving this Franchise Agreement, and any violation/breach by Grantee of its Solid Waste Handling Service obligations referenced in this Section represents a loss of bargain to the County. The Grantee further acknowledges that quantified standards of performance are necessary and appropriate to ensure such consistent and reliable Collection service, and if Grantee fails to meet service obligations referenced in this Section, County will suffer damages (including its Subscribers' inconvenience; complaints by Subscribers; lost Board and staff time; and loss of bargain) and that it is and will be impracticable and extremely difficult to ascertain and determine the value thereof. Therefore, the County and Grantee acknowledge that the liquidated damages set forth in Exhibit "M" represent a reasonable estimate of the amount of such damages, considering all of the circumstances, including the relationship of the amount of the liquidated damages to the range of harm to County that reasonably could be anticipated and the anticipation that proof of actual damages would be extremely costly and inconvenient for both the Grantee and County. In entering into this Franchise Agreement, the Grantee specifically affirms the accuracy of the statements made above and the fact that Grantee has had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision.
- (b) The rights of the County set forth in this Section and Exhibit "M" are in addition to, and not a limitation on, any other rights that County may have against Grantee for the failure to observe any condition or term of either Division 6 of Title 4 of the County Code and/or of this Franchise Agreement, including the violations/breaches of same set forth in this Section for which liquidated damages are provided.

Section 10.3. Resolution of Subscriber Complaints

Procedures for resolution of complaints (excluding SB 1383 non-compliance complaints received by Grantee as described in Exhibit "A") and other disputes shall be as follows:

- (a) A Subscriber dissatisfied with Grantee's decision regarding a complaint may ask the Director to review the complaint. To obtain this review, the Subscriber may request County review within thirty (30) days of receipt of Grantee's response to the Complaint, or within forty-five (45) days of submitting the complaint to the Grantee, if the Grantee has failed to respond to the complaint. The Director may extend the time to request the County's review for good cause.
- (b) Before reviewing the complaint, the Director shall refer it to the Grantee. If the Grantee fails to cure the complaint within ten (10) days after such referral, the Director shall review the complaint and determine if further action is warranted. The Director may request written statements from the Grantee and Subscriber, oral presentations, or both written and oral presentations.
- (c) The Director shall determine if the Subscriber's complaint is justified, and if so, what remedy, if any, shall be applied. The remedy provided to the Subscriber under this Section shall be limited to a refund of Subscriber charges related to the period of violation of any of the terms of Division 6 of Title 4 of the County Code or of the breach of any term of this Franchise Agreement.
- (d) The Director may delegate the duties under this Section to a designee. The decision of the Director or a designee shall be final on any matter of five thousand dollars (\$5,000.00) or less. In the event of a decision on a matter awarding more than five thousand dollars (\$5,000.00), Grantee may seek review pursuant to the Notice of Appeal procedure contained in Section 10.1 of this Agreement.
- (e) This Section shall not apply to disputes involving the implementation of the Total Rate approved by the Board or the adjustments thereto specifically authorized by this Franchise Agreement.
- (f) Nothing in this Section is intended to affect the remedies of Grantee against any third-parties.

SECTION 11. FRANCHISE TRANSFERABILITY

The rights of the Grantee in regard to the transferability of its Franchise Agreement shall be as set forth below:

- (a) Neither this Franchise Agreement nor any right or privilege granted in this Franchise Agreement shall voluntarily or involuntarily be transferred, sold, hypothecated, sublet, assigned, or leased, in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein (all collectively referred to herein as "transfer"), pass to or vest in any Person, except the Grantee, either by act of the Grantee or by operation of law, without the prior written consent of the Board. Any attempt by Grantee, or by operation of law, to transfer this Franchise Agreement without the prior written consent of the Board shall be void. Preliminary negotiations for the potential sale or transfer of the Franchise Agreement do not constitute an attempt within the meaning of this paragraph.

- (b) This Franchise Agreement shall terminate on any Change in Ownership of Grantee, unless such Change in Ownership has been consented to, in writing, by the Board prior to the effective date of such Change in Ownership.
- (c) The County shall review a request by Grantee that the Board approve a transfer of all or part of Grantee's interest in this Franchise Agreement, or that the County consent to a Change in Ownership of Grantee, using such criteria as it deems necessary including, but not limited to, those listed below. The County shall not unreasonably withhold its consent to the transfer of this Franchise Agreement or to any Change in Ownership of Grantee. In no event, however, will any such transfer or Change in Ownership be approved unless the proposed assignee, or Grantee under its proposed new ownership, as the case may be, is shown to the satisfaction of the Board to meet the qualifications established in Division 6 of Title 4 of the County Code for the approval, in the first instance, or retention of a Franchise Agreement.

If the Grantee requests that the County consider and consent to a transfer or a Change in Ownership of Grantee, the Grantee or the proposed transferee, as applicable, shall at a minimum meet each of the following requirements:

- (1) The Grantee shall pay the County its reasonable expenses for attorney's fees and investigation costs necessary to determine the suitability of any proposed transferee or proposed new owners, and to review and finalize any documentation required as a condition for approving any such transfer or Change in Ownership.
- (2) Grantee shall pay the County a transfer fee equal to one percent (1%) of the Gross Receipts less Franchise Fees times the number of years (pro-rated for partial years) remaining under this Franchise Agreement (based on actual rate revenues for the prior twelve (12) months).

If Grantee transfers Franchise to another County-Approved Grantee that is currently providing service, the Grantee shall be responsible for reimbursing the County for all costs incurred associated with said transfer, not to exceed \$50,000. The County shall maintain records of expenses, including staff time, consulting fees, legal costs, and other related expenses.

- (3) The Grantee shall furnish the County with independently audited financial statements of the proposed transferee's operations for the immediately preceding three (3) operating years.
- (4) The Grantee shall furnish the County with satisfactory proof:
 - (A) that the proposed transferee or the proposed management of the Grantee under the proposed new owner has at least three (3) years of Solid Waste management experience of a scale equal to or exceeding the scale of operations conducted by Grantee under this Franchise Agreement;
 - (B) that in the last five (5) years, the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) has not received any citations, notice of violations, or other censure from any federal, State, or local agency having jurisdiction over its waste management operations due to any failure to comply with State, federal, or local waste management laws, where such failure either:
 - (i) evidences a pattern of disregard for such State, federal, or local waste management laws; or, (ii) involves actions that endangered the lives or property

of any Person. Grantee shall supply the County with a complete list of such citations, notices of violations, and censures, if any;

- (C) that the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) has at all times conducted its operations in an environmentally safe and conscientious fashion;
 - (D) that the proposed transferee or any company managed by the proposed new owner (or by the proposed management of the Grantee under the proposed new owner) conducts its Solid Waste management operations in accordance with sound waste management standards and practices and in full compliance with all federal, State, and local laws regulating the Collection, Processing, and Disposal of Solid Waste; (E) of the adequate financial strength of proposed transferee or of the Grantee under the proposed new ownership; and,
 - (F) of the ability of the proposed transferee or of the Grantee under the proposed new ownership to obtain and maintain required insurance and Security.
- (d) The County may impose reasonable new conditions of approval on a Franchise Agreement transfer, or consent to a Change in Ownership of Grantee, including, but not limited to, conditions requiring acceptance of amendments to this Franchise Agreement.

SECTION 12. REPORTS

Grantee shall provide the Director with such reports and information and make its records available for review as provided in Exhibit "L" and provided below:

Section 12.1. Periodic Revenue, Cost and Expense Information

At least three (3) months prior to the date that a decision would be made under Section 4 of this Franchise Agreement regarding the denial of an extension of the Term of this Franchise Agreement, Grantee shall organize, summarize, and make available for review full and complete financial information, consistent with the preparation of the Grantee's financial statements under Section 12.2, with respect to the operations necessary to provide the services required under its Franchise Agreement, including revenues, costs, and expenses. Such information is required to be prepared by an independent Certified Public Accountant, but is not required to be audited. The Grantee shall make the financial information available for the review by the Director at the local office of Grantee.

Section 12.2. Audited Financial Statements

Upon one hundred and twenty (120) days' advance written notice by the Director to the extent required to ascertain Grantee compliance with this Franchise Agreement or to review a request for a rate adjustment, Grantee shall cause an audited financial statement to be prepared, and made available for review, for its most-recently-completed fiscal year, together with the related opinion of the independent Certified Public Accountant who prepared such audited financial statement. The Grantee shall make the audited financial statement and related opinion available for the review by the Director at the local office of Grantee. If Grantee is a subsidiary of another corporation, Grantee shall provide the audited financial statement of such parent corporation and need only provide a copy of the financial statement of Grantee utilized in the preparation of the

audited financial statement of the parent corporation. Grantee may request that the Director accept reviewed financial statements in lieu of audited financial statements and such requests will be considered based on the individual circumstances of the Grantee in Director's discretion.

Section 12.3. County Right of Audit

(a) **General.** County may conduct an audit of Grantee at any time, but not more frequently than once every three (3) years (the triennial audit). The scope of the audit, and auditing party, will be determined by Director and the scope may include, but is not limited to:

- Compliance with terms of this Franchise Agreement;
- Subscriber service levels and billing;
- Fee payments;
- Receipts;
- Tonnage;
- Complaint log; and Compliance with Mandatory Commercial Recycling (AB 341), Mandatory Commercial Organics Recycling (AB 1826), and Short-Lived Climate Pollutants: Organic Waste Methane Emissions Reductions (SB 1383).

The audit to be performed will be based on the Grantee's reports and records. Grantee will reimburse to the County the reasonable cost of such audits up to fifty thousand dollars (\$50,000.00).

Should an audit by the County disclose that Franchise Fees paid by Grantee to the County (relative to any period in time in excess of three (3) months) has been understated by at least fifty thousand (\$50,000) dollars or two percent (2%), whichever is less, then Grantee shall pay the County the amount of the understated Franchise Fee, plus simple interest on such understated amount at the rate of ten percent (10%) per annum from the date originally due until paid.

- (b) **Payments and Refunds.** Should an audit by the County disclose that Subscribers were overcharged for the period under review, Grantee shall refund to Grantee's Subscribers any overcharges within thirty (30) days following the date of the final agreed-upon audit findings. Should an audit disclose that Franchise Fees were overpaid, County shall refund to Grantee the amount of the overpayment within the same time-frame. In the event that there is a disagreement of audit findings, the dispute resolution procedures in Section 10.1(d) shall apply.
- (c) **Auditing Party Non-Disclosure Agreement.** In the event that the County hires a third party to conduct an audit, the County shall require the third party to sign a non-disclosure agreement with the County. Any confidential information provided by the Grantee and incorporated within the scope of the non-disclosure agreement shall not be disclosed to another party. Grantee acknowledges that summary information may be included in the audit findings or report provided to the County.

Section 12.4. Confidentiality

With respect to any documents, information, records, or reports of any kind or nature delivered to or reviewed by County in connection with this Agreement, the County agrees to hold any intellectual property of Grantee, including, without limitation, any confidential

information, copyrighted material, proprietary information, trade secrets or trademark/service mark, including any and all such documents or reports containing such information ("Intellectual Property"), including financial statements examined by County under this Section 12, as confidential or proprietary information and shall not disclose the same unless and to the extent disclosure is required pursuant to Applicable Law. All Intellectual Property, confidential information, and proprietary information of Grantee is and shall be under the sole ownership and control of Grantee. Grantee shall mark all said documents as Intellectual Property, Confidential or Proprietary, or similar marking.

SECTION 13. COMPENSATION

Section 13.1 Compensation

- (a) In accordance with Applicable Law, Grantee shall provide the services described in this Franchise Agreement and its exhibits in accordance with the rates set forth in Exhibit "E." Exhibit "E" specifies the maximum rate to be charged for the Collection of such materials. By March 1 of each year as part of the Annual report, the Grantee shall warrant to the County, in writing signed by an officer, that during the prior calendar year it billed all of the Solid Waste Handling Service Subscribers provided service under this Franchise Agreement at the rates set forth in the Total Rate approved with and applicable to this Franchise Agreement, as such Total Rate may have been adjusted pursuant to the provisions of this Section 13 and in accordance with Applicable Law. Copies of Subscriber billings that demonstrate the above shall be made available to the Division on its request.
- (b) All charges for services rendered by a given Grantee shall be uniform and non-discriminatory for the type of service provided and reasonably based upon the type and/or number of Containers, type of Discarded Materials, whether compacted or loose, number of separate pick-up points at any place of Collection, placement of Container(s) or distance of carry-out, frequency of Collection, remote location, terrain, Disposal costs, and whether Residential, Multi-Family, Commercial Business, construction, or industrial Collection.
- (c) If Grantee includes a Designated Landfill Disposal Facility Fee amount as a separate listing on a Subscriber's bill, the County shall prescribe the amount consistent with waste generation factors established in this Franchise Agreement and the applicable Designated Landfill Disposal Facility Fee.
- (d) Grantee shall refund to each Subscriber, on a pro rata basis, any advance service payments made by such Subscriber for service not provided when service is discontinued by timely written notification to Grantee by the Subscriber. Grantee may not require written notice to be given more than fifteen (15) working (waste Collection) days prior to the date on which service is desired to be discontinued.
- (e) On a quarterly basis, the County shall be allowed to furnish, for inclusion with Grantee's billing, a message for the purpose of public education regarding Solid Waste Disposal, Recycling, Composting or other environmental issues. If Grantee mails its billing in an envelope, two (2) of the four (4) County messages may be in the form of a one (1) page insert, provided the insert is: print-ready copy that conforms to Grantee's billing; is delivered to Grantee by the Division within the timeframe required by Grantee; and, does not cause an increase in the postal rates payable by Grantee for mailing its billing. If the message is not in the form of an insert, it shall be printed by Grantee on its bills. Such message shall not exceed

twenty-five (25) characters and shall be delivered to Grantee by the Division within the timeframe reasonably required by Grantee. Grantee shall include such insert in, or print such message on, each Subscriber's next billing. Grantee shall provide the County with the deadlines for providing the County's message or insert in writing on an annual basis.

Section 13.2. Adjustment to Total Rate – Residential, Commercial, and Roll-Off Service

The following annual and special rate adjustments shall be made to the appropriate cost components of the Total Rate as provided for in this Franchise Agreement. However, no rate adjustment shall be implemented for or during any period of time when Grantee is not in substantial compliance with all material provisions of this Franchise Agreement.

(a) Cost of Living Adjustment.

- (1) **General.** Beginning July 1, 2023, Grantee may request an adjustment to all rate categories included in the approved rate schedule according to the method described below and the formulas shown in Exhibit "G-1" through "G-5" (Example Rate Adjustment Formula), subject to County review and approval. All future adjustments are to be effective July 1 of the same year.
- (2) **Cost Components for Rate Adjustment Indices.** The approved rates consist of the following cost component categories: Designated Landfill Disposal Facility Fee, Designated Mixed Organic Waste Processing Facility Fee, Fuel, Service, and Other Operations. Initial component weightings to be used for the first rate adjustment are shown in the tables attached as Exhibits "H-1" through "H-3" - (Rate Adjustment Indices and Initial Cost Component Weightings). Each cost component may be adjusted by the change in the corresponding index shown in the Exhibit "H." See subsection (3) through (5) below for detailed rate adjustment procedures.
- (3) **Residential and Commercial Business Rate Adjustment Steps** (Where rates have been approved by the County). All Residential and Commercial Business rates with the exception of Mixed Organic Waste rates, will be adjusted using the cost component weightings identified in the table attached as "Exhibit "H-1" - (Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit "G-1" and "G-2" - (Example Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit "G-1" as an example, the adjustment is calculated as follows:
 - (A) **Step One** – Calculate the percentage increase or decrease in each index listed in the table attached as Exhibit "H-1" – (Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in the Designated Landfill Disposal Facility Fee cost component will be the change in the Designated Landfill Disposal Facility Fee, between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the County does not fix a new Designated Landfill Disposal Facility Fee, as of July 1 of any year, the actual effective date of the Designated Landfill Disposal Facility Fee, change will control. The increase or decrease in the published indices for Fuel and Service, and Other Operations will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior

calendar year. See Exhibit "G-5" (Example Rate Adjustment Formula) for an example calculation of the average annual change in an index.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

The July 1, 2023 rate adjustment cost components as a percentage of total costs are provided in the table attached as Exhibit "H-1" (Rate Adjustment Indices and Initial Cost Component Weightings), with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-1" (Example Rate Adjustment Formula) in Step Four during the previous rate adjustment.

- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

- (D) Step Four – Recalculate weightings for the following year based upon these changes. The "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-1" (Example Rate Adjustment Formula) shall be used to calculate the Franchise Fees due for the upcoming year beginning the July 1 that rates become effective, as shown in Exhibit "I" (Example Franchise Fee Calculation).

- (4) **Organic Waste Rate Adjustment Steps** (where Organic Waste rates have been approved by the County). Organic Waste rates will be adjusted using the cost component weightings identified in the table attached as Exhibit "H-2" (Mixed Organic Waste Rate Adjustment Indices and Initial Cost Component Weightings) and as described below. See Exhibit "G-3" (Example Rate Adjustment Formula) for an example of rate adjustment calculations. Using Exhibit "G-3" as an example, the adjustment is calculated as follows:

- (A) Step One – Calculate the percentage increase or decrease in each index listed in the table attached as Exhibit "H-2" (Organic Waste Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in Organic Waste Processing costs will be the change in the identified Designated Mixed Organic Waste Processing Facility Fee between the July 1 effective date for the rate adjustment and the preceding July 1, except in those instances when the Designated Organic Waste Processing Facility does not fix a new Organic Waste Processing Facility Fee as of July 1 of any year, the actual effective date of the Designated Organic Waste Processing Facility Fee change will control. Grantee guarantees that the per ton Designated Organic Waste Processing Facility Fee shall be the lowest rate available to any other customers in jurisdictions using the Designated Organic Waste Processing Facility for "similar services." Accordingly, in the event that similar services for other customers are charged at a per ton gate rate lower than those actually charged by Grantee to County of San Bernardino Subscribers during the Term of this Franchise Agreement, Grantee shall reduce the per ton Designated Organic Waste Processing Facility Fee it charges to Subscribers. "Similar services" as used in this Section refers to Processing Organic Waste including, but not limited to, sorting, Composting, and anaerobic digestion.

The increase or decrease in the published indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit "G-5" (Example Rate Adjustment Formula/Calculation for Average Annual Change in Published Price Indices) for an example calculation of the average annual change in an index.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

The July 1, 2023 rate adjustment cost components as a percentage of total costs are provided in the table attached as Exhibit "H-2" (Organic Waste Rate Adjustment Indices and Initial Cost Component Weightings), with component weightings for use in subsequent years calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-3" (Example Rate Adjustment Formula/Applicable to Organic Waste Cart and Bin Rates) in Step Four during the previous rate adjustment.

- (C) Step Three – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.

- (D) Step Four – Recalculate weightings for the following year based upon these changes. The "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-3" (Example Rate Adjustment Formula) shall be used to calculate the Franchise Fees due for the upcoming year beginning the July 1 that rates become effective, as shown in Exhibit "I" (Example Franchise Fee Calculation).

- (5) **Roll-Off Box Rate Adjustment Steps.** All Roll-Off box rates will be adjusted using the cost component weightings identified above as described below. See Exhibit "G-4" (Example Rate Adjustment Formula) for an example rate adjustment for Roll-Off box rates.

- (A) Step One – Calculate the percentage increase or decrease in the Fuel and Service indices listed in the table attached as Exhibit "H-3" (Rate Adjustment Indices and Initial Cost Component Weightings). The increase or decrease in the indices for Fuel and Service will be the change in the average annual published index between the calendar year ended the December prior to the July 1 effective date for the rate adjustment and the prior calendar year. See Exhibit "G-5" (Example Rate Adjustment Formula) for an example calculation of the average annual change in an index.

The Designated Landfill Disposal Facility Fee component is based on a per ton rate. That rate shall remain equal to the San Bernardino County Solid Waste Disposal System per ton rate for Roll-Off loads as of the effective date of the new rate schedule.

- (B) Step Two – Multiply the percentage changes for each rate adjustment component by that component's weighting and add these resulting percentages together to get the total weighted change to the rates.

Cost components as a percentage of total costs are provided in Exhibit "H-3" (Rate Adjustment Indices and Initial Cost Component Weightings) for the rate adjustment effective July 1, 2023, with subsequent components calculated in Step Four of the rate adjustment. For Step Two of each subsequent rate adjustment, use the "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-4" (Example Rate Adjustment Formula) in Step Four during the previous rate adjustment.

- (C) **Step Three** – Multiply the total weighted percent change from Step Two by the existing Subscriber rates to calculate the increase or decrease to the maximum rates. Add the rate increase or decrease to the existing rates to derive the newly adjusted rates.
 - (D) **Step Four** – Recalculate weightings for the following year based upon these changes. The "Cost Components Reweighted to Equal 100%" in Column "O" of Exhibit "G-4" (Example Rate Adjustment Formula) shall be used to calculate the Franchise Fees due for the upcoming year beginning the July 1 that rates become effective, as shown in Exhibit "I" (Example Franchise Fee Calculation).
- (6) **Changes in Rate Adjustment Indices.** If the same rate adjustment index is used from year to year, the "Old Index Value" (Column A in each example in Exhibits "G-1" through "G-4" - Example Rate Adjustment Formula), if applicable, shall be the "New Index Value" (Column B in Exhibits "G-1" through "G-4" - Example Rate Adjustment Formula), if applicable, used in the prior rate adjustment. If the rate adjustment index changes, due to a change in type of fuel, a discontinued index or otherwise, the change will be measured as the average annual change year over year for the new index, and data for the old/discontinued index will not be used. If a rate adjustment index is discontinued, an alternative index must be approved by the Director.
- (7) **Revision of Cost-of-Living Adjustment Methodology.** The Grantee and the County acknowledge that external factors that are used in the cost components reweighted analysis, such as fuels, costs of equipment, etc., may change over time and the factors may need adjustment. Either Grantee or the County may initiate discussions to review these factors and whether an adjustment to the rate component weightings is necessary in order to provide economic service to County ratepayers.
- (b) **Extraordinary Adjustment.** The Grantee and the County acknowledge that there may be infrequent extraordinary events which, although they do not prevent either party from performing, and thus do not implicate the force majeure provisions hereof, nevertheless increase the cost of providing service such that Grantee's compensation and the rate adjustment mechanism provided in this Franchise Agreement result in Grantee's suffering losses that are substantially outside the commercially-reasonable expectations of the Grantee and the County. The obligation of the Grantee and the County in such event is to act reasonably toward each other in arriving at an appropriate adjustment in rates. Accordingly, at its option, Grantee may apply to the County at any time, but not more frequently than once annually, for an extraordinary rate adjustment should an event or circumstance arise that is not the result of a Change in Law or Change in Service Level, which negatively impacts the economic operation of Grantee and which is in excess of the rate adjustment resulting from the application of the annual adjustment formula set for in subparagraph (a) above. An interim adjustment in rates will be deemed justified if it is necessary for the Grantee to make a substantial change in its operations, or substantial capital expenditure or investment in order to perform its obligations under this Franchise Agreement due to the occurrence of an event or circumstance other than a Change in Law

or Change in Service Level which is beyond the reasonable control of Grantee. In the event of such an application for an extraordinary rate increase, it is understood that the Grantee shall have the burden of demonstrating to the reasonable satisfaction of County the basis for the extraordinary increased cost. In no event shall any extraordinary adjustment be effective prior to the Board's approval of an amendment to the Franchise Agreement.

- (c) **Designated Landfill Disposal Facility Fee Adjustment.** The Designated Landfill Disposal Facility Fee adjustment shall be the pass-through of one hundred percent (100%) of any increase or decrease in the fee charged to the Grantee for the use of a Designated Landfill Disposal Facility approved for use by the Division, using the rate adjustment formula described in “(a)” above, and shall be effective as of the date of the change of such fee.

(d) **Change in Service Level Adjustments**

- (1) The Total Rate shall be increased (or decreased) by one hundred percent (100%) of the increase (or decrease) or incremental increase (or incremental decrease), as the case may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or variable) associated with the change in the level of the Solid Waste Handling Services that may be required of, or agreed to by, Grantee. A Change in Service Level Adjustment shall be effective on and after the actual date of the requirement to or agreement to change operations which results from the change in service, but, absent the consent of the Director not sooner than the effective date of the change in service. In no event shall any Change in Service Level Adjustment be effective prior to the Board's approval of an amendment to the Franchise Agreement.
- (2) In the event that the Director and the Grantee claiming to be affected by the Change in Service Level cannot agree on either the existence, or the effect on demonstrable costs, of a Change in Service Level, the dispute resolution provisions of Section 13.3(a) shall apply.

(e) **Change in Law Adjustments**

- (1) The Total Rate shall be increased (or decreased) by one hundred percent (100%) of the increase (or decrease) or incremental increase (or incremental decrease), as the case may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or variable) associated with the change in the manner or nature of conducting Solid Waste Handling Services necessitated by a Change in Law. A Change in Law Adjustment shall be effective on and after the actual date of the change in operations that resulted from the Change in Law, but, absent the consent of the Director not sooner than the effective date of the Change in Law. In no event shall any Change in Law Adjustment be effective prior to the Board's approval of an amendment to the Franchise Agreement.
- (2) In the event that the Director and the Grantee claiming to be affected by the Change in Law cannot agree on either the existence, or the effect on demonstrable costs, of a Change in Law, the dispute resolution provisions of Section 13.3(a) shall apply.

- (f) **Calculation Errors.** If at any time during the Term of this Franchise Agreement, the County or the Grantee realize that an adjustment made in accordance with this Section 13.2 has been calculated in error, then the appropriate correction will be calculated by the County and an applicable corrective change, either positive or negative, will be made to the Total Rate on the next ensuing July 1.

Section 13.3. Dispute Resolution Regarding Adjustment to Total Rates

- (a) Any dispute regarding any Change in Service Level Adjustment or Change in Law Adjustment provided for in Sections 13.2(d) and (e) above, which cannot be resolved between the Grantee and the Division within thirty (30) days of the receipt by the Division of such documents as the Division may reasonably request, shall be submitted to a mutually agreed upon expert in the subject matter area of the dispute to resolve the dispute as to either or both: (i) the existence of a Change in Service Level or a Change in Law; and/or, (ii) the effect on the Grantee's demonstrable costs of a Change in Service Level or a Change in Law. The decision of the expert shall be binding on the Grantee and the County. The cost of the expert shall be borne equally by the Grantee and the County. If the Grantee and County cannot mutually agree upon an expert, either may petition the Superior Court of the County of San Bernardino to have an expert chosen by the court. The County and Grantee shall each have the right to suggest one expert to the court; the court shall choose one of the suggested experts.
- (b) Any dispute regarding the current rate schedule or rate adjustments (except those disputes related to a Change in Service Level Adjustment or Change in Law Adjustment) shall be decided by the Director within ten (10) Business Days after receipt of a written statement from the Grantee of the nature and basis of the dispute with a request that it be resolved by the Director. Grantee shall have the right to appeal the Director's decision in writing to the Board within thirty (30) days after the Director has given the Grantee written notice of the decision. Such appeal shall conform to the appeal provisions set forth in Section 10.1 of this Franchise Agreement. The Board may consider the appeal or refer said appeal to a hearing officer as provided in Section 10.1 of this Franchise Agreement.
- (c) The most recent rates approved by the Director in effect at the time a dispute is submitted to either the expert or Director, as the case may be, shall remain in effect pending resolution of such dispute. The effective date of any dispute resolution, whether retroactive or prospective, shall be determined by the expert, the Director, the Board, or a hearing officer, as appropriate.

Section 13.4. Notice to Subscribers Regarding Certain Adjustments and Public Hearings

No Change in Service Level Adjustment increase or Change in Law Adjustment increase may be implemented until Grantee has provided mailed notice of such adjustment increase not less than ten (10) days prior to the date upon which such adjustment increase commences. Additionally, if an increase is subject to the Proposition 218 process, Grantee shall mail notice to all affected Subscribers not less than forty-five (45) days prior to the public hearing before the Board.

Section 13.5. Discontinuance of Service for Non-Uniform Handling Service

Except where Uniform Handling Service is implemented, Grantee may discontinue service for non-payment of Subscriber's billing or Subscriber's failure to substantially comply with the requirements of the applicable provisions of State or local law that govern use, storage, disposal, and Collection of Solid Waste in accordance with the provisions of Exhibit "E," Attachment 1. If Grantee is operating in a Uniform Handling Area, Grantee shall not discontinue service except as allowed in Section 46.0507 of the County Code.

Section 13.6. Billing and Payment

Grantee shall bill and receive payment as provided in Exhibit "E," Attachment 1.

SECTION 14. FEES

Section 14.1 Franchise Fees

Grantee shall pay a Franchise Fee equal to ten percent (10%) of the Gross Receipts Less Disposal charges. The payment of a Franchise Fee shall not limit the County's ability to establish and levy a business license tax, fees, charges, assessments, penalties, fines, and other requirements for monetary payment by the Grantee to the County. Payment of Franchise Fees shall be made monthly.

Section 14.2 Other Fees

The County may set other fees or adjust the fees established in this Section 14 from time-to-time during the Term of this Agreement and such other fees or adjustments to fees shall be included in the adjustment of Rates.

SECTION 15. PUBLIC RECORDS DISCLOSURE

All information received by the County from Grantee or any source concerning this Franchise Agreement, including the Franchise Agreement itself, may be subject to disclosure under the provisions of the California Public Records Act, Government Code Section 6250 et seq. (the "Public Records Act"), except as exempted by the Public Records Act, Public Resources Code section 41821.5(g)(1) and (2), and California Consumer Privacy Act of 2018 (Civ. Code, § 1798.100 et seq.). Grantee understands that although all materials received by the County in connection with this Franchise Agreement are intended for the exclusive use of the County, they are potentially subject to disclosure under the provisions of the Public Records Act. In the event a request for disclosure of any part or all of any Intellectual Property, confidential information, proprietary information, trade secrets, or any other information that Grantee has reasonably requested County to hold in confidence is made to the County, the County shall notify Grantee of the request and shall thereafter disclose the requested information unless Grantee, within five (5) days of receiving notice of the disclosure request, requests nondisclosure, provides County a legally sound basis for the nondisclosure, and agrees to indemnify, defend, and hold the County harmless in any/all actions brought to require disclosure. Grantee will hold the County harmless in the event County fails to notify Grantee of any such disclosure request. This provision shall not be construed to create any legal right or claim that does not exist under the operation of State law.

SECTION 16. OTHER REQUIREMENTS

- (a) **Hazardous Materials and Waste Handling and Disposal.** The Grantee shall comply with the Hazardous Waste screening and response provisions set forth in Chapter 7 of Division 6 of Title 4 of the County Code.
- (b) **Non-performance.** non-performance by grantee of the terms and conditions contained in

Division 6 of Title 4 of the County Code or in this Franchise Agreement, or the occurrence of one or more of the events set forth in section 33.0827 of the County Code, shall provide grounds for the loss of or limitation upon the grantee's right to provide solid waste handling services pursuant to this Franchise Agreement and for the termination of this Franchise Agreement. Grantee shall perform no Solid Waste Handling services under this Franchise Agreement without possessing the required health and safety permit.

SECTION 17. FORCE MAJEURE

Grantee shall not be in default or breach under this Franchise Agreement in the event that the services provided by the Grantee are temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, epidemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, fires, severe weather, or other catastrophic events that are beyond the reasonable control of Grantee and that Grantee could not reasonably be expected to have prevented or controlled. Other catastrophic events do not include the financial inability of the Grantee to perform or failure of the Grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Grantee.

SECTION 18. OTHER PROVISIONS

- (a) **Independent Contractor.** Grantee is an independent contractor and not an officer, agent, servant, or employee of County. Grantee is solely responsible for the acts and omissions of its officers, agents, and employees, if any. Nothing in this Franchise Agreement shall be construed as creating a partnership or joint venture between County and Grantee. Neither Grantee nor its officers, agents, or employees shall obtain any rights to retirement or other benefits which accrue to County employees.
- (b) **Right to Pass.** Grantee shall have the right to enter or drive on any private street, court, place, easement, or other private property for the purpose of providing Solid Waste Handling Services pursuant to its Franchise Agreement, so long as it is not in receipt of a written notice revoking permission to pass.
- (c) **Compliance with County Code.** Grantee shall comply with those provisions of the County Code that are applicable to operations hereunder, and with any and all amendments to such provisions during the Term of this Franchise Agreement.
- (d) **Notices.** Any notice, information, request, or reply ("Notice") required or permitted to be given under the provisions of this Franchise Agreement shall be in writing and shall be given or served either personally or by mail. If given or served by mail, such Notice shall be deemed sufficiently given if: (1) (i) deposited in the United States mail, certified mail, return receipt requested, postage prepaid, or (ii) sent by express mail, Federal Express, or other similar overnight service, provided proof of service is available; (2) addressed to (i) the Grantee at its most recent address of record with the Division or (ii) to the Director at the then-current address of the Division, as the case may be; or (3) delivered by facsimile or email (with confirmation of transmission). The current addresses of the Grantee and the County are as follows:

To County: San Bernardino County
Solid Waste Management Division
222 W. Hospitality Lane, 2nd Floor
San Bernardino, CA 92415-0017
Attn: Contract Administrator

Copy to: County Counsel
385 North Arrowhead Avenue, Fourth Floor
San Bernardino, CA 92415-0140

To Grantee: USA Waste of California, Inc.,
9081 Tujunga Avenue
Sun Valley, California 91352

Copy to: Attn: Assistant General Counsel
USA Waste of California, Inc.
9081 Tujunga Avenue
Sun Valley, California 91352

or to such other address or Person as either party may from time to time designate by notice to the other given in accordance with this Section. Notice shall be deemed effective on the date personally served or, if mailed, three (3) Business Days from the date such Notice is deposited in the United States mail, or if by facsimile or email transmission, upon receipt of confirmation of delivery, which confirmation may be transmitted by the same means. Service by facsimile or email transmission shall not be effective unless the original of the document being served is deposited in the United States mail, postage prepaid, within twenty-four (24) hours after the facsimile or email transmission has been confirmed.

- (e) **Exhibits Incorporated.** Exhibits "A" through "M" are attached to and incorporated in this Franchise Agreement by this reference as if fully set forth.
- (f) **Laws and Licenses.** County and Grantee shall comply with all federal, State, and County laws, ordinances, rules, and regulations applicable to the performance of the services hereunder, and Grantee shall obtain and maintain in full force and effect throughout the Term of this Franchise Agreement all licenses and permits necessary to perform the services hereunder.
- (g) **Waiver.** No waiver by either party of any one or more defaults or breaches by the other party in the performance of this Franchise Agreement shall operate or be construed as a waiver of any already established or future defaults or breaches, whether of a like or different character or degree.

SECTION 19. SEVERABILITY

If any non-material provision of this Franchise Agreement shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Franchise Agreement.

SECTION 20. ENTIRE AGREEMENT; AMENDMENT

This Franchise Agreement and its incorporated Exhibits constitute the entire agreement between the Grantee and the County concerning the subject matter hereof and supersede any and all other communications, representations, proposals, understandings, or agreements, either written or oral, between the Grantee and the County hereto with respect to such subject matter. This Franchise Agreement may not be modified or amended, in whole or in part, except in writing signed by both the Grantee and the County; notwithstanding the foregoing, the Grantee and the County acknowledge that provisions of Division 4 of Title 6 of the County Code are included herein and, further, that if and when such County Code provisions are amended that the County Code provisions, as amended, shall apply to any extended Term of this Franchise Agreement, without any action being required of either party, so long as the amendment is adopted prior to the date specified in Section 4(a) of this Franchise Agreement and such amendment is not in conflict with the provisions of this Agreement. Further, the provisions of Division 6 of Title 4 of the County Code in effect on the Effective Date of this Franchise Agreement, or in effect on the date of any subsequent amendment or automatic extension of this Franchise Agreement, shall prevail over any inconsistent provisions of this Franchise Agreement.

SECTION 21. MATERIAL MISREPRESENTATION

If during the course of the administration of this Franchise Agreement, either party determines that the other party has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the other party, this Franchise Agreement may be immediately terminated. If this Franchise Agreement is terminated according to this provision, the party exercising such termination is entitled to pursue any available legal remedies.

SECTION 22. FORMER COUNTY OFFICIALS

Grantee agrees to provide, or has already provided as set forth in Exhibit "F," information on former County administrative officials (as defined below) who are employed by or represent Grantee. The information provided includes a list of former County administrative officials who terminated County employment within the last five (5) years and who are now officers, principals, partners, associates, or members of the Grantee. The information should also include the employment and/or representative capacity and the dates these individuals began employment with or representation of the Grantee. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's Staff, County division or group head, assistance division or group head, or any employee in the Exempt Group, Management Unit, or Safety Management Unit.

SECTION 23. CONSTRUCTION OF FRANCHISE

The Grantee and the County hereto have negotiated this franchise at arm's length and with advice of their respective attorneys, and no provision contained herein shall be construed against County solely because it prepared the actual physical Franchise Agreement executed by the Grantee and the County.

IN WITNESS WHEREOF, San Bernardino County and the Grantee have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

► Curt Hagman
Curt Hagman, Chairman, Board of Supervisors

Dated: DEC 13 2022

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By Lynna Monell
Lynna Monell
Clerk of the Board of Supervisors
San Bernardino County
Deputy



USA WASTE OF CALIFORNIA, INC.

(Print or type name of corporation, company, contractor, etc.)

By ► Michael Hammer
(Authorized signature - sign in blue ink)

Michael Hammer

Name _____
(Print or type name of person signing contract)

Title President-Southern CA Area
(Print or Type)

Dated: 12/7/22
9081 Tujunga Avenue

Address Sun Valley, CA. 91352

Approved as to Legal Form

► Jolena E. Grider
Jolena E. Grider, Deputy County Counsel
Date 12/12/22

Reviewed for Contract Compliance

► Andy Silao
Andy Silao, P.E.
Date 12/12/22

Reviewed/Approved by Department

► Brendon Biggs
Brendon Biggs, Director
Date 12/12/22

EXHIBIT A PROVIDED SERVICES

This Exhibit sets forth the level of services to be provided by Grantee pursuant to its Franchise, and the manner of providing such services, which are in addition to the manner of providing services specified in Section 6 and Exhibit "A-1" of this Franchise Agreement.

All sections of this Exhibit "A" apply to all Subscribers covered under this Franchise Agreement, unless otherwise noted. Grantee shall provide the Solid Waste Handling Services in conformity with all provisions of Division 6 of Title 4 of the County Code and this Franchise Agreement, including:

(a) Approved Collection Program(s)

Upon initiation of services under this Franchise Agreement, Grantee shall provide the following approved Collection program(s):

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

(A) **General.** Upon initiation of services under this Franchise Agreement, Grantee shall provide a three-Container Collection program for the separate Collection of Blue Container, Green Container, and Gray/Black Container Waste as specified in this Section.

(B) **Source Separated Recyclables (Blue Container).** Grantee shall provide Blue Containers to Subscribers for Collection of Recyclables, as further described in Exhibit "A-1". Grantee shall Transport the Recyclables to: (i) the Designated Recyclables Processing Facility; or, (ii) the Designated Transfer Facility for Transfer and Transport to the Designated Recyclables Processing Facility, as specified in Exhibit "J."

The Grantee and the County agree that the list of accepted types of Recyclables in Exhibit "A-1" may be added to or removed from time to time by mutual consent between the County and Grantee provided that in all cases SSGCOW is included for Collection. Grantee shall not add or remove materials to or from this list without written approval from the Director, and such approval shall not be unreasonably withheld. Prohibited Container Contaminants shall not be knowingly Collected in the Blue Containers. Grantee's use of Smart TruckSM technology shall not constitute knowingly Collecting Prohibited Container Contaminants.

(C) SSGCOW (Green Container).

(i) **Collection Program for SSGCOW (including Green Waste and Food Waste) (Green Container).** Upon initiation of services under this Franchise Agreement, Grantee shall provide Green Containers to Subscribers for SSGCOW Collection, as further described in Exhibit "A-1". Grantee shall Transport the SSGCOW to: (i) the Designated Organic Waste Processing Facility; or, (ii) the Designated Transfer Facility for Transfer and Transport to the Designated Organic Waste Processing Facility, as specified in Exhibit "J."

The Grantee and the County agree that the list of accepted types of SSGCOW in Exhibit "A-1" may be added to or removed from time to time

by mutual consent between the County and Grantee provided that in all cases SSGCOW is included for Collection. Grantee shall not add or remove materials to or from this list without written approval from the Director, and such approval shall not be unreasonably withheld. Carpets, non-Compostable paper, textiles, and Prohibited Container Contaminants shall not be knowingly Collected in the Green Containers. Grantee's use of Smart TruckSM technology shall not constitute knowingly Collecting Prohibited Container Contaminants.

Grantee may Collect Compostable Plastics in the Green Containers for Processing at the Designated Organic Waste Processing Facility if such facility accepts Compostable Plastics for processing. At least three (3) months prior to the commencement of the Collection of Compostable Plastics in the SSGCOW program, Grantee shall provide written notification to the County that the Designated Organic Waste Processing Facility can Process and recover these Compostable Plastics. In the event the Designated Organic Waste Processing Facility is able to process and recover Compostable Plastics, Grantee shall provide written notification to the County annually that the Designated Organic Waste Processing Facility has the capabilities to Process and recover the Compostable Plastics.

Grantee may allow Subscribers to place Food Waste in plastic bags and put the bagged Food Waste in the Green Container, if the Designated Organic Waste Processing Facility notifies the Grantee that they can accept plastic bags. At least three (3) months prior to the commencement of the use of plastic bags for the Food Waste program, Grantee shall provide written notification to the County that allowing the use of bags does not inhibit the ability of the County to comply with SB 1383, and that the Designated Organic Waste Processing Facility can Process and remove plastic bags when it recovers SSGCOW. Annually, in accordance with Section 12, Grantee shall provide written notification to the County that the Designated Organic Waste Processing Facility has the capabilities to Process and remove plastic bags when it recovers SSGCOW.

- (D) **Gray/Black Container Waste (Gray/Black Container).** Grantee shall provide Gray/Black Containers to Subscribers for Collection of Solid Waste. Grantee shall Transport the Gray/Black Container Waste to: (i) the Designated Landfill Disposal Facility; or, (ii) the Designated Transfer Facility for Transfer and Transport to the Designated Landfill Disposal Facility, as specified in Exhibit "J." Grantee may allow carpets and textiles to be placed in the Gray/Black Containers. Prohibited Container Contaminants shall not be knowingly Collected in the Gray/Black Containers. Grantee's use of Smart TruckSM technology shall not constitute knowingly Collecting Prohibited Container Contaminants.

(b) Single-Family and Multi-Family Residential Services

- (1) **Weekly all-inclusive Cart Collection Service (standard service).** Unless otherwise required under Applicable Law or regulation, once per week Grantee shall Collect the Discarded Materials (not including Bulky Waste and Hazardous Waste) that have been placed, kept, or accumulated in Containers at Residential Dwelling Units within

the Franchise Area and placed curbside, or at another location agreed upon between Grantee and Subscriber, prior to Grantee's normal weekly Collection time. All Discarded Materials must be placed within Containers at curbside without obstructions so as to permit Collection, unless otherwise agreed upon by County and Grantee. Default service provided by Grantee will include collection of Source-Separated Discarded Materials in a Gray/Black Cart, Blue Cart, and Green Cart for each material type. Grantee may supply Containers, and may require the use of specific Containers as specified in this Exhibit "A" and in Exhibit "A-1." Grantee may negotiate special pickup procedures, above and beyond the services described above, with Subscribers for an additional fee in an amount provided in Exhibit "E."

Subscribers shall be provided with Containers as described in Exhibit "A-1". At the discretion of the Grantee, Multi-Family Residential Dwellings may be required to Subscribe to Bin Collection Service due to space constraints.

- (2) **Bin Collection Service.** - Grantee shall provide Solid Waste, Recyclables, and/or Organic Waste Bin service to Single-Family Subscribers that request these services, and Multi-Family Subscribers not receiving Cart service. Grantee shall Collect and remove all Discarded Materials that have been placed, kept, or accumulated in Bins from the property of Subscribers receiving Bin service, at least once per week, and more frequently if required to handle the Discarded Materials generated at the premises where the Bins are located. Bin sizes and Collection frequencies offered are to be, at a minimum, consistent with the sizes and frequencies listed in Exhibit "A-1" at rates specified in Exhibit "E." Residential Subscribers electing to have Bin service shall Source-Separate Solid Waste, Recyclables, and Organic Waste in separate Collection Containers (Bin and/or Cart), as applicable. Special consideration shall be given when determining the pickup areas to ensure that the flow of traffic is not impeded. Interference with traffic flow may occur from time to time during the provision of service. Repeated, reasonable public complaints about unreasonable interference with traffic flows may constitute a violation of this Franchise Agreement.
- (3) **Discarded Materials Cart Overage Service.** Residential Cart Subscribers may periodically generate more Discarded Materials than will fit in the Discarded Materials Cart(s). Residential Cart Subscribers are therefore entitled to two (2) annual pickups per calendar year of material that does not fit in the Discarded Materials Cart(s) at no additional cost. One (1) pickup shall consist of up to the equivalent of either three (3) large bags (30- to 40-gallon), boxes, or barrels of Discarded Materials. Residential Cart Subscribers may be charged per pickup in accordance with Exhibit "E" for overage pickups in excess of two (2) per year. Overage pickups, in addition to the two (2) free pickups, will be provided at no additional charge for two (2) weeks beginning the first Collection day following December 25. This service is limited to Discarded Materials that could be placed in a Discarded Materials Cart, and not Bulky Waste, which is Collected in accordance with this Exhibit "A."

Grantee will notify all residents annually, beginning within thirty (30) days of the Effective Date of this Franchise Agreement, of this service. New Subscribers shall be notified of this service upon initiation of new Collection services.

- (4) **Service for Disabled Subscribers.** Grantee shall provide disabled Residential Cart Collection Subscribers with pullout service at a Collection location agreed upon between the Grantee and Subscriber at no additional charge. Grantee will remove Discarded Material Carts, as appropriate, from Subscriber's outdoor storage area, place them out for Collection, and return Containers to Subscriber's outdoor storage area (which shall not be a public right-of-way or street) after Collection, ensuring that all doors or gates are closed securely. Grantee shall not enter garages.

To be eligible for this service, the Residential Cart Collection Subscriber shall have a DMV issued disabled Person placard or license plate or provide a letter to the Grantee or the County from a licensed physician certifying that they are unable to move their Carts to the curb. For all forms of eligibility, Subscriber must certify that there is no other capable Person living in the Residential Dwelling Unit.

Grantee will notify all Residential Subscribers annually of this Collection option. New Subscribers shall be notified of this option upon requesting service.

A Grantee employee accessing a Subscriber property is considered a business invitee and assumes no risk of harm by performing their job. It is the responsibility of the Subscriber to ensure the property is safe to enter.

- (5) **Pull-Out Service.** Upon Subscriber request, Grantee shall provide Container pullout service, whereby Grantee will move Containers manually to facilitate Collection. The Grantee may charge the pullout rates included in Exhibit "E." For Containers in enclosures, the measurement of distance shall be from location of the Container from the enclosure to the point of Collection. In the event of a dispute between Grantee and Subscriber as to whether pullout service will be charged, Director will make the final determination. If Grantee must place a Container in the public right-of-way to facilitate Collection, Grantee shall not permit the Container to remain in the public right-of-way for any period of time that conflicts with the County Code. If the Container is stored under a chute for Discarded Materials Collection, the Container must be serviced and returned immediately.

(c) **Commercial Business and Industrial Complexes**

- (1) **Bin Collection Service (standard service).** Unless otherwise required under Applicable Law or regulation, once per week Grantee shall Collect the Discarded Materials (including Bulky Waste that has been placed in a closed Bin, and excepting Excluded Waste) that have been placed, kept or accumulated for Collection in Discarded Materials Bins. Bin sizes and Collection frequencies offered are to be, at a minimum, consistent with the sizes and frequencies listed in Exhibit "A-1" at rates specified in Exhibit "E." Subscribers may lease from Grantee or third party(ies) compaction equipment that may be attached to Bins. The provision of compaction equipment is outside the scope of the Franchise Agreement. Grantee shall provide the following Bin Collection services to Subscribers, unless Subscribers utilize Cart Collection service for one or all of the material streams.
- (2) **Cart Collection.** Grantee shall offer Collection in Carts to Commercial Business Subscribers. Subscribers shall be charged for Collection in accordance with the rates shown in Exhibit "E." Subscribers shall be subject to the requirements of this Exhibit "A." Grantee shall tailor the appropriate program to accommodate the Discarded Materials generation and space constraints of each Subscriber. Grantee shall offer Carts and Bins based on the Subscriber's needs, space limitations for Container placement, and considering safe operations. If Grantee and Subscriber have a disagreement as to whether Cart Collection is appropriate, or if Director determines the Collection in a Cart causes health and safety or other concerns, Director shall make the final determination as to whether Collection in a Cart may occur.
- (3) **Food Rescue and Donation Program.** Grantee shall perform annual examinations of routes for food donation opportunities and report results to the County and food rescue organizations, and provide information to Subscribers on food donation opportunities.

- (4) **Discarded Materials Cart Overage Service.** Commercial Business and Cart Subscribers may periodically generate more Discarded Materials than will fit in the Discarded Materials Cart(s). Commercial Business Cart Subscribers are therefore entitled to two (2) annual pickups per calendar year of material that does not fit in the Discarded Materials Cart(s) at no additional cost. One (1) pickup shall consist of up to the equivalent of either three (3) large bags (30- to 40-gallon), boxes, or barrels of Discarded Materials. Commercial Business Cart Subscribers may be charged per pickup in accordance with Exhibit "E" for overage pickups in excess of two (2) per year. Overage pickups, in addition to the two (2) free pickups, will be provided at no additional charge for two (2) weeks beginning the first Collection day following December 25. This service is limited to Discarded Materials that could be placed in Discarded Materials Cart, and not Bulky Waste, which is Collected in accordance with this Exhibit "A."
- Grantee will notify all Commercial Business and Cart Subscribers annually, beginning within thirty (30) days of the Effective Date of this Franchise Agreement, of this service. New Subscribers shall be notified of this service upon initiation of new Collection services.
- (5) **Pull-Out Service.** Upon Subscriber request, Grantee shall provide Container pullout service, whereby Grantee will move Containers manually to facilitate Collection. The Grantee may charge the pullout rates included in Exhibit "E." For Containers in enclosures, the measurement of distance shall be from location of the Container from the enclosure to the point of Collection. In the event of a dispute between Grantee and Subscriber as to whether pullout service will be charged, Director will make the final determination. If Grantee must place a Container in the public right-of-way to facilitate Collection, Grantee shall not permit the Container to remain in the public right-of-way for any period of time that conflicts with the County Code. If the Container is stored under a chute for Discarded Materials Collection, the Container must be serviced and returned immediately.
- (6) **Roll-off Containers.** Grantee shall provide Roll-Off Containers upon request of Subscribers at the rates shown in Exhibit "E."
- (d) **Construction and Demolition Debris Temporary Bin/Roll-Off Services.** Grantee shall provide C&D removal, including temporary Bin/Roll-Off services using rates reflected in Exhibit "E," unless debris is generated by a declared emergency disaster such as floods, fires, earthquake, or other such occurrence as deemed meeting the criteria of "disaster debris." The County may provide for rates and services solely for the timely and efficient removal of "disaster debris" with the Grantee or other qualified public or private entity in accordance with (g), below.
- (e) **Special Collection Programs.** The following minimum special Collection programs shall apply to this Franchise Agreement:
- (1) **Bulky Waste Collection**
- (A) **Single-Family and Multi-Family Residential all-inclusive Cart Collection Service Subscribers.** Grantee shall provide Bulky Waste pickup service to all Residential Subscribers. Each Residential Subscriber with Cart service, shall be entitled to two (2) Bulky Waste pickups per calendar year at no additional charge.
- Subscribers may put out up to five (5) Bulky Waste items at each pickup. Grantee may instruct Subscribers to provide Grantee with a minimum of two (2)

Business Days (excluding Saturday, Sunday, and holidays) notice for the items that shall be Collected on the Subscriber's regular Collection day.

Residential Subscribers that exceed the number of free pickups may receive Bulky Waste Collection under the same terms for a fee, in accordance with Exhibit "E."

Grantee shall notify all Residential Subscribers annually of this service. New Subscribers shall be notified of this service upon request of Collection services.

Subscribers that exceed the number of items per pickup may incur a charge in accordance with Exhibit "E."

- (B) **Residential Bin, Commercial Business, Industrial, and Multi-Family Residential Dwellings Bin Subscribers.** Subscribers may request Bulky Waste Collection for a fee in accordance with Exhibit "E." Subscribers may put out up to five (5) Bulky Waste items at each pickup.
- (C) Grantee shall Collect all Bulky Waste as defined in Exhibit "D" including items referred to as Electronic Waste as defined in Exhibit "D." The following provisions shall apply to this program:
 - (i) No single item that weighs more than one hundred and ten (110) pounds or that cannot be handled by two (2) workers will be accepted.
 - (ii) The following items will not be picked up: Hazardous Waste, including waste oil, paint, or anti-freeze. For the purposes of this Section, televisions, monitors, and other items referred to as Electronic Waste are not considered hazardous and will be Collected, Recycled, or Disposed in accordance with this Section.
- (D) **Bulky Waste Diversion.** Bulky Waste Collected by Grantee, or otherwise Collected under this Franchise Agreement, may not be landfilled or Disposed until the following hierarchy of Diversion efforts has been followed by Grantee:
 - (i) Reuse as is;
 - (ii) Disassemble for reuse or Recycling;
 - (iii) Recycle or market and sell Recyclables for Recycling;
 - (iv) Disposal.

Grantee shall ensure that Bulky Waste containing Freon, such as refrigerators, freezers, and dehumidifiers, are safely dismantled, and hazardous materials are Disposed of in accordance with Applicable Law.

- (2) **Roll-Off Containers.** Upon the direction of the Director, Grantee shall provide, at no additional charge, Roll-Off Containers requested by the Director to respond to organized community cleanup efforts taking place within Grantee's Franchise Area in accordance with this Section. Grantee shall deliver Containers to agreed-upon Collection points and shall cooperate with the Director and community leaders designated by the Director to remove Containers and Dispose and/or divert the Collected Discarded Materials. Grantee is obligated to provide the equivalent of one forty (40)-cubic yard Bin/load per year for each five hundred (500) Residential Dwelling Unit Subscribers, or fraction thereof, serviced within the Franchise Area. The County will arrange that there shall be no Disposal fees charged for such Discarded

Materials delivered in separate vehicles to any County Solid Waste Disposal System facility. In the event the Grantee is unable to provide the Roll-Off Containers on the requested date, County shall be able to contract with another Collection company that can provide the services needed, as long as the County has given the Grantee thirty (30) days' notice of the proposed clean up date.

- (3) **Holiday Trees.** Grantee shall Collect all holiday trees discarded by Single-Family and Multi-Family Residential three Cart Collection Service Subscribers on their regularly scheduled weekly Collection days for three (3) weeks following the first Collection day after December 25. After this period, trees will be Collected as Bulky Waste under Section (e)(1) above. Trees up to six (6) feet in length will be Collected and Diverted without Subscribers needing to cut them. Grantee may request that Subscribers with larger trees cut the trees to pieces no longer than six (6) feet and that ornaments and stands be removed prior to placement at the Collection point (curb, beside Container, or as otherwise determined by Subscriber and Grantee). Grantee will Divert from landfilling all holiday trees that are properly set out for Collection. Grantee may provide drop-off locations in lieu of curbside Collection in remote areas upon County approval.
- (4) **Special Cleanup Events.** Grantee shall provide equipment and personnel for special cleanup events, including but not limited to abandoned item pickups as may be requested by the County. County shall provide Grantee with no less than five (5) Business Days' notice of special clean up event. Grantee may charge County for cleanup events in accordance with the rates included in Exhibit "E," excluding Roll-Off Containers provided by Grantee as specified under Section (e)(2) above. Grantee shall log start- and end-time of each cleanup event and provide a report on each cleanup event to the Director within five (5) Business Days. The Collection parameters and schedule will be mutually agreed upon by the County and Grantee.
- (5) **Compost Giveaway.** Grantee shall provide one (1) Compost giveaway event per calendar year at no additional charge. Single-Family and Multi-Family Residential three Cart Collection Service Subscribers from the Franchise Area will be allowed to fill up their containers on a first-come, first-serve basis. Grantee shall provide eighty (80) cubic yards of Mulch or Compost material produced in the State of California delivered to a location designated by the Director. Any Compost material remaining after event shall be removed by Grantee. The Compost giveaway events will be coordinated with the Director and may be held in conjunction with other Franchise Area events.
- (6) **Route Audit.** At Director's request (but not more than once every two (2) years), Grantee shall conduct an audit of its Collection routes in the Franchise Area. County may also instruct Grantee to conduct an audit at a time that would produce the most accurate Subscriber service information for a new service provider to use in establishing service with Subscribers. In setting these audit dates, Director will establish due dates for Grantee providing routing and account information, and later, the report, to the County.

The route audit, at minimum, shall consist of an independent physical observation by Person(s) other than the route driver of each Subscriber in the Franchise Area. The route audit information shall include, at a minimum, the following information for each account:

For Cart Subscribers:

- Route number;

- Truck number;
- Account type (Single Family Residential, Multi-Family Residential, Commercial Business)
- Number and size of Carts by Discarded Material type (Solid Waste, Recyclables, Organic Waste); and
- Cart condition.

For Bin and Roll-Off Subscribers:

- Route number;
- Truck number;
- Account name;
- Account number;
- Account service address;
- Account type (Single Family Residential, Multi-Family Residential, Commercial Business, Roll-Off);
- Service level per Grantee billing system (quantity, size, frequency, Discarded Materials stream);
- Observed Containers (quantity, size, frequency, Discarded Material waste stream);
- Container condition;
- Proper signage

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

- Identification of the routes;
- Route map;
- Truck numbers;
- Number of accounts, by route and in total (Residential, Commercial Business and Roll-Off);
- Confirmation that all routes are dedicated exclusively to County Subscribers or a description of route allocations if not dedicated exclusively;
- Number and type of exceptions observed;
- Total number of discrepancies in customer service and Grantee billing, and confirmation of correction;
- Total monthly service charge (Residential, Commercial Business, and Roll-Off box), pre-audit;

- Total monthly service charge (Residential, Commercial Business, and Roll-Off), post-audit (subsequent to corrections of identified exceptions); and,
- A description of the procedures followed to complete the route audit. This description shall include the names and titles of those supervising the route audits and the name and titles of those performing the observations.

The report shall also include a description of the changes and Grantee's plans to resolve the exceptions. The results of the audit, and supporting back-up data, shall be provided to the Director.

- (7) **Waste Generation/Characterization Studies.** Grantee acknowledges that County must perform Discarded Materials generation and Disposal characterization studies periodically to comply with AB 939 requirements. Grantee agrees to participate and cooperate with County and its agents to accomplish studies and data collection and prepare reports, as needed to determine weights and volumes of Discarded Materials and characterize Discarded Materials generated, Disposed, transformed, Diverted, or otherwise handled/Processed to satisfy AB 939 requirements.
- (8) **Procurement of Recovered Organic Waste Products.** Grantee shall procure Compost, Mulch, and/or Renewable Natural Gas to assist the County's per capita requirement contained in SB 1383 proportional to the level of service provided by Grantee in its franchise zone. Grantee may meet this obligation by the activities described in Exhibit "K."
- (9) **Overflowing Containers.** – Grantee shall implement procedures, to be approved by the Director, for increasing service levels for Subscribers that regularly produce more Discarded Materials than their current level of service can accommodate.
- (10) **Locking Containers.** Grantee shall provide Subscribers with locking Containers who request them at the Total Rate described in Exhibit "E."

(f) **Diversion Services**

(1) Diversion services shall be furnished by Grantee for the duration of this Franchise Agreement in accordance with the provisions of Exhibit "A" and Exhibit "A-1" attached hereto and incorporated herein by this reference as if fully set forth.

(A) Large Venue and Event Recycling Assistance - Grantee shall assist planners of Large Events and Large Venues with reporting and planning needs to provide Recyclables and Organic Waste Diversion as may be useful in meeting the requirements of AB 2176, and in lowering Disposal quantities generated at such events at no additional charge.

(g) **Emergency Disaster Debris Removal Services**

- (1) In the event of a declared emergency disaster such as a fire, flood, earthquake, or other such occurrence as deemed meeting the criteria of a disaster in which debris is created, the County reserves the right to seek bids and/or services from Grantee or any other service provider for emergency removal of debris in compliance with federal and State emergency management procurement requirements.

- (2) During any period of time that Grantee is unable to service its Franchise Area during such declared emergency, either for loss of Transportation, lack of assistance or an overabundance of debris material or other similar circumstances, the County reserves the right to contract with any other County franchise hauler(s) for temporary Bin/Roll-Off services using rates reflected in such other franchise hauler's contract with the County or to contract with any third party for required services. Grantee shall notify County when it regains its ability to recommence service in its Franchise Area and County will, within a reasonable time period, terminate any contract with other haulers for the same services.
- (3) The County reserves the right to contract with third party entities or perform services itself for debris site cleanup, which may include the Transportation of debris to a Disposal and/or Processing facility.
- (4) The County reserves the right to direct Roll-Off Bin service to areas that have been designated as critical due to the emergency conditions.
- (5) The County shall be given first priority to receive services during an emergency over any established or future contracts that the Grantee may have with other third parties in the Unincorporated County areas.

(h) **Public Education and Outreach**

- (1) **General.** Grantee acknowledges and agrees that education and public awareness are critical, key, and essential elements of any efforts to achieve Applicable Law requirements. Accordingly, Grantee agrees to work collaboratively with the County to take advantage of opportunities to expand public and Subscriber knowledge concerning needs and methods to reduce, reuse, and Recycle Discarded Materials and to cooperate fully with the County in this regard as required by this Agreement.

Grantee shall maintain its own program of providing information relevant to billing and Collection services, issues, and needs with its bills. All public education materials shall be approved in advance by the County.

- (2) **Non-English Language Requirements.** The Grantee shall make all public education and outreach materials required by this Section available in English and Spanish.

Upon County request, Grantee shall provide materials in additional languages beyond those specified in this Section in response to shifting demographics within the County or updates to State requirements or Applicable Law.

- (3) **On-going Education Requirements.** Grantee will provide a minimum of the following public education items to be developed at Grantee's expense and distributed as indicated below:

- (A) **Instructional Packet Accompanying Grantee-Provided Containers.** An information packet shall be attached to each set of Containers distributed to Subscribers. Packet should describe available services, including how to place Containers for Collection, which materials should be placed in each Container, Collection holidays, and a customer service phone number.

- (B) **Container Instruction Markings.** Grantee will place stickers on, or hot stamp, Gray/Black Containers, Blue Containers, and Green Containers to demonstrate to Subscribers which materials are and are not acceptable for placement in each Container. Stickers shall be replaced when materials change or as labels become worn on Subscriber Carts. Stickers shall be replaced or added to all Bins and Roll-off Containers prior to the Effective Date. Markings shall be

written in both English and Spanish. Additionally, all Containers shall be labeled in accordance with CalRecycle requirements under SB 1383 throughout the Term of this Franchise Agreement.

- (C) **How-To Brochure.** Grantee will prepare and distribute a brochure packet to new Subscribers when they start service. Packet will contain updated information on how to use the Grantee-provided Containers, when, where and how to place Discarded Materials for Collection, and who to contact with service or billing questions.
- (D) **Residential Subscriber Quarterly Newsletter.** Not less than four (4) times per year during each calendar year, Grantee shall be responsible for all costs incurred for the production and mailing of quarterly newsletters. Grantee shall allow Subscribers to opt-out of the mailed quarterly newsletter and instead receive a digital quarterly newsletter instead. The County reserves the right to provide information to be included in the newsletters. Newsletters shall be submitted to the County allowing at least five (5) Business Days for prior review and approval.
- (E) **Commercial Business, Industrial, and Multi-Family Residential Dwellings Bin Subscriber Semi-Annual Newsletter.** Not less than twice per year during each calendar year, Grantee shall be responsible for all costs incurred for the production and mailing of the semi-annual newsletter. At least one (1) of the semi-annual newsletters shall include: guidelines for new employee training; “do’s and don’ts” of Source Separation; signage examples; source reduction suggestions; links to online County programs/resources; information on environmentally preferable purchasing policies; and, resource list of sustainability programs and toolkits from trade organizations for example, but not limited to, the National Restaurant Association and U.S. Composting Council Curb to Compost toolkit and/or government agencies like the Environmental Protection Agency toolkit for Reducing Food Waste and Packaging and Federal Trade Commission guidelines on Compostable and degradable claims. Grantee shall allow Subscribers to opt-out of the mailed semi-annual newsletter and instead receive a digital semi-annual newsletter instead. The County reserves the right to provide information to be included in the newsletters. Newsletters shall be submitted to the County allowing at least five (5) Business Days for prior review and approval.
- (F) **Public Events and Workshops.** Grantee shall host or attend not more than three (3) public workshops or events prior to June 30, 2024 and one (1) per calendar year thereafter upon request from the County.
- (4) **Multi-Family Residential Dwellings Subscriber Training and Outreach.** Grantee is responsible for developing training material and performing on-site bilingual outreach, in English and Spanish, to Subscribers describing new or updated program offerings.
- (5) **Media Relations.** Grantee shall notify the Director by email or telephone of all requests for news media interviews related to Collection services hereunder within twenty-four (24) hours of Grantee’s receipt of the request. Before responding to any inquiries involving controversial issues or any issues likely to affect participation or Subscriber perception of services, Grantee will discuss Grantee’s proposed response with the Director.
- (A) Copies of draft news releases or proposed trade journal articles shall be submitted to Director for prior review and approval at least five (5) Business

Days in advance of release, except where Grantee is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case Grantee shall submit such materials to Director simultaneously with Grantee's submittal to such regulatory agency.

- (B) Copies of articles resulting from media interviews or news releases shall be provided to the County within five (5) Business Days after publication.
 - (C) County shall notify the Grantee by email or telephone of all requests for news media interviews related to the Collection services hereunder within five (5) Business Days.
- (6) **Website/Social Media.** Grantee shall provide a website and/or other social media outlet to give Subscribers real time notifications of any service delay caused for any reason, such as snow days.

(i) **Contamination Monitoring**

- (1) **Contamination Review Methods.** Grantee shall implement an inspection method in compliance with the requirements of SB 1383, as described below.
- (A) **Route Review Contaminant Monitoring by Grantee.** Grantee shall conduct its route review by using its Smart TruckSM technology. Upon finding Prohibited Container Contaminants in a Container, Grantee shall follow the contamination noticing procedures set forth in this Exhibit
- (i) **Methodology and Frequency.** Commencing on or before the Effective Date, the Grantee shall, at its sole expense, conduct hauler route reviews for Prohibited Container Contaminants in Containers, in a manner that is deemed safe by the Grantee and is conducted in a manner that results in all hauler routes being reviewed at least one (1) time annually. Grantee may inspect Containers using digital or remote viewing, including Grantee's Smart TruckSM technology.
 - (a) **Minimum amount of Route to Review.** During each route review, Grantee shall inspect the contents of each Blue, Green, and Gray/Black Container for Prohibited Container Contaminants, where a sufficient number of Containers on each route (e.g., Solid Waste, Organic Waste, Green Waste, and Recyclable Material) are inspected in accordance with Applicable Law.
 - (b) **Route Review Methodology Schedule.** Grantee shall develop a hauler route review methodology to accomplish the Container inspection requirements herein, and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b). Grantee shall submit its proposed hauler route review methodology for the coming year to the County no later than December 31 of each year describing its proposed methodology for the upcoming calendar year and schedule for performance of each hauler route's annual review. Grantee's proposed hauler route review methodology shall include not only its plan for Container inspections but shall also include its plan for prioritizing the inspection of Subscribers that are more likely to be out of compliance. County will review and approve the proposed methodology. Grantee may commence with the proposed methodology upon approval from the County.

- (1) **Modification to Schedule.** The Director may request, and Grantee shall accept, modifications to the schedule to permit observation of the hauler route reviews by the County. In addition, Grantee shall provide an email notice to the County's Director no less than ten (10) Business Days prior to each scheduled hauler route review that includes the specific time(s), which shall be within the County's normal business hours, and location(s).
 - (c) **Inadequacy of Methodology.** If the County and/or CalRecycle notifies the Grantee that the methodology is inadequate in meeting the requirements of 14 CCR Section 18984.5(b), Grantee shall, at its sole expense, revise the methodology, and after obtaining County and/or CalRecycle approval, shall conduct additional hauler route reviews, increased Container inspections, and/or implement other changes using the revised procedure as necessary. If the Grantee's proposed methodology meets the requirements of 14 CCR Section 18984.5(b), but has been deemed inadequate by the County, the Grantee shall, at the expense of the County, revise the methodology and implement the specified changes using the revised procedure.
- (ii) **Actions upon Identification of Prohibited Container Contaminants.**
- (a) **Record Keeping.** The driver or other representative of Grantee shall record each contamination event upon discovery of Prohibited Container Contaminants in Subscriber(s) Container(s) including, at a minimum: the date; time; Subscriber's address; type of Container (Blue Container, Green Container, or Gray/Black Container); and, photographic evidence, if required. Grantee shall submit this record to the Grantee's customer service department, and Grantee's customer service department shall update the Subscriber's account record to note the event. Grantee shall maintain records and report to the County on contamination monitoring activities and actions taken, in accordance with Section 12.
 - (b) **Identification of Excluded Waste.** If Grantee's personnel observe Excluded Waste in an uncollected Container, the Grantee's personnel shall issue a non-Collection notice for that Container by, U.S. mail, e-mail, other electronic means, or in person (which may be a container tag) and may also include phone or text, and shall follow protocols in accordance with this Section, but under no circumstance shall Grantee Collect the Container(s) that contains the Excluded Waste. Grantee shall maintain records and report to the County on actions taken, in accordance with Section 12, and shall immediately inform their route supervisor. The route supervisor shall investigate and initiate applicable action within one (1) Business Day, or immediately if the Excluded Waste is identified as Hazardous Waste that may pose an imminent threat to health and/or safety.
 - (c). **Noticing Procedures.** Upon finding Prohibited Container Contaminants in a Container, Grantee shall follow the contamination noticing procedures and contaminated Container handling protocols in accordance with this Section.

- (1) **Format of Notice.** The format of all notices shall be approved by the Director. Grantee shall submit a sample of all notices to the Director for approval prior to implementation.
 - (2) **Location of Notice.** The Grantee's notice must be attached to or adhered to the Subscribers Container, or at the Premises' door/gate at the time the violation occurs; or by, U.S. mail, e-mail, other electronic means, or in person (which may be a container tag) and may also include phone or text, and shall follow protocols in accordance with this Section (notification must be immediate).
 - (d) **Meet and Confer.** County and Grantee agree to meet and confer regarding implementation of a contamination fee and related Proposition 218 requirements beginning in January of 2023 and concluding in April of 2023, in order for the County to have sufficient time to consider a contamination fee effective July 1, 2023.
- (iii) **Notices**

- (a) **Courtesy Pick-Up Notices.** Upon identification of Prohibited Container Contaminants in a Residential Subscriber's Container, Grantee shall provide the Subscriber a minimum of two (2) courtesy pick-up notice's by U.S. mail, e-mail, other electronic means, or in person (which may be a container tag) and may also include phone or text in a twelve (12) month period and shall Collect the contaminated Container and Transport the material to the appropriate Designated Facility for Processing; or, Grantee may Collect the contaminated Container and Transport the material to the appropriate Designated Facility for Disposal, so long as Grantee complies with the noticing requirements below.

The courtesy pick-up notification shall:

- (1) inform the Subscriber of the observed presence of Prohibited Container Contaminants;
- (2) include the date and time the Prohibited Container Contaminants were observed;
- (3) include educational material on Subscriber's duty to properly separate materials into the appropriate Containers, and information on accepted materials and Prohibited Container Contaminants for all Containers (e.g., Blue, Black/Gray, and Green);
- (4) inform the Subscriber that Grantee provided a courtesy pick-up of the Container(s) that contained Prohibited Container Contaminants;
- (5) inform Subscriber that continued failure to Source Separate Discarded Materials may result in non-Collection of Subscriber's Container(s) until such time that Subscriber removes the contamination from Container(s) or chooses to pay for an extra pick-up as Solid Waste to be Disposed; and
- (6) shall include photographic evidence of the contamination violation(s).

- (c) **Non-Collection Notice.** If Grantee identifies any amount of Excluded Waste or Prohibited Container Contaminants in excess of 10% of container size in any Subscriber Container, Grantee may skip Collection of such Container(s). Grantee shall provide a non-Collection notice which shall:
 - (1) inform the Subscriber of the reason(s) for non-Collection;
 - (2) include the date and time the notice was left or issued;
 - (3) describe the premium charge to Subscriber for Grantee to return and Collect the Container prior to the next regularly scheduled Collection day (in accordance with this Exhibit "A" Section (i)(1)(A)(iii)(c) below); and
 - (4) shall include photographic evidence of the contamination violation(s).
- (c) **Grantee Return for Collection.** Upon request from Subscriber, Grantee shall Collect Containers that received non-Collection notices within one (1) Business Day of Subscriber's request if the request is made at least two (2) Business Days prior to the regularly scheduled Collection day. Grantee shall bill Subscriber for the extra requested Collection service event at the applicable County-approved Total Rate ("extra pick-up"), only if Grantee notifies Subscriber of the premium Rate for this service at the time the request is made by Subscriber. In the event Subscriber receives a non-Collection notice due to Prohibited Container Contaminants in their Green or Blue Container(s), Subscriber shall have the option to clean out the Prohibited Container Contaminants prior to the next regularly scheduled Collection day at no additional charge, or request Collection at the applicable County-approved Rate to Dispose of the Container as Solid Waste.

(j) **Inspection and Enforcement.**

(1) **Annual Compliance Reviews.**

- (A) **General.** Grantee shall perform compliance reviews described in this Section commencing on the Effective Date, and at least annually thereafter, unless otherwise noted.
- (B) **Commercial Business Generator Compliance Reviews** (applicable for three-Container systems).

The Grantee shall complete a compliance review of all Multi-Family and Commercial Business Subscribers that generate two (2) cubic yards or more per week of Discarded Materials, including Organic Waste, to determine their compliance with: (i) Generator requirements under the County's Collection program; and, (ii) if applicable for the Generator, Self-Hauling requirements per 14 CCR Section 18988.3 and the County Code, including whether a Commercial Business is complying through Back-Hauling SSGCOW. The compliance review shall mean a "desk" review of records to determine Subscribers' compliance with the above requirements and does not necessarily require on-site observation of service; however, the County may request that the Grantee perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

(C) **Generator Waiver Inspections.** Grantee shall verify Commercial Business Generator de minimis and physical space constraint waivers, if applicable, at least once every five (5) years from the date of issuance of the waiver. Such verification shall mean a “desk” review of records and/or use of Smart TruckSM technology to determine Subscribers’ compliance with the waiver requirements, unless physical verification is deemed necessary by County or Grantee.

(D) **Compliance Review Process**

(i) **Number of Reviews.** The Grantee shall conduct a sufficient number of compliance reviews, hauler route reviews, and Generator waiver inspections of entities described in this Section to adequately determine the entities’ overall compliance with SB 1383, AB 1826, and AB 341. The County reserves the right to require additional inspections if the County reasonably determines that the amount of inspections conducted by the Grantee is insufficient. County may require the Grantee to prioritize inspections of entities that the County determines are more likely to be out of compliance.

(ii) **Non-Compliant Entities.** From the Effective Date through December 31, 2023, when compliance reviews are performed by Grantee pursuant to Subsection (j)(1) of this Exhibit “A,” Grantee shall provide educational materials in response to violations. Grantee shall provide these educational materials to the non-compliant Subscribers and Generators within five (5) Business Days of determination of non-compliance or immediately upon determination of non-compliance if such non-compliance is determined during an inspection or hauler route review. Grantee shall document the non-compliant Subscribers and Generators and the date and type of education materials provided and report such information to the County in accordance with Exhibit “L” Beginning January 1, 2024, the Grantee shall document non-compliant Subscribers and Generators determined through Grantee’s compliance reviews pursuant to Subsection (j)(1) of this Exhibit “A,” and shall report all Subscribers and Generators with SB 1383 violations to the County in accordance with Section 12 of the Franchise Agreement. The County shall be responsible for subsequent enforcement action against the Generator, if necessary.

(iii). **Documentation of Inspection Actions.** The Grantee shall generate a written and/or electronic record and maintain documentation for each inspection, hauler route review, and compliance review conducted, including the information described in Exhibit “L.”

(k) **SB 1383 Service Complaints.**

(1) **Documentation of Complaints.**

(A) **General.** Grantee shall record complaints received related to SB 1383 noncompliance in its log in a manner further described in Subsection (k)(1)(B) of this Exhibit “A”.

(B) **SB 1383-Noncompliance Complaints.** For complaints received in which the Person alleges that an entity is in violation of SB 1383 requirements, Grantee shall document the information listed in Exhibit “L” of this Franchise Agreement. Grantee shall provide this information in a monthly summary report in accordance with Section 12.

(2) **Review of SB 1383-Noncompliance Complaints.**

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

Grantee shall review the complaint using one (1) or more of the following methods:

- (i) Reviewing the service level of the entity that may not be compliant with SB 1383;
- (ii) Reviewing the waiver list to determine if the entity has a valid de minimis, space constraint, or Collection frequency waiver;
- (iii) Reviewing what is readily observable at the premises of the entity identified by the complainant, if warranted; and/or,
- (iv) Contacting the entity to gather more information, if warranted.

- (B) **Reporting.** Within ten (10) Business Days of completing a review of a SB 1383 noncompliance complaint, Grantee shall submit a review complaint report that documents the review performed and recommends to County whether or not the entity reviewed is in violation of SB 1383 based on the Grantee's review. The County shall make a final determination of the allegations against the entity.

EXHIBIT A-1 SERVICES TO BE PROVIDED

County Franchise Area: 3
Zone (if applicable): _____
Effective: 7/1/23
Uniform: Residential and Commercial

RESIDENTIAL SERVICE

Single Family Collection

Curbside Gray/Black Cart Waste Service

Collection: X Automated _____ Manual
 Pick up Frequency: 1 Times/Week
 Containers: 1 Number
96 Gallon Cart*
 Provided By: X Hauler _____ Property Owner

*Cart size variance of +/- 5%

Gray/Black Waste Bin Service

Pick up Frequency: 1 to 1 Times/Week
 Containers: 2 to 3 Cubic Yard Commercial Grade Bins
 Provided By: X Hauler _____ Other

Single Family Diversion Programs (Materials collected apply to all container sizes)

Recycling Cart

Collection: X Automated _____ Manual
 Pick up Frequency: 1 Times/Week
 Containers: 1 Number
96 Gallon Cart*
 Provided By: X Hauler _____ Property Owner

*Cart size variance of +/- 5%

Recycling Bin

Pick up Frequency: 1 to 1 Times/Week
 Containers: 2 to 6 Cubic Yard Commercial Grade Bins
 Provided By: X Hauler _____ Other
 Materials Collected: X Aluminum Cans _____ Metal Coat Hangers
X Cardboard X Mixed Paper
X Catalogs X Newspaper
X Computer Paper X Phone Books
X Glass Containers X Plastics # 1 to #7
X Junk Mail X Magazines
X Tin Cans

Organic Waste Cart**

Collection:	<u> X </u>	Automated	<u> </u>	Manual
Pick up Frequency:	<u> 1 </u>	Times/Week		
Containers:	<u> 1 </u>	Number		
	<u> 96 </u>	Gallon Cart*		
Provided By:	<u> X </u>	Hauler	<u> </u>	Property Owner

*Cart size variance of +/- 5%

Organic Waste Bins**

Pick up Frequency:	<u> 1 </u>	to	<u> 5 </u>	Times/Week
Containers:	<u>64-gal</u>	to	<u> 2 </u>	Cubic yard Commercial bins
Provided By:	<u> X </u>	Hauler	<u> </u>	Other
Materials Collected:	<u> X </u>	Grass Clippings	<u> X </u>	Leaves
	<u> X </u>	Tree Trimmings	<u> X </u>	Brush
	<u> X </u>	Prunings	<u> X </u>	Shrub Trimmings
	<u> X </u>	Weeds	<u> X </u>	Twigs & Small Branches
	<u> X </u>	Food Waste and Food Soiled Paper		

**Containers may be used for green waste, food waste, or mixed organic waste

Single Family Education Plan (provide an example of items from the previous year)

Workshops	<u> 1 </u> (except first year up to 3)	Times/Year
Public Events	<u> 1 </u> (except first year up to 3)	Times/Year
Press Releases	<u>As needed</u>	Times/Year
Brochures	<u>New customers/customer request</u>	Times/Year
Newsletters	<u> 4 </u>	Times/Year

Bulky Item Collection

Collection Program (Includes CRT Collection)

Frequency	<u> 2 </u>	Times/Year	
Schedule:	<u> 1 </u>	Week Before	
Collection Day:	<u> X </u>	Regular Scheduled Day	<u> </u> Other
Notification:	<u> X </u>	Mail	<u> </u> Phone Call
Maximum Collection:	<u> 5 </u>	of items	
Additional Collection:	<u> X </u>	Yes (with a fee)	<u> </u> No

MULTI-FAMILY SERVICE

Multi-Family Residential Collection

Curbside Gray/Black Cart Waste Service

Collection:	<u> X </u>	Automated	<u> </u>	Manual
Pick up Frequency:	<u> 1 </u>	Times/Week		
Containers:	<u> 1 </u>	Number		
	<u> 96 </u>	Gallon Cart		
Provided By:	<u> X </u>	Hauler	<u> </u>	Property Owner

*Cart size variance of +/- 5%

Gray/Black Waste Bin Service

Pick up Frequency:	<u> 1 </u>	to	<u> 6 </u>	Times/Week
Containers:	<u> 1.5 </u>	to	<u> 6 </u>	Cubic Yard Commercial Grade Bins
Provided By:	<u> X </u>	Hauler	<u> </u>	Other

Multi-Family Residential Diversion Programs (Materials collected apply to all container sizes)

Recycling Cart

Collection:	<u> X </u>	Automated	<u> </u>	Manual
Pick up Frequency:	<u> 1 </u>	Times/Week		
Containers:	<u> 1 </u>	Number		
	<u> 96 </u>	Gallon Cart		
Provided By:	<u> X </u>	Hauler	<u> </u>	Property Owner

*Cart size variance of +/- 5%

Recycling Bins

Pick up Frequency:	<u> 1 </u>	to	<u> 1 </u>	Times/Week
Containers:	<u> 2 </u>	to	<u> 6 </u>	Cubic Yard Commercial Grade Bins
Provided By:	<u> X </u>	Hauler	<u> </u>	Other
Materials Collected:	<u> X </u>	Aluminum Cans	<u> X </u>	Metal Coat Hangers
	<u> X </u>	Cardboard	<u> X </u>	Mixed Paper
	<u> X </u>	Catalogs	<u> X </u>	Newspaper
	<u> X </u>	Computer Paper	<u> X </u>	Phone Books
	<u> X </u>	Glass Containers	<u> X </u>	Plastics # 1 to #7
	<u> X </u>	Junk Mail	<u> X </u>	Magazines
	<u> X </u>	Tin Cans		

Organic Waste Cart

Collection:	<u> X </u>	Automated	<u> </u>	Manual
Pick up Frequency:	<u> 1 </u>	Times/Week		
Containers:	<u> 1 </u>	Number		
	<u> 64 </u>	Gallon Cart		
Provided By:	<u> X </u>	Hauler	<u> </u>	Property Owner

*Cart size variance of +/- 5%

**Containers may be green waste, food waste, or mixed organic waste

Organic Waste Bins

Pick up Frequency:	<u> 1 </u>	to	<u> 5 </u>	Times/Week
Containers:	<u> 2 </u>	to	<u> 2 </u>	Cubic yard Commercial bins
Provided By:	<u> X </u>	Hauler	<u> </u>	Other
Materials Collected:	<u> X </u>	Grass Clippings	<u> X </u>	Leaves
	<u> X </u>	Tree Trimmings	<u> X </u>	Brush
	<u> X </u>	Prunings	<u> X </u>	Shrub Trimmings
	<u> X </u>	Weeds	<u> X </u>	Twigs & Small Branches
	<u> X </u>	Food Waste and Food Soiled Paper		

**Containers may be green waste, food waste, or mixed organic waste

Multi-Family Residential Education Plan

Workshops	1(except first year up to 3)	Times/Year
Public Events	1(except first year up to 3)	Times/Year
Press Releases	1	Times/Year
Brochures	New customers/customer request	Times/Year
Newsletters	Cart – 4/Bin - 2	Times/Year

COMMERCIAL/INDUSTRIAL SERVICE

Bin Collection

Gray/Black Waste Bin Service

Pick up Frequency: 1 to 6 Times/Week
 Containers: 1.5 to 6 Cubic Yard Commercial Grade Bins
 Provided By: X Hauler Other

Recycling Bin Service

Pick up Frequency: 1 to 1 Times/Week
 Containers: 2 to 6 Cubic Yard Commercial Grade Bins
 Provided By: X Hauler Other
 Materials Collected: X Aluminum Cans Metal Coat Hangers
 X Cardboard X Mixed Paper
 X Catalogs X Newspaper
 X Computer Paper X Phone Books
 X Glass Containers X Plastics # 1 to #7
 X Junk Mail X Magazines
 X Tin Cans

Organic Waste Bins

Pick up Frequency: 1 to 5 Times/Week
 Containers: 64- to 2 Cubic yard Commercial bins
 gal
 Provided By: X Hauler Other
 Materials Collected: X Grass Clippings X Leaves
 X Tree Trimmings X Brush
 X Prunings X Shrub Trimmings
 X Weeds X Twigs & Small Branches
 X Food Waste and Food Soiled Paper

**Containers may be green waste, food waste, or mixed organic waste

Cart Collection

Gray/Black Waste Cart Service

Collection: X Automated Manual
 Pick up Frequency: 1 to 1 Times/Week
 Containers: 1 Number
 96 Gallon Cart
 Provided By: X Hauler Business Owner
 Notes: *Cart size variance of +/- 5%

Recycling Cart Service

Collection: X Automated Manual
 Pick up Frequency: 1 Times/Week
 Containers: 96 Gallon Cart
 Provided By: X Hauler Other
 Materials Collected: X Aluminum Cans Metal Coat Hangers
 X Cardboard X Mixed Paper
 X Catalogs X Newspaper
 X Computer Paper X Phone Books
 X Glass Containers X Plastics # 1 to #7
 X Junk Mail X Magazines
 X Tin Cans

Organic Waste Cart

Materials Collected:	<u>X</u>	Grass Clippings	<u>X</u>	Leaves
	<u>X</u>	Tree Trimmings	<u>X</u>	Brush
	<u>X</u>	Prunings	<u>X</u>	Shrub Trimmings
	<u>X</u>	Weeds	<u>X</u>	Twigs & Small Branches
	<u>X</u>	Food Waste and Food Soiled Paper		

*Cart

**Containers may be green waste, food waste, or mixed organic waste

Frequency:	<u>Varies</u>	Days Usage	
Container:	<u>10</u>	to	<u>40</u> Cubic Yards
Notes:	<u>Permanent- On call service</u>		
	<u>Temporary- 7 Days</u>		
	<u>One Time Set Up Fee</u>		
	<u>Delivery/Trip/Relocate Fee</u>		
	<u>Minimum Pull Fee- Box must be serviced at least 1x per month</u>		

Temporary Bin

Container:	<u>10 or 40</u>	Cubic Yard Containers Available				
Charges Include:	<u>X</u>	Delivery, Removal, Disposal				
Frequency:	<u>7</u>	Days Usage				
Prohibited Materials:	<u>X</u>	Dirt	X	Rock	X	Concrete

Notes: Fee per bin, per month

Notes: N/A

Notes: Charges apply 26' or more for bin pull out

Notes: N/A

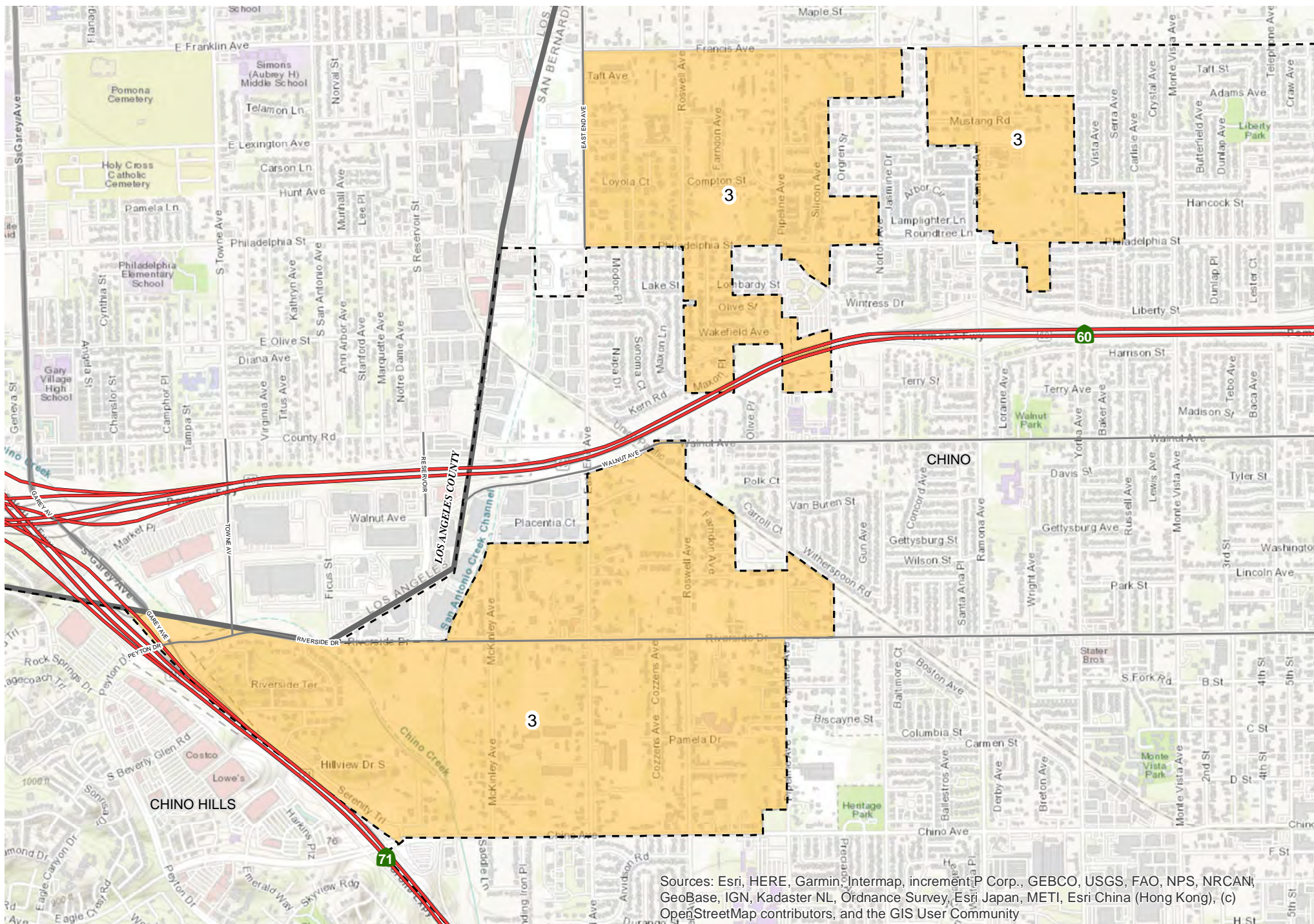
EXHIBIT B

MAP OF FRANCHISE AREA

This Exhibit contains a map showing the Franchise Area and the legal exceptions therein, if any, where the Franchise Agreement will not be operative.

(a) Standard Exceptions:

- (1) All incorporated areas;
- (2) All territory in which a special district or other public entity provides Solid Waste Handling Services; and
- (3) All County Service Areas that provide Solid Waste Handling Services, which were being provided prior to the Effective Date of this Franchise Agreement.



SAN BERNARDINO COUNTY Waste Collection Franchise Area 3



EXHIBIT B-1
LEGAL DESCRIPTION OF FRANCHISE AREA

This Exhibit contains a description of the Unincorporated County territory in which the Franchise Agreement may be exercised and of the exceptions therein, if any, where the Franchise Agreement will not be operative.

CFA 3

Parcel 1

A parcel of unincorporated land lying between the Cities of Chino and Chino Hills in the County of San Bernardino, State of California, as described as follows:

Beginning at the intersection of the easterly right of way line of State Highway 71 and the San Bernardino -Los Angeles County line, said intersection also being on the existing boundary of the City of Chino Hills;

Thence Easterly and Northeasterly leaving the City of Chino Hills boundary, along said county line to the intersection with the centerline of Riverside Drive, said centerline also being the City of Chino boundary;

Thence leaving said county line, along said City of Chino boundary, Easterly, Northerly, Southerly and Westerly, following all of it's various courses, to an intersection with the easterly right of way line of State Highway 71, said right of way line also being the City of Chino Hills boundary;

Thence Northwesterly leaving the City of Chino boundary along said City of Chino Hills boundary to the **POINT OF BEGINNING**.

Parcel 2

A parcel of unincorporated land lying in the Chino area in the County of San Bernardino, State of California, as described as follows:

Beginning at the intersection of the centerline of East End Avenue. and the centerline of Philadelphia Street, said intersection also being an angle point in the City of Chino boundary;

Thence Northerly leaving said city boundary along the centerline of East End Avenue, to an intersection with the centerline of Francis Avenue;

Thence Easterly along said centerline of Francis Avenue to an intersection with the City of Chino boundary, said intersection being 330 feet east of the centerline of Norton Avenue;

Thence along said city boundary, Southerly and Westerly, following all of it's various courses to the **POINT OF BEGINNING**.

CFA-3 (continued)

Parcel 3

A parcel of unincorporated land lying in the Chino area in the County of San Bernardino, State of California, as described as follows:

Beginning at the intersection of the centerline of Francis Avenue and an angle point in the City of Chino boundary, said intersection being 660 feet Westerly of Ramona Avenue;

Thence Easterly along said Francis Avenue to an intersection with an angle point to the City of Chino boundary, said intersection being 660 feet Easterly of Ramona Avenue;

Thence along said City of Chino boundary, Southerly, Westerly and Northerly, following all of it's various courses, to the **POINT OF BEGINNING.**

This legal description was prepared by me or under my direction.


Ryan S. Hunsicker

09/01/22
Date

Deputy County Surveyor

PLS 8302

Exp. 12-31-09



EXHIBIT C
DIVISION 6 OF TITLE 4 OF THE COUNTY CODE

The attached is a copy of Division 6 of Title 4 of the County Code as enacted at the time of the entry into this Franchise Agreement.

ORDINANCE NO. 4434

An ordinance of San Bernardino County, State of California, amending Title 4, Division 6 of the San Bernardino County Code relating to reducing short-lived climate pollutants and to add Title 3, Division 3, Chapter 15 to the San Bernardino County Code relating to organic waste disposal reduction and food recovery and to add section 14.0117 to the San Bernardino County Code relating to mulch procurement to comply with Senate Bill 1383 requirements.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Title 4, Division 6 of the San Bernardino County Code is amended to read in its entirety as follows:

DIVISION 6: SOLID WASTE HANDLING FRANCHISES AND REQUIREMENTS

CHAPTER 1: PURPOSES AND REQUIRED AUTHORIZATIONS

Section

46.0101 Purposes.

46.0102 Required Authorizations.

46.0101 Purposes.

The purposes of Division 6 are set forth below (all terms are as defined in Chapter 2):

(a) To allow for the establishment of Solid Waste Handling franchises within the unincorporated portion of San Bernardino County, pursuant to authority cited in Government Code section 25827, in Public Resources Code sections 40057 through 40059 or 49200 through 49205, in Code of Regulations, Title 14, sections 17332 and 17333, and any other applicable State or local law. The implementation of franchises through entering into Franchise Agreements with Grantees will assist the County:

(1) In meeting its obligation to provide Solid Waste Facility Fee as

1 required in Public Resources Code section 40057;

2 (2) In meeting the requirements of AB 939, as may be amended, and all
3 subsequent State laws and regulations which mandate that the County reduce the
4 amount of Solid Waste disposed in County landfills by certain numerical thresholds by
5 providing its citizens with source reduction, Recycling and composting programs and
6 opportunities;

7 (b) To help ensure that residents of the Unincorporated County receive the
8 similar quality of waste Collection and Recycling services as do those residents in the
9 incorporated cities and towns of San Bernardino County;

10 (c) To ensure that programs and service levels for Solid Waste Handling within
11 the unincorporated spheres of influence of incorporated cities and towns will replicate, to
12 the extent possible, programs and service levels of adjacent cities and towns;

13 (d) To minimize, to the extent possible, disruption of programs and services to
14 unincorporated residents in the event of annexations;

15 (e) To help quantify the waste stream from the Unincorporated County in order
16 to comply with Diversion requirements of AB 939, as may be amended;

17 (f) To provide by agreement, an opportunity for predictable levels of waste at
18 County landfills to ensure adequate funding for closure/post-closure activities; and

19 (g) To ensure compliance with the mandatory Organic Waste Disposal
20 reduction requirements of SB 1383.

21 **46.0102 Required Authorizations.**

22 (a) Except as otherwise provided in subdivisions (b) and (c) of this section, no
23 Person shall engage in, solicit, contract for or provide, in the Unincorporated County, Solid
24 Waste Facility Fee without such Person having and maintaining:

25 (1) A Health and Safety Permit authorizing the Collection, Transfer or
26 removal of refuse (within the meaning of Article 2 of Chapter 8 of Division 3 of Title 3 of
27 this Code); and

28 (2) (A) With respect to a Franchise Area, a Franchise Agreement

1 authorizing the Person to provide the specified Solid Waste handling service being
2 provided; or

3 (B) With respect to a refuse Collection area, or any portion thereof
4 which is not a Franchise Area subject to a Franchise Agreement, a Class A permit or
5 temporary permit as provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this
6 Code.

7 (b) (1) Notwithstanding Subdivision (a), above, any Person may engage in
8 or provide, in the Unincorporated County, those Solid Waste Facility Fee related to
9 performing as a Garbage Hauler (within the meaning of Chapter 8 of Division 3 of Title 3
10 of this Code), without such Person being required to have or maintain a Franchise
11 Agreement or the Class A permit or temporary permit provided for in Article 2.1 of Chapter
12 8 of Division 3 of Title 3 of this Code.

13 (2) Notwithstanding Subdivision (a), above, any Person may engage in
14 or provide, in the Unincorporated County, those Solid Waste Facility Fee which are
15 related solely to one of the types of Solid Waste set forth below, without such Person
16 being required to have or maintain a Franchise Agreement or the Class A permit or
17 temporary permit provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this
18 Code.

19 (A) Abandoned vehicles and parts thereof.

20 (B) Ashes.

21 (C) Dewatered, treated or chemically fixed sewage sludge.

22 (D) Self-generated waste or waste generated and hauled by the
23 property owner.

24 (E) Green waste or yard trimmings generated as an incidental
25 part of providing gardening, landscaping or landscape maintenance as a professional
26 gardener or landscaper.

27 (F) Inert materials or demolition waste from remodeling jobs
28 which are generated as an incidental part of providing such remodeling services, provided

1 that the construction contractor is not a hauling service or Solid Waste enterprise, does
2 not separately or additionally charge for the incidental service of removing, transporting
3 or disposing (except for the tipping fee) of the inert materials or demolition waste, and
4 utilizes only his or her own employees and equipment to Collect, transport, and Dispose
5 of same.

6 (G) Recyclables that are sold or donated by the Generator of such
7 materials to a party other than the Grantee of a franchise. A mere discount or reduction
8 in price of the hauler's charges for the handling of such materials is not a sale or donation
9 within the meaning of Division 6.

10 (H) Food Waste Used as Animal Feed. Food Waste or other
11 Organic Waste Diverted from Disposal by delivery to hog farms or otherwise used as
12 animal feed, pursuant to the provisions of Public Resource Code section 40059.4

13 (I) Edible Food Recovered for Human Consumption. Edible Food
14 that is collected from a Generator by other Person(s), such as a Person from a Food
15 Recovery Organization or Food Recovery Service, for the purposes of Food Recovery; or
16 that is Transported by the Generator to another Person(s), such as a Person from a Food
17 Recovery Organization, for the purposes of Food Recovery, regardless of whether the
18 Generator donates, sells, or pays a fee to the other Person(s) to Collect or receive the
19 Edible Food from the Generator.

20 (J) Exempt Persons. A Person or entity that has been given an
21 exemption by the County from the uniform handling Collection ordinance.

22 (3) Subdivision (b)(1), above, shall have no application in any Franchise
23 Area to the extent that the County provides in the Franchise Agreement(s) establishing
24 such Franchise Area that any or all of the Solid Waste Facility Fee related to either
25 performing as a Garbage Hauler or to the types of Solid Waste enumerated in Subdivision
26 (b)(2) are to be provided pursuant to a Franchise Agreement or agreements; so long as
27 the Person and/or the Solid Waste Handling service being provided do not otherwise fit
28 within one or more of the exemptions provided in Subdivision (c) of this Section. The

1 Division shall maintain a list of all areas of the County within which a Franchise Agreement
2 is required in order to provide any of the Solid Waste Facility Fee which are related to
3 performing as a Garbage Hauler or solely to a type of Solid Waste enumerated in
4 Subdivision (b)(2).

5 (c) The provisions of Subdivisions (a) and (b)(3) of this Section shall not apply
6 to those Persons and/or Solid Waste Facility Fee specified in section 33.0843 of this
7 Code.

8 9 **CHAPTER 2: DEFINITIONS**

10 **Section**

11 **46.0201 Definitions.**

12 13 **46.0201 Definitions.**

14 For the purposes of this Division 6, the following terms shall have the meanings
15 set forth in this section:

16 (a) AB 341. The Assembly Bill approved by the Governor of the State of
17 California on October 5, 2011, which amended sections 41730, 41731, 41734, 41735,
18 41736, 41800, 42926, 44004, and 50001 of, and added sections 40004, 41734.5, and
19 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of,
20 and added and repealed section 41780.02 of, the Public Resources Code, relating to
21 Solid Waste.

22 (b) AB 827. The Assembly Bill approved by the Governor of the State of
23 California on October 2, 2019, which amended sections 42649.1, 42649.2, 42649.8, and
24 42649.81 of the Public Resources Code, relating to Solid Waste.

25 (c) AB 939. The California Integrated Waste Management Act of 1989,
26 beginning at California Public Resources Code section 40000, et seq., as it may be
27 amended from time to time.

28 (d) AB 1594. The Assembly Bill approved by the Governor of the State of

1 California on September 28, 2014, which amended sections 40507 and 41781.3 of the
2 Public Resources Code, relating to Solid Waste.

3 (e) AB 1826. The Organic Waste Recycling Act of 2014 (Chapter 727, Statutes
4 of 2014 modifying Division 30 of the California Public Resources Code), also commonly
5 referred to as "AB 1826."

6 (f) ALTERNATIVE FACILITY. A facility other than Designated Facilities
7 approved by County for temporary use.

8 (g) APPLICABLE LAW. All Federal, State, County, and local laws, regulations,
9 rules, orders, judgments, decrees, permits, approvals, or other requirement of any
10 governmental agency having jurisdiction over the Collection, Transportation, Processing,
11 and Disposal of Discarded Materials. Applicable Law includes, but is not limited to, AB
12 939, AB 341, AB 1826, and SB 1383.

13 (h) BACK-HAUL. Generating and Transporting Recyclables and/or Organic
14 Waste to a destination owned and operated by the Generator using the Generator's own
15 employees and equipment, or as defined in 14 CCR section 18982(a)(66)(A).

16 (i) BIN. A container with capacity of approximately one (1) to eight (8) cubic
17 yards with a hinged lid and with wheels (where appropriate) that is serviced by a front
18 end-loading Collection vehicle. This includes Bins with Compactors attached to increase
19 the capacity of the Bin.

20 (j) BLUE CONTAINER. A container that is defined in 14 CCR section
21 18982.2(a)(5) and shall be used for the purpose of storage and Collection of Source
22 Separated Recyclable Materials or Source Separated Blue Container Organic Waste.

23 (k) BOARD. The San Bernardino County Board of Supervisors.

24 (l) BROWN CONTAINER. The same meaning as in 14 CCR section
25 18982.2(a) and shall be used for the purpose of storage and Collection of Source
26 Separated Food Waste.

27 (m) BULKY WASTE. Discarded furniture (including but not limited to chairs,
28 sofas, mattresses, and area rugs); appliances (including but not limited to refrigerators,

1 ranges, washers, dryers, water heaters, dishwashers, plumbing, small household
2 appliances, and other similar items, commonly known as "white goods") ; discarded
3 stereos, televisions , computers, VCR's, and other similar items (commonly known as
4 "Electronic- Waste"); wood waste (excluding treated wood), tree trunks, large branches,
5 and scrap wood that can be reasonably handled by two employees and complies with the
6 maximum size requirements of the Designated Facility. Bulky Waste does not include
7 C&D, waste tires, or large items such as car bodies, Jacuzzi tubs or spas, or other items
8 that cannot be handled by two Persons. In addition, Bulky Waste does not include waste
9 tires.

10 (n) CART. A plastic Container with a hinged lid and wheels that is serviced by
11 an automated or semi-automated Collection vehicle.

12 (o) CALIFORNIA CODE OF REGULATIONS or CCR. The State of California
13 Code of Regulations. CCR references in this ordinance are preceded with a number that
14 refers to the relevant Title of the CCR (e.g. "14 CCR" refers to Title 14 of CCR).

15 (p) CALRECYCLE. The California Department of Resources Recycling and
16 Recovery, which is the Department designated with the responsibility for developing,
17 implementing and enforcing State law and regulations on Jurisdictions (and others).

18 (q) CHANGE IN LAW. The imposition (or removal), after the establishment of
19 a Total Rate relative to a Franchise Agreement, of any duty or burden imposed upon the
20 Grantee in the performance of the Solid Waste Facility Fee required of it under its
21 Franchise Agreement which is or becomes additional to (or is subtracted from) or different
22 from those duties required or contemplated in its Franchise Agreement, or which must be
23 performed in a different manner from that in which it is initially contemplated to be
24 performed, and which results from any of the following:

25 (1) The enactment, issuance, adoption, repeal, amendment or
26 modification of any Federal, State or local law, statute, ordinance or regulation.

27 (2) A regulatory agency or other administrative agency interpreting a
28 regulation, a judicial decision of a Federal court interpreting Federal law or statute, or a

1 judicial decision of a court having jurisdiction within California interpreting a Federal, State
2 or local law, statute, ordinance or regulation, in a manner different from the interpretation
3 which had previously been generally relied upon in California within the Solid Waste
4 Collection and hauling industry.

5 (3) CHANGE IN LAW does not include any of the items noted in
6 Subdivisions (1) or (2) above, which relate to any tax, [other than a business license tax
7 imposed by the County on a Grantee's performance of Solid Waste Facility Fee under its
8 Franchise Agreement] including without limit, any tax based or measured on net or gross
9 income, any business, payroll or franchise tax or any employment tax.

10 (r) CHANGE IN LAW ADJUSTMENT. The adjustment to Total Rate in the
11 event of a Change In Law.

12 (s) CHANGE IN OWNERSHIP. Occurs when either a single transaction or
13 event or the cumulative effect of more than one transaction or event, results in 50 percent
14 or more of the beneficial ownership of the Grantee being different than such ownership
15 as of the date of the approval by the County of the Franchise Agreement or, if applicable,
16 as of the date of the most recent consent of the County to a Change In Ownership. The
17 owners of the beneficial ownership of Grantee on the date of the approval of the Franchise
18 Agreement or, if applicable, on the date of the most recent consent of the County to a
19 Change In Ownership, shall be referred to in this Subdivision as an "initial owner". A
20 CHANGE IN OWNERSHIP will be determined by application of the following:

21 (1) Any beneficial interest owned by an individual related by blood or
22 marriage to an initial owner shall be considered as owned by an initial owner in
23 determining if a CHANGE IN OWNERSHIP has occurred.

24 (2) Any public offering of stock where the stock is offered for sale to the
25 general public and does not constitute a private placement shall be disregarded in
26 determining if a CHANGE IN OWNERSHIP has occurred.

27 (3) Sales, Transfers, issuances or pledges of non-voting shares of stock
28 will not be considered in determining if a CHANGE IN OWNERSHIP has occurred, until

1 and unless and only to the extent that such stock is converted into voting shares of stock.

2 (4) The pledge of, or any other action taken relative to, voting shares of
3 stock which results in any voting rights of such stock being exercised by other than an
4 initial owner shall be considered to be a Transfer of such stock for the purposes of
5 determining if a CHANGE IN OWNERSHIP has occurred.

6 (t) CHANGE IN SERVICE LEVEL ADJUSTMENT. The adjustment to Total
7 Rate in the event of a change in service level and as described in the Franchise
8 Agreement.

9 (u) COLLECT or COLLECTION. The act of taking physical possession of
10 Discarded Materials at Single-Family premises, Multi-Family premises, or Commercial
11 Businesses within the County, and Transporting the Discarded Materials to a Designated
12 Facility for Processing, Transfer, or Disposal.

13 (v) COMMERCIAL BUSINESS. A firm, partnership, proprietorship, joint stock
14 company, corporation, or association, whether for profit or nonprofit, strip mall, industrial
15 facility, or a Multi-Family Residential Dwelling with five (5) dwellings or more, or as
16 otherwise defined in 14 CCR section 18982(a)(6).

17 (w) COMPLIANCE REVIEW. A review of records by the County to determine
18 compliance with the requirements of this ordinance.

19 (x) COMMUNITY COMPOSTING. Any activity that Composts green material,
20 agricultural material, food material, and vegetative food material, alone or in combination,
21 and the total amount of feedstock and Compost on-site at any one time does not exceed
22 100 cubic yards and 750 square feet as specified in 14 CCR section 17855(a)(4); or as
23 otherwise defined by 14 CCR section 18982(a)(8).

24 (y) COMPOST. Defined in 14 CCR section 17896.2(a)(4) which states, as of
25 the effective date of this ordinance, the product resulting from the controlled biological
26 decomposition of organic Solid Wastes that are Source Separated from the County Solid
27 Waste stream, or which are separated at a centralized facility.

28 (z) COMPOSTABLE PLASTICS. Plastic materials that meet the ASTM D6400

1 standard for compatibility, or as otherwise described in 14 CCR sections 18984.1(a)(1)(A)
2 or 18984.2(a)(1)(C).

3 (aa) CONSTRUCTION AND DEMOLITION DEBRIS or C&D. The
4 nonHazardous Waste building material, inerts, soil, packaging, Yard Trimmings, rubble,
5 and other used or Discarded Materials resulting from construction or demolition.

6 (bb) CONSUMER PRICE INDEX. The Consumer Price Index – All Urban
7 Consumers, Los Angeles-Long Beach-Anaheim, CA, all items less food and energy, as
8 published by the U.S. Department of Labor, Bureau of Labor Statistics, Series ID,
9 CUURS49ASAOLE, or the most similar successor index if the index is no longer
10 published.

11 (cc) CONTAINER CONTAMINATION or CONTAMINATED CONTAINER. A
12 Container, regardless of color, that contains Prohibited Container Contaminants, or as
13 otherwise defined in 14 CCR section 18982(a)(55).

14 (dd) COUNTY. San Bernardino County, State of California.

15 (ee) COUNTY SOLID WASTE DISPOSAL SYSTEM. At any particular time, the
16 then-existing landfill Disposal facilities which the County owns, leases or has a contractual
17 right to use.

18 (ff) DELINQUENT FEES. The fees under the Total Rate which are due for
19 Uniform Handling Service rendered to an owner's property (or which have been attempted
20 to be rendered, if Uniform Handling Service is not allowed to be provided by action of the
21 owner or tenant) but which have not been paid for 90 days or more after the mailing of
22 the invoice related to such service.

23 (gg) DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL
24 HEALTH SERVICES. The County division of that name or such County department,
25 division or office which is the successor thereto.

26 (hh) DESIGNATED DISPOSAL FACILITY. A Disposal Facility that is approved
27 for use by the Division.

28 (ii) DESIGNATED FACILITY(IES). Any one of or any combination of the

1 following: Designated C&D Processing Facility; Designated Disposal Facility; Designated
2 High Diversion Organic Waste Processing Facility; Designated Organic Waste
3 Processing Facility, Designated SSR Processing Facility; and, Designated Transfer
4 Facility, and is approved for use by the Division.

5 (jj) DESIGNATED HIGH DIVERSION ORGANIC WASTE PROCESSING
6 FACILITY. A High Diversion Organic Waste Processing Facility that is approved for use
7 by the Division.

8 (kk) DESIGNATED ORGANIC WASTE PROCESSING FACILITY. An Organic
9 Waste Processing Facility that is approved for use by the Division.

10 (ll) DESIGNATED ORGANIC WASTE PROCESSING FACILITY FEE. The fee
11 charged for use of a Designed Organic Waste Processing Facility.

12 (mm) DESIGNATED SOURCE SEPARATED ORGANIC WASTE FACILITY. As
13 defined in 14 CCR section 18982(14.5), a Solid Waste Facility that accepts a Source
14 Separated Organic Waste Collection stream as defined in 14 CCR section 17402(a)(26.6)
15 and complies with one of the following:

16 (1) The facility is a "Transfer/processor," as defined in 14 CCR section
17 18815.2(a)(62), that is in compliance with the reporting requirements of 14 CCR section
18 18815.5(d), and meets or exceeds the annual average Source Separated organic content
19 Recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75
20 percent on or after January 1, 2025 as calculated pursuant to 14 CCR 18815.5(f) for
21 Organic Waste received from the Source Separated Organic Waste Collection stream.

22 (A) If a Transfer/processor has an annual average Source
23 Separated organic content Recovery rate lower than the rate required in Paragraph 1 of
24 this definition for two (2) consecutive reporting periods, or three (3) reporting periods
25 within three (3) years, the facility shall not qualify as a "Designated Source Separated
26 Organic Waste Facility."

27 (2) The facility is a "composting operation" or "composting facility" as
28 defined in 14 CCR section 18815.2(a)(13), that pursuant to the reports submitted under

1 14 CCR section 18815.7 demonstrates that the percent of material removed for landfill
2 Disposal that is Organic Waste is less than the percent specified in 14 CCR section
3 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and if applicable, complies
4 with the digestate handling requirements specified in 14 CCR section 17896.5.

5 (A) If the percent of material removed for landfill Disposal that is
6 Organic Waste is more than the percent specified in 14 CCR section 17409.5.8(c)(2) or
7 17409.5.8(c)(3), for two (2) consecutive reporting periods, or three (3) reporting periods
8 within three (3) years, the facility shall not qualify as a "Designated Source Separated
9 Organic Waste Facility." For the purposes of this ordinance, the reporting periods shall
10 be consistent with those defined in 14 CCR section 18815.2(a)(49).

11 (nn) DESIGNEE. An entity that the County contracts with or otherwise arranges
12 to carry out any of the County's responsibilities of this ordinance as authorized in 14 CCR
13 section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a
14 combination of those entities.

15 (oo) DIRECTOR. The Director of the Department of Public Works or the
16 designee of such individual.

17 (pp) DISCARDED MATERIALS. Material deemed to have been discarded,
18 without regard to whether they are destined for Recycling or Disposal, and whether or not
19 they have been Source Separated, in all cases where a fee or other compensation, in any
20 form or amount, is directly or indirectly solicited from, or levied, charged, or otherwise
21 imposed on, or paid by, the Generator or Subscriber in exchange for Solid Waste
22 Handling Services. As used herein, Solid Waste Handling Services include, without
23 limitation, the provision of Containers for the Collection, removal, Transportation, delivery,
24 and Processing and/or Disposal of the material. Discarded Materials do not include Edible
25 Food that is recovered for human consumption. For the purposes of this Ordinance,
26 Discarded Materials include SSR, SSBCOW, SSGCOW, SSBRCOW, Solid Waste or
27 Mixed Waste, and C&D.

28 (qq) DISPOSE or DISPOSAL. The final disposition of any Solid Waste collected

1 by the Grantee at a permitted landfill or other permitted Solid Waste Facility.

2 (rr) DIVERT OR DIVERSION. To Divert from Disposal facilities or
3 Transformation facilities (including incineration, pyrolysis, distillation, gasification or
4 biological conversion) through source reduction, Recycling and Composting, as provided
5 in section 41780 of California Public Resources Code as such act may be hereafter
6 amended or superseded provided that Divert or Diversion shall include delivery to
7 Transformation facilities if the overall Diversion achieved by the County is at a level where
8 delivery to such facilities shall be considered Diversion pursuant to the Act.

9 (ss) DIVISION. The County Department of Public Works Solid Waste
10 Management Division or such County department, division or office which is the
11 successor thereto.

12 (tt) EDIBLE FOOD. Food intended for human consumption, or as otherwise
13 defined in 14 CCR section 18982(a)(18). Edible Food is not Solid Waste if it is recovered
14 and not discarded. Nothing in this ordinance or in 14 CCR Division 7, Chapter 12 requires
15 or authorizes the Recovery of Edible Food that does not meet the food safety
16 requirements of the California Retail Food Code.

17 (uu) ELECTRONIC WASTE. Electronic Waste materials generated by
18 Residential or Commercial Subscribers that render the items hazardous depending upon
19 their condition and density, such as, but not limited to, televisions, computer monitors
20 containing Cathode Ray Tubes (CRTs), cell phones, scanners, fax machines and other
21 items as determined by Applicable Laws and regulations.

22 (vv) ENFORCEMENT ACTION. An action of the County to address
23 noncompliance with this ordinance including, but not limited to, issuing administrative
24 citations, fines, penalties, or using other remedies.

25 (ww) EXCLUDED WASTE. Hazardous substance, Hazardous Waste, infectious
26 waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and
27 toxic substances or material that facility operator(s), which receive materials from the
28 County and its Generators, reasonably believe(s) would, as a result of or upon

1 acceptance, Transfer, Processing or Disposal, be a violation of local, State or Federal
2 law, regulation or ordinance, including: land use restrictions or conditions, waste that
3 cannot be disposed of in Class III landfills or accepted at the Facility by permit conditions,
4 waste that in County's or its designee's reasonable opinion would present a significant
5 risk to human health or the environment, cause a nuisance or otherwise create or expose
6 the County, or its Designee, to potential liability; but not including de minimis volumes or
7 concentrations of waste of a type and amount normally found in Single-Family or
8 multifamily Solid Waste after implementation of programs for the safe Collection,
9 Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with
10 California Public Resources Code sections 41500 and 41802. Excluded Waste does not
11 include used motor oil filters, household batteries, Universal Wastes, and/or latex paint
12 when such materials are defined as allowable materials for Collection through the
13 County's Collection programs and the Generator or customer has properly placed the
14 materials for Collection pursuant to instructions provided by the County for Collection
15 services.

16 (xx) FOOD RECOVERY. Actions to Collect and distribute food for human
17 consumption which otherwise would be Disposed, as defined in 14 CCR section
18 18982(a)(24).

19 (yy) FOOD RECOVERY ORGANIZATION. An entity that primarily engages in
20 the Collection or receipt of Edible Food and distributes that Edible Food to the public for
21 Food Recovery either directly or through other entities, including, but not limited to:

22 (1) A food bank as defined in section 113783 of the Health and Safety
23 Code;

24 (2) A nonprofit charitable organization as defined in section 113841 of
25 the Health and Safety Code; and,

26 (3) A nonprofit charitable temporary food facility as defined in section
27 113842 of the Health and Safety Code.

28 (zz) FOOD RECOVERY SERVICE. A Person or entity that Collects and

1 Transports Edible Food to a Food Recovery Organization or other entities for Food
2 Recovery.

3 (aaa) FOOD SCRAPS. All food such as, but not limited to, fruits, vegetables,
4 meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells.
5 Food Scraps excludes fats, oils, and grease when such materials are Source Separated
6 from other Solid Waste Food Scraps.

7 (bbb) FOOD-SOILED PAPER. Compostable paper material that has come in
8 contact with food or liquid, such as, but not limited to, compostable paper plates, paper
9 coffee cups, napkins, pizza boxes, and milk cartons.

10 (ccc) FOOD WASTE. Source Separated Food Scraps, Food-Soiled Paper, and
11 Compostable Plastics. Food Waste is a subset of Organic Waste.

12 (ddd) FRANCHISE AGREEMENT. The agreement entered into between the
13 County and the Grantee under the provisions of section 46.0301 which
14 authorizes/requires the Grantee to provide Solid Waste Handling Services in a specified
15 Franchise Area

16 (eee) FRANCHISE AREA. The geographic territory in the Unincorporated County
17 for which the Grantee has been granted a franchise to provide Solid Waste Handling
18 Services, as specified in each Franchise Agreement.

19 (fff) FRANCHISE FEE. The fee paid to the County by the Grantee in
20 consideration of the granting of a franchise pursuant to this Division.

21 (ggg) GARBAGE HAULER. Any Person or entity who Collects garbage, unmixed
22 with rubbish, and transports it to a commercial garbage-feeding hog ranch or to a
23 commercial establishment for Processing for use in livestock feeding pursuant to the
24 requirements in Public Resources Code section 40059.4(b)(1-5).

25 (hhh) GENERATOR. Any Person who first Discards Materials, and by that act
26 makes Discarded Materials subject to regulation under federal, State, or local regulations.

27 (iii) GRANTEE. A Person granted a franchise pursuant to a Franchise
28 Agreement.

1 (jjj) GRAY/BLACK CONTAINER. The same meaning as in 14 CCR section
2 18982.2(a) and shall be used for the purpose of storage and Collection of Gray/Black
3 Container Waste or Mixed Waste.

4 (kkk) GRAY/BLACK CONTAINER WASTE. Solid Waste that is collected in a
5 Gray/Black Container that is part of a three-container Organic Waste Collection service
6 that prohibits the placement of Organic Waste in the Gray/Black Container as specified
7 in 14 CCR sections 18984.1(a) and (b) or as defined in 14 CCR section 17402(a)(6.6).
8 For the purposes of this Franchise Agreement, Gray/Black Container Waste includes
9 carpet and textiles.

10 (lll) GREEN CONTAINER. The same meaning as in 14 CCR section
11 18982.2(a) and shall be used for the purpose of storage and Collection of SSGCOW.

12 (mmm) GREEN WASTE. Discarded Materials consisting of grass clippings,
13 leaves, branches, tree trunks and other vegetative matter not more than six (6) inches in
14 diameter or four (4) feet in length.

15 (nnn) GROSS RECEIPTS. All monies received by Grantee for providing the Solid
16 Waste Handling Services specified in its Franchise Agreement.

17 (ooo) GROSS RECEIPTS LESS DISPOSAL CHARGES. Gross receipts less that
18 part of the monies received by the Grantee that are collected from Subscribers for
19 payment of the fee imposed for disposing of the Solid Waste at a landfill Disposal facility
20 and the fee imposed for other operations.

21 (ppp) GROSS RECEIPTS FOR COMMERCIAL FOOD WASTE SERVICES. All
22 monies received by Grantee for providing the Food Waste handling services specified in
23 its Franchise Agreement.

24 (qqq) GROSS RECEIPTS FOR COMMERCIAL FOOD WASTE SERVICES
25 LESS PROCESSING COSTS. Gross receipts for commercial Food Waste services less
26 that part of the monies received by the Grantee that are collected from Subscribers for
27 payment of the fee imposed for Processing of the Food Waste at an Organic Waste
28 Processing Facility.

1 (rrr) HIGH DIVERSION ORGANIC WASTE PROCESSING FACILITY. "High
2 Diversion Organic Waste Processing Facility" means a High Diversion Organic Waste
3 Processing Facility as defined in 14 CCR Section 18982(a)(33). Per SB 1383, the High
4 Diversion Processing Facility is a facility that is in compliance with the reporting
5 requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average
6 Mixed Waste organic content recovery rate of fifty percent (50%) between January 1,
7 2022 and December 31, 2024, and seventy-five percent (75%) after January 1, 2025 as
8 calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the
9 Mixed Waste.

10 (sss) HAZARDOUS WASTE. Any hazardous or toxic substance, material or
11 waste which is or becomes regulated by any local governmental authority, the State of
12 California, or the United States Government. The term "Hazardous Waste" includes,
13 without limitation, any material or substance which is: (i) petroleum or oil or gas or any
14 direct or derivate product or byproduct thereof; (ii) defined as a "Hazardous Waste,"
15 "extremely Hazardous Waste" or "restricted Hazardous Waste" under sections 25115,
16 25117 or 25122.7, or listed pursuant to section 25140, of the California Health and Safety
17 Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a
18 "hazardous substance" under section 25316 of the California Health and Safety Code,
19 Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act);
20 (iv) defined as a "Hazardous Waste," "hazardous substance," or "Hazardous Waste"
21 under sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code,
22 Division 20, Chapter 6.95 (Hazardous Wastes Release Response Plans and Inventory);
23 (v) defined as a "hazardous substance" under section 25281 of the California Health and
24 Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances);
25 (vi) "used oil" as defined under section 25250.1 of the California Health and Safety Code;
26 (vii) asbestos; (viii) listed under Captor 11 of Division 4.5 of Title 22 of the California Code
27 of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10
28 of Division 4.5 of Title 22 of the California Code of Regulations; (ix) defined as waste or

1 a hazardous substance pursuant to the Porter-Cologne Act, section 13050 of the
2 California Water Code; (x) designated as a "pollutant" pursuant to the Federal Water
3 Pollution Control Act, 33 U.S.C. Section 1317; (xi) defined as "Hazardous Waste"
4 pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. section
5 6901, et seq. (42 U.S.C. section 6903); (xii) defined as a "hazardous substance" pursuant
6 to the Comprehensive Environmental Response, Compensation and Liability Act, 42
7 U.S.C. section 6901); (xiii) defined as "Hazardous Waste" pursuant to the Hazardous
8 Wastes Transportation Act 29 U.S.C. section 5101, et seq.; or (xiv) defined as such or
9 regulated by any "Superfund" or "Superlien" law, or any other federal, State or local law,
10 statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or
11 imposing liability or standards of conduct concerning Hazardous Wastes and/or oil wells
12 and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in
13 effect.

14 (ttt) HEALTH AND SAFETY PERMIT. A current permit issued by the
15 Department of Public Health, Division of Environmental Health Services to a refuse
16 Collection operator, Garbage Hauler or nondomestic waste hauler (all as defined in
17 section 33.0802 of this Code), in accordance with Title 14 of the Code of Regulations and
18 Title 3 of the County Code. The HEALTH AND SAFETY PERMIT evidences, for a
19 specified period of time, the health and safety inspection and the approval of vehicles,
20 facilities and equipment utilized by a refuse Collection operator, Garbage Hauler or
21 nondomestic waste hauler.

22 (uuu) HIGH DIVERSION ORGANIC WASTE PROCESSING FACILITY. A High
23 Diversion Organic Waste Processing Facility as defined in 14 CCR section 18982(a)(33).
24 Per SB 1383, the High Diversion Processing facility is a facility that is in compliance with
25 the reporting requirements of 14 CCR section 18815.5(d) and meets or exceeds an
26 annual average Mixed Waste organic content recovery rate of fifty percent (50%) between
27 January 1, 2022 and December 31, 2024, and seventy-five percent (75%) after January
28 1, 2025 as calculated pursuant to 14 CCR section 18815.5(e) for Organic Waste received

1 from the Mixed Waste.

2 (vvv) INCOMPATIBLE WASTE OR INCOMPATIBLES. Human-made inert
3 material, including, but not limited to, glass, metal, plastic, and also includes Organic
4 Waste that the receiving end-user, facility, operation, property, or activity is not designed,
5 permitted, or authorized to perform Organic Waste recovery activities as defined in 14
6 CCR section 18983.1(b), or as defined by 14 CCR section 17402(a)(7.5).

7 (www) LANDFILL DISPOSAL FACILITY. Any County owned/operated facility that
8 is designed to manage any type of Solid Waste and includes, but is not limited to,
9 Disposal, Transfer, Processing, composting and Transformation.

10 (xxx) LANDFILL DISPOSAL FACILITY FEE. The fee charged for use of a landfill
11 Disposal facility.

12 (yyy) LARGE EVENT. An event, including, but not limited to, a sporting event or
13 a flea market, that charges an admission price, or is operated by a local agency, and
14 serves an average of more than two thousand (2,000) individuals per day of operation of
15 the event, at a location that includes, but is not limited to, a public, nonprofit, or privately
16 owned park, parking lot, golf course, street system, or other open space when being used
17 for an event. If the definition in 14 CCR section 18982(a)(38) differs from this definition,
18 the definition in 14 CCR section 18982(a)(38) shall apply to this Ordinance.

19 (zzz) LARGE VENUE. A permanent venue facility that annually seats or serves
20 an average of more than two thousand (2,000) individuals within the grounds of the facility
21 per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter
22 12 and this Ordinance, a venue facility includes, but is not limited to, a public, nonprofit,
23 or privately owned or operated stadium, amphitheater, arena, hall, amusement park,
24 conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts
25 center, fairground, museum, theater, or other public attraction facility. For purposes of 14
26 CCR, Division 7 Chapter 12 and this Ordinance, a site under common ownership or
27 control that includes more than one Large Venue that is contiguous with other Large
28 Venues in the site, is a single Large Venue. If the definition in 14 CCR section

1 18982(a)(39) differs from this definition, the definition in 14 CCR section 18982(a)(39)
2 shall apply to this Ordinance.

3 (aaaa) MATERIALS RECOVERY FACILITY or MRF. A facility designed to remove
4 Recyclables and other valuable materials from the waste stream collected through a
5 residential, commercial or industrial Solid Waste Handling program that is approved to
6 operate by the appropriate State and local agencies.

7 (bbbb) MIXED WASTE. Organic Waste collected in a container that is required by
8 14 CCR sections 18984.1, 18984.2, or 18984.3 to be taken to a High Diversion Organic
9 Waste Processing Facility, as defined in 14 CCR section 17402(a)(11.5).

10 (cccc) MULCH. A layer of material applied on top of soil, and, for the purposes of
11 the Franchise Agreement, Mulch shall conform with the following conditions, or conditions
12 as specified in 14 CCR section 18993.1(f)(4):

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

16 (2) Was produced at one or more of the following types of facilities:

17 (A) A compostable material handling operation or facility as
18 defined in 14 CCR section 17852(a)(12), that is permitted or authorized under Division 7
19 of Title 14 of the CCR, other than a chipping and grinding operation or facility as defined
20 in 14 CCR section 17852(a)(10);

21 (B) A Transfer/Processing facility or Transfer/Processing
22 operation as defined in 14 CCR section 17402(a)(30) and (31), respectively, that is
23 permitted or authorized under 14 CCR, Division 7, Chapter 12; or,

24 (C) A Solid Waste landfill as defined in Public Resources Code
25 section 40195.1 that is permitted under 27 CCR, Division 2.

26 (dddd) MULTI-FAMILY. Any Residential Premises, other than a Single-Family
27 Premises, with five (5) or more Dwelling Units used for Residential purposes (regardless
28 of whether residence therein is temporary or permanent, vacant or occupied), that receive

1 centralized, shared, Collection service for all units on the Premises which are billed to (1)
2 Customer at (1) address. Customers residing in Townhouses, mobile homes,
3 condominiums, or other structures with five (5) or more Dwelling Units who receive
4 individual service and are billed separately shall not be considered Multi-Family.

5 (eeee) MULTI-JURISDICTION LOAD/DETAIL REPORT. A report which sets out
6 the amount, and place of Collection, of Discarded Materials delivered to the landfill
7 Disposal system.

8 (ffff) NON-ORGANIC RECYCLABLES. Non-putrescible and non-hazardous
9 Recyclable wastes including, but not limited to, bottles, cans, metals, plastics, and glass,
10 or as defined in 14 CCR section 18982(a)(43). Non-Organic Recyclables are a subset of
11 Source Separated Recyclables.

12 (gggg) ONSITE WASTE ASSESSMENT. An in-person visit by the Grantee to a
13 customer to Collect and evaluate information on the types and quantities of Discarded
14 Materials generated by the customer, as well as identify opportunities for additional
15 Processing of Solid Waste.

16 (hhhh) ORGANIC WASTE. Solid Wastes containing material originated from living
17 organisms and their metabolic waste products including, but not limited to, Food Waste,
18 Green Waste, organic textiles and carpets, lumber, wood, paper products, printing and
19 writing paper, manure, biosolids, digestate, and sludges, or as defined in 14 CCR section
20 18982(a)(46). Biosolids and digestate are as defined in 14 CCR section 18982(a)(4) and
21 14 CCR section 18982(a)(16.5), respectively.

22 (iiii) ORGANIC WASTE HANDLING SERVICE.

23 (1) The Collection of Organic Waste from a commercial, residential,
24 construction, or industrial source; and

25 (2) The transportation of such Organic Waste to an Organic Waste
26 Processing Facility. Organic Waste Handling Services is a subset of Solid Waste
27 Handling Services.

28 (jjjj) ORGANIC WASTE PROCESSING FACILITY. A permitted facility where

1 Organic Waste are sorted, mulched or separated for the purposes of Recycling, reuse or
2 composting.

3 (kkkk) ORGANIC WASTE PROCESSING FACILITY FEE. The fee charged for
4 use of an Organic Waste Processing Facility.

5 (llll) OTHER OPERATIONS. All operational cost categories that are not
6 included in fuel, service, and landfill Disposal; OTHER OPERATIONS may include, but
7 are not limited to, non-County facilities for Transfer, Processing, composting and
8 Transformation.

9 (mmmm) PERSON. Without limitation, individuals, associations, clubs, societies,
10 firms, partnerships, joint ventures, sole proprietorships, corporations, limited liability
11 companies, schools, colleges and all governmental agencies and entities.

12 (nnnn)PROCESSING. The reduction, separation, recovery, conversion or
13 Recycling of Discarded Materials.

14 (oooo)PROHIBITED CONTAINER CONTAMINANTS. Excluded Waste placed in
15 any Container.

16 (1) Option 1, Three-Container Collection service (Blue Container, Green
17 Container, and Gray/Black Container): "Prohibited Container Contaminants" means the
18 following: (i) Discarded Materials placed in the Blue Container that are not identified as
19 acceptable Source Separated Recyclables for the County's Blue Container; (ii) Discarded
20 Materials placed in the Green Container that are not identified as acceptable Source
21 Separated Green Container Organic Waste for the County's Green Container; (iii)
22 Discarded Materials placed in the Gray/Black Container that are acceptable Source
23 Separated Recyclables and/or Source Separated Green Container Organic Waste to be
24 placed in County's Blue Container and/or Green Container; and (iv) Excluded Waste
25 placed in any container.

26 (2) (A) Option 2a: Two-Container Collection Service for
27 SSGCOW and Mixed Waste (Green Container and Gray Container) "Prohibited Container
28 Contaminants" means the following: (i) Discarded Materials placed in the Green

1 Container that are not identified as acceptable SSGCOW for the County's Green
2 Container; (ii) Discarded Materials placed in the Gray Container that are identified as
3 acceptable SSGCOW, which are to be separately collected in County's Green Container;
4 and, (iii) Excluded Waste placed in any container.

5 (B) Option 2b: Two-Container Collection Service for SSR and
6 Mixed Waste (Blue Container and Gray Container) "Prohibited Container Contaminants"
7 means the following: (i) Discarded Materials placed in the Blue Container that are not
8 identified as acceptable SSR for Jurisdiction's Blue Container; (ii) Discarded Materials
9 placed in the Gray Container that are identified as acceptable SSR, which are to be
10 separately Collected in Jurisdiction's Blue Container; and, (iii) Excluded Waste placed in
11 any container.

12 (3) Option 3: One-Container Collection Service "Prohibited Container
13 Contaminants" means Excluded Waste placed in any Container.

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

19 (qqqq)RECYCLABLE MATERIALS OR RECYCLABLES. For purposes of this
20 Division 6 only, Discarded Materials which may be sorted, cleansed, treated, processed,
21 and/or reconstituted, and which is segregated for the purpose of reuse or Recycling,
22 including, but not limited to, separated paper, glass, cardboard, plastic, ferrous materials
23 or aluminum.

24 (rrrr) RECYCLE or RECYCLING. The process of Collecting, sorting, cleansing,
25 treating, and reconfiguring materials for the purpose of returning them to the economic
26 mainstream in the form of raw material for new, reused, or reconstituted products which
27 meet the quality standards necessary to be used in the marketplace. Recycling includes
28 processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR,

1 Division 7, Chapter 12, Article 2. Recycling does not include gasification or
2 Transformation as defined in Public Resources Code section 40201.

3 (ssss) REFUSE COLLECTION AREA. That area of the Unincorporated County
4 as provided for in Article 2.1 of Chapter 8 of Division 3 of Title 3 of this Code.

5 (tttt) RENEWABLE NATURAL GAS (RNG). Gas derived from Organic Materials
6 that has been Diverted from a Landfill and Processed at an in-vessel digestion facility that
7 is permitted or authorized by 14 CCR to recover Organic Waste, or as defined in 14 CCR
8 section 18982(a)(62).

9 (uuuu) RESIDENTIAL. A Single-Family Premises or Multi-Family Premises
10 including Single-Family homes, apartments, condominiums, Townhouse complexes,
11 mobile home parks, and cooperative apartments.

12 (vvvv) RESIDUAL SOLID WASTE. The Solid Waste destined for Disposal,
13 Transformation, or further Transfer/Processing as defined in 14 CCR sections 17402
14 (a)(30) or (31), as it currently exists or may be amended, which remains after Processing
15 has taken place.

16 (wwwv) ROLL-OFF. An open-top Container with a capacity of seven (7) to
17 forty (40) cubic yards that is serviced by a Roll-Off Collection vehicle.

18 (xxxx) SB 1383. Senate Bill 1383 of 2016 approved by the Governor on September
19 19, 2016, which added sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health
20 and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of
21 Division 30 of the Public Resources Code, establishing methane emissions reduction
22 targets in a Statewide effort to reduce emissions of short-lived climate pollutants as
23 amended, supplemented, superseded, and replaced from time to time.

24 (yyyy) SECURITY. A corporate surety bond, a letter of credit or other Security
25 device acceptable to the Division, as described in the Franchise Agreement and County
26 Code section 46.0904.

27 (zzzz) SELF-HAUL. The Transportation of Solid Waste, Organic Waste, or
28 Recyclables from any premises by the owner or occupant using his or her own

1 employee(s) and equipment to a facility lawfully allowed to receive Solid Waste, Organic
2 Waste, or Recyclables in accordance with State and Federal Laws.

3 (aaaaa) SINGLE-FAMILY. Any detached or attached house or residence designed
4 or used for occupancy by one (1) family, provided that Collection service feasibly can be
5 provided to such Premises as an independent unit, and the Owner or Occupant of such
6 independent unit is billed directly for the Collection service. Single-Family includes
7 Townhouses, and each independent unit of duplex, tri-plex, or four-plex Residential
8 structures, regardless of whether each unit is separately billed for their specific Service
9 Level.

10 (bbbbb) SOLID WASTE. Except as provided in Subdivisions (1), (2), (3) and (4),
11 all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage,
12 trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction
13 wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances
14 (subject to salvage and other special handling requirements under Applicable Law and
15 regulation), dewatered, treated, or chemically fixed sewage sludge which is not
16 Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other
17 discarded solid and semisolid. Solid Waste may include Recyclables and Organic Waste
18 that has been discarded and has not been Source Separated into the designated
19 Container for such Source Separated material.

20 (1) SOLID WASTE does not include Hazardous Waste and does not
21 include low-level radioactive waste regulated under Health and Safety Code sections
22 114960 et seq., as it currently exists or may be amended.

23 (2) SOLID WASTE does not include medical waste (except treated
24 medical waste) which is regulated pursuant to the Medical Waste Management Act under
25 Health and Safety Code sections 117600 et seq., as it currently exists or may be
26 amended.

27 (3) SOLID WASTE does not include petroleum or a petroleum product
28 or fraction thereof at reasonably detectable levels, asbestos and, with respect to a

1 particular Solid Waste Facility, any waste or material which a regulatory agency, the
2 facility's Solid Waste Facility permit or County policy, does not allow to be accepted for
3 Transfer, Processing, composting, Transformation or Disposal at that facility.

4 (4) SOLID WASTE does not include items which would be considered
5 Recyclables but for the fact that they are personally separated from other Solid Waste by
6 the Generator thereof and are donated or sold to third parties. For purposes of this
7 Division 6, no donation or sale shall be deemed to have occurred in any instance where
8 a Generator directly or indirectly pays the third party any sum regardless of form or
9 amount (including without limit as a consulting fee, container rental, broker or other fees
10 or tangible consideration) either: (i) in lieu of being directly charged for collecting,
11 transporting, Processing or Recycling such item; or (ii) to offset the payment to the
12 Generator for the purported sale of such item to the third party. Nor shall the receipt of a
13 discount of, or reduction in, the Disposal service rate on unsegregated Solid Waste
14 containing an item which would be Recyclables, if separated, be deemed to be the
15 donation or sale of such an item to a third party.

16 (cccc) SOLID WASTE FACILITY. Any facility that is designed to manage any
17 type of Solid Waste and includes Transfer, Processing, composting, Transformation and
18 Disposal facilities.

19 (ddddd) SOLID WASTE FACILITY FEE. The fee charged for use of a Solid Waste
20 Facility.

21 (eeee) SOLID WASTE HANDLING SERVICES. The following: (1) the Collection
22 of Discarded Materials from a commercial, residential, construction or industrial source;
23 (2) the transportation of such Discarded Materials to a Solid Waste Facility; and (3) the
24 Processing, composting, Transformation or Disposal of such Discarded Materials at the
25 Solid Waste Facility.

26 (ffff) SOURCE SEPARATED OR SOURCE SEPARATION. Materials, including
27 commingled Recyclables, that have been separated or kept separate from the Solid
28 Waste stream, at the point of generation, for the purpose of additional sorting or

1 Processing of those materials for Recycling or Reuse in order to return them to the
2 economic mainstream in the form of raw material for new, reused, or reconstituted
3 products that meet the quality standards necessary to be used in the marketplace, or as
4 defined in 14 CCR section 17402.5(b)(4). For the purposes of the Ordinance, Source
5 Separated shall include separation of materials by the Generator, Property Owner,
6 Property Owner's employee, property manager, or property manager's employee into
7 different containers for the purpose of Collection such that Source Separated materials
8 are separated from Gray/Black Container Waste/Mixed Waste and other Solid Waste for
9 the purposes of Collection and Processing.

10 (ggggg) SOURCE SEPARATED BLUE CONTAINER ORGANIC WASTE
11 (SSBCOW). Source Separated Organic Waste that can be placed in a Blue Container
12 that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as
13 defined in 14 CCR section 18982(a)(43); or as defined by 14 CCR section 17402(a)(18.7).
14 SSBCOW is a subset of Organic Waste.

15 (hhhhh) SOURCE SEPARATED BROWN CONTAINER ORGANIC WASTE
16 (SSBRCOW). Source Separated Food Waste that can be placed in a Brown Container
17 that is specifically intended for the separate Collection of Food Waste by the Generator,
18 excluding SSBCOW, carpets, non-compostable paper, and textiles.

19 (iiiiii) SOURCE SEPARATED GREEN CONTAINER ORGANIC WASTE
20 (SSGCOW). Source Separated Organic Waste that can be placed in a Green Container
21 that is specifically intended for the separate Collection of Organic Waste by the
22 Generator, excluding SSBCOW, carpets, non-compostable paper, and textiles.
23 SSGCOW is a subset of Organic Waste.(jjjjj) SOURCE SEPARATED
24 RECYCLABLES (SSR). Source Separated Non-Organic Recyclables and SSBCOW.

25 (kkkkk) STATE. The State of California.

26 (lllll) SUBSCRIBER. Any Person receiving Solid Waste Facility Fee pursuant to
27 a Franchise Agreement.

28 (mmmmm) TOTAL RATE. The inclusive rate schedule attached to each

1 Franchise Agreement which provides the rates to be paid to Grantee by Subscribers in
2 consideration of the Solid Waste Facility Fee provided by Grantee under its Franchise
3 Agreement.

4 (nnnnn) TRANSFER. The act of transferring Discarded Materials collected by
5 Grantee from Grantee's Collection vehicles into larger vehicles at a Designated Transfer
6 Facility for Transport to other Facilities for Processing or Disposing of such materials.
7 Transfer allows for removal of materials excluded or prohibited from handling at the
8 Transfer Facility (e.g., removal of Hazardous Waste).

9 (ooooo) TRANSFORMATION. The same meaning as set forth in Public
10 Resources Code section 40201, as it may be amended from time to time.

11 (ppppp) TRANSPORTATION OR TRANSPORT. The act of conveying collected
12 materials from one location to another.

13 (qqqqq) UNIFORM HANDLING AREAS. A Franchise Area, or a specified portion
14 of a Franchise Area, in which Uniform Handling Service has been imposed, as specified
15 in a Franchise Agreement.

16 (rrrrr) UNIFORM HANDLING SERVICE. The mandatory subscription to Solid
17 Waste handling service required of owners of Single-Family, Multi-Family, and/or
18 Commerical Businesses in a Uniform Handling Area.

19 (sssss) UNINCORPORATED COUNTY. Any community or other area within the
20 County which is outside the boundaries of all incorporated cities and towns.

21 (ttttt) UNIVERSAL WASTE. Any of the following waste that are conditionally
22 exempt from classification as Hazardous Wastes pursuant to Title 22 of the California
23 Code of Regulations (22 CCR), section 66261.9: (i) batteries as described in 22 CCR
24 section 66273.2; (ii) thermostats as described in 22 CCR section 66273.4; (iii) lamps as
25 described in 22 CCR section 66273.5; and (iv) cathode ray tube materials as described
26 in 22 CCR section 66273.6.

27 (uuuuu) VISUAL WASTE AUDIT. An in-person visual inspection of Solid Waste
28 containers to estimate and document the composition of Solid Waste placed in each

1 container and identify opportunities for Processing and contamination minimization.

2
3 **CHAPTER 3: FRANCHISE**

4 **Section**

5 **46.0301 Franchise Formation and Terms.**

6 **46.0302 Franchise Fee.**

7 **46.0303 Assignment and Change of Ownership.**

8 **46.0304 Title to Solid Waste.**

9
10 **46.0301 Franchise Formation and Terms.**

11 (a) The award by the Board of a franchise for Solid Waste Handling shall be
12 evidenced by approval and execution of a Franchise Agreement. The Board may award
13 exclusive or non-exclusive Solid Waste Handling franchises in the Unincorporated
14 County, with or without competitive bidding, through individual Franchise Agreements. A
15 Franchise Agreement shall be granted by the Board when it determines that public
16 convenience and necessity are served by the award of the franchise, and where a partially
17 or wholly exclusive franchise is awarded without competitive bidding, that the granting of
18 such a franchise is in the best interests of County residents based on the health, safety
19 and well-being of residents in the Franchise Area where the partially or wholly exclusive
20 franchise is awarded. Each Franchise Agreement shall specify the specific Solid Waste
21 Facility Fee to be provided by Grantee; a different Grantee may be granted a franchise to
22 provide the same, or different, Solid Waste Facility Fee in the same Franchise Area.

23 (b) In order to qualify for the award of a franchise, an applicant must:

24 (1) Have, or obtain prior to the approval of the Franchise Agreement by
25 the County, and maintain for the term of its Franchise Agreement, a current Health and
26 Safety Permit to the extent such a permit is required under the provisions of Article 2 of
27 Chapter 8 of Division 3 of Title 3 of this Code in order to provide the Solid Waste Facility
28 Fee to be provided under the Franchise Agreement; and

1 (2) Demonstrate a minimum of three years experience in providing
2 substantially the same type, class and extent of services as those for which the franchise
3 is sought; and

4 (3) Provide to the Director the information which is required of an
5 applicant for a Health and Safety Permit pursuant to section 33.0825 of this Code.

6 (c) (1) The terms and conditions by which the Grantee shall be obligated to
7 provide Solid Waste Facility Fee shall be as set forth in this Division 6 and, with respect
8 to the items set forth in this Subdivision (c), as set forth in the Franchise Agreement.

9 (A) The Franchise Area, including any uniform handling area.

10 (B) The specific Solid Waste Facility Fee to be provided by
11 Grantee, including appropriate operating requirements.

12 (C) The Total Rates related to the specified Solid Waste Facility
13 Fee to be provided by Grantee and the method of billing its Subscribers.

14 (2) (A) If the County and the Grantee so agree, the Franchise
15 Agreement may specify the Solid Waste Facility or facilities to which the Grantee will
16 transport the Solid Waste collected pursuant to Solid Waste Facility Fee provided under
17 the Franchise Agreement.

18 (B) If the County and the Grantee so agree, the Franchise
19 Agreement may allow the County to specify a different or additional Solid Waste Facility
20 to which the Grantee will transport the Solid Waste collected pursuant to the Solid Waste
21 Facility Fee provided under the Franchise Agreement. In such event, the Franchise
22 Agreement may contain a cost per ton mile figure which sets forth the increase in the
23 Grantee's demonstrable costs related to such a change.

24 (C) If the County and the Grantee so agree, the Franchise
25 Agreement may specify that upon the effective date of the Franchise Agreement the
26 Grantee waives and forgoes any other rights it might have to provide Solid Waste Facility
27 Fee in other specified portions of the Unincorporated County, including any rights it might
28 otherwise have under Public Resources Code section 49520 or other law to receive

1 advance notice of the cancellation of any permit or other authorization to provide such
2 services.

3 (d) (1) The Franchise Agreement shall establish the initial term and any
4 extensions. Notwithstanding the forgoing, the County reserves the right to increase the
5 term or any extension if it believes that such an increase is in the best interests of the
6 Subscribers being serviced by the Grantee under the Franchise Agreement.

7 (2) A Franchise Agreement may provide for automatic extensions;
8 however, the Board may determine in its sole discretion that a Franchise Agreement shall
9 not be extended. The action to not extend a Franchise Agreement must be taken no later
10 than 60 days prior to the automatic renewal date of the Franchise Agreement. Such
11 action shall terminate the automatic renewal and extension provision only and such
12 Franchise Agreement shall remain in effect for the balance of the term then outstanding.

13 (e) The Franchise Agreement shall set forth the Total Rate (i.e., the inclusive
14 schedule of rates to be paid to Grantee for Solid Waste Facility Fee provided to
15 Subscribers under its Franchise Agreement). The Total Rate shall be subject to review
16 and adjustment pursuant to the provisions of this Division 6. If and when adjustments to
17 the Total Rate are made pursuant to the provisions of this Division 6, the Director shall
18 cause a certification of each such adjustment to be lodged with the County's official copy
19 of the Franchise Agreement. No Total Rate or adjustment to same shall be implemented
20 until approved by the Board or by the Director, as provided in this Division 6.

21 (f) Non-performance by Grantee of the terms and conditions contained in this
22 Division 6 or in its Franchise Agreement, or the occurrence of one or more of the events
23 set forth in section 33.0827 of this Code, shall provide grounds for the loss of or limitation
24 upon the Grantee's right to provide Solid Waste Facility Fee pursuant to its Franchise
25 Agreement and for the termination of its Franchise Agreement. Grantee shall perform no
26 Solid Waste Facility Fee under its Franchise Agreement without possessing the required
27 Health and Safety Permit.

28 (g) Except when otherwise required by applicable Federal, State or local law,

1 the terms and conditions of this Division 6 shall prevail over any inconsistent provisions
2 of a Franchise Agreement.

3 (h) The Grantee under any Franchise Agreement is an independent contractor
4 and not an officer, agent, servant, or employee of County. Grantee is solely responsible
5 for the acts and omissions of its officers, agents, and employees, if any. Nothing in any
6 Franchise Agreement shall be construed as creating a partnership or joint venture
7 between County and Grantee. Neither Grantee nor its officers, agents, or employees,
8 shall obtain any rights to retirement or other benefits which accrue to County employees.

9 **46.0302 Franchise Fee.**

10 (a) Except as set forth in Subdivision (b), below, each Grantee under a
11 Franchise Agreement shall pay to the County a Franchise Fee equal to the then current
12 and effective Franchise Fee set forth in the County Schedule of Fees, currently found at
13 Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code. The payment of a
14 Franchise Fee shall not limit the County's ability to establish and levy a business license
15 tax, fees, charges, assessments, penalties, fines, and other requirements for monetary
16 payment by the Grantee to the County. Payment of Franchise Fee shall be made
17 monthly. The Franchise Fee shall constitute a cost which Grantee may recover as a part
18 of the compensation due Grantee under the Franchise Agreement.

19 (b) In the event that a Grantee under a Franchise Agreement in a uniform
20 handling area offers a fee waiver program as set forth in section 46.0505 of this code,
21 then such Grantee will not be required to pay a Franchise Fee to the County in an amount
22 proportionate to that waived pursuant to the Code.

23 **46.0303 Assignment and Change of Ownership.**

24 (a) Neither any Franchise Agreement nor any right or privilege granted in any
25 such agreement shall voluntarily or involuntarily be transferred, sold, hypothecated,
26 sublet, assigned or leased, in whole or in part, nor shall title thereto, either legal or
27 equitable, or any right, interest, or property therein (all collectively referred to herein as
28 "Transfer"), pass to or vest in any Person, except the Grantee, either by act of the Grantee

1 or by operation of law, without the prior written consent of the Board. Any attempt by
2 Grantee, either by act of Grantee or by operation of law, to Transfer any Franchise
3 Agreement without the prior written consent of the Board shall be void.

4 (b) If the Grantee requests that the County consider and consent to a Transfer
5 or a Change In Ownership of Grantee, the Grantee or the proposed transferee, as
6 applicable, shall at a minimum meet each of the following requirements:

7 (1) The Grantee shall pay the County its reasonable expenses for
8 attorney's fees and investigation costs necessary to determine the suitability of any
9 proposed transferee or proposed new owners, and to review and finalize any
10 documentation required as a condition for approving any such Transfer or Change In
11 Ownership.

12 (2) The Grantee shall furnish the County with independently audited
13 financial statements of the proposed transferee's operations for the immediately
14 preceding three operating years.

15 (3) The Grantee shall furnish the County with satisfactory proof:

16 (A) That the proposed transferee or the proposed management
17 of the Grantee under the proposed new owner has at least three years of Solid Waste
18 management experience of a scale equal to or exceeding the scale of operations
19 conducted by Grantee under its Franchise Agreement;

20 (B) That in the last five years, the proposed transferee or any
21 company managed by the proposed new owner (or by the proposed management of the
22 Grantee under the proposed new owner) has not received any citations, notice of
23 violations or other censure from any Federal, State or local agency having jurisdiction
24 over its waste management operations due to any failure to comply with Federal, State
25 or local waste management laws, where such failure either: (i) evidences a pattern of
26 disregard for such Federal, State or local waste management laws; or (ii) involves actions
27 which endangered the lives or property of any Person. Grantee shall supply the County
28 with a complete list of such citations, notices of violations and censures, if any;

1 (C) That the proposed transferee or any company managed by
2 the proposed new owner (or by the proposed management of the Grantee under the
3 proposed new owner) has at all times conducted its operations in an environmentally safe
4 and conscientious fashion;

5 (D) That the proposed transferee or any company managed by
6 the proposed new owner (or by the proposed management of the Grantee under the
7 proposed new owner) conducts its Solid Waste management operations in accordance
8 with sound waste management standards and practices and in full compliance with all
9 Federal, State and local laws regulating the Collection and Disposal of waste;

10 (E) Of the adequate financial strength of proposed transferee or
11 of the Grantee under the proposed new ownership; and

12 (F) Of the ability of the proposed Transferee or of the Grantee
13 under the proposed new ownership to obtain and maintain required insurance and bonds.

14 (c) The County may impose reasonable new conditions of approval on a
15 Franchise Agreement Transfer, or consent to a Change In Ownership of Grantee,
16 including, but not limited to, conditions requiring acceptance of amendments to the
17 relevant Franchise Agreement.

18 **46.0304 Title to Solid Waste.**

19 Ownership of Solid Waste shall Transfer to Grantee at such time as the Solid
20 Waste is abandoned and discarded by the Solid Waste Handling service Subscriber of
21 Grantee in the location provided in section 33.0808 of this Code.

22
23 **CHAPTER 4: GRANTEE COMPENSATION**

24 **Section**

25 **46.0401 Compensation.**

26 **46.0402 Adjustment to Total Rate.**

27 **46.0403 Notice to Subscribers Regarding Certain Adjustments.**

28 **46.0404 Discontinuance of Service for Non-Uniform Handling Service.**

1 **46.0401 Compensation.**

2 (a) Charges for Solid Waste Facility Fee (including, without limit, for use of a
3 Solid Waste Facility) provided to Grantee's Subscribers shall be paid by such service
4 Subscribers in accordance with the Total Rate approved by the Board in its approval or
5 extension of the Franchise Agreement with Grantee, as such Total Rate is adjusted
6 pursuant to section 46.0402.

7 (b) All charges for services rendered by a given Grantee shall be uniform and
8 non-discriminatory for the type of service provided and reasonably based upon the type
9 and/or number of containers, type of Solid Waste, whether compacted or loose, number
10 of separate pick-up points at any place of Collection, placement of container(s) or
11 distance of carry-out, frequency of Collection, remote location, terrain, Disposal costs,
12 and whether residential, commercial, construction or industrial Collection.

13 (c) (1) In cases where Grantee includes a Solid Waste Facility Fee amount
14 as a separate listing on a Subscriber's bill, the County shall prescribe the amount
15 consistent with waste generation factors established in the Franchise Agreement and the
16 applicable Solid Waste Facility Fee.

17 (2) Grantee shall refund to each Subscriber, on a pro rata basis, any
18 advance service payments made by such Subscriber for service not provided when
19 service is discontinued by timely written notification to Grantee by the Subscriber.
20 Grantee may not require written notice to be given more than 15 working (waste
21 Collection) days prior to the date on which service is desired to be discontinued.

22 (3) On a quarterly basis, the County shall be allowed to furnish, for
23 inclusion with Grantee's billing, a message for the purpose of public education regarding
24 waste Disposal, Recycling, or other environmental issues. If Grantee mails its billing in
25 an envelope, two of the four County messages may be in the form of a one page insert,
26 provided the insert is: print ready copy which conforms to Grantee's billing, is delivered
27 to Grantee by the Division 15 working (waste Collection) days in advance of Grantee's
28 billing date and does not cause an increase in the postal rates payable by Grantee for

1 mailing its billing. If the message is not in the form of an insert, it shall be printed by
2 Grantee on its bills. Such message shall not exceed 25 characters and shall be delivered
3 to Grantee by the Division 15 working (waste Collection) days in advance of Grantee's
4 billing date. Grantee shall include such insert in, or print such message on, each
5 Subscriber's next billing.

6 **46.0402 Adjustment to Total Rate.**

7 The following annual and special rate adjustments shall be made to the Total Rate
8 provided for in a Franchise Agreement. However, no rate adjustment shall be
9 implemented for or during any period of time when the affected Grantee is not in
10 substantial compliance with all material provisions of the County Code or the Franchise
11 Agreement.

12 (a) Cost of Living Adjustment. A cost of living adjustment set forth in a
13 Franchise Agreement should be based on appropriate consumer or product price indices
14 and the adjustment shall be a pass through of 100 percent of any increase or decrease
15 as a part of the Total Rate.

16 (b) Landfill Disposal Facility Fee. The landfill Disposal facility fee adjustment
17 shall be the pass through of 100 percent of any increase or decrease in the fee charged
18 to the Grantee for use of a landfill Disposal facility approved for use by the Division,
19 calculated on a per Subscriber basis, and shall be effective as of the date of the change
20 to such fee.

21 (c) Franchise Fee Adjustment. The Franchise Fee adjustment shall be the
22 pass through of 100 percent of any increase or decrease in the Franchise Fee and shall
23 be effective as of the date the Franchise Fee increase or decrease is payable by the
24 Grantee

25 (d) Extraordinary Adjustment. The Franchise Agreement may allow for
26 adjustments to the Total Rate to account for infrequent extraordinary events which,
27 although they do not prevent either party from performing and do not implicate force
28 majeure provisions, they nevertheless increase the cost of providing service such that

1 Grantee's compensation and the rate adjustment mechanism provided in the Franchise
2 Agreement result in Grantee's suffering losses which are substantially outside the
3 commercially reasonable expectations of the parties. In no event shall any extraordinary
4 adjustment be effective prior to the Board's approval of an amendment to the applicable
5 Franchise Agreement.

6 (e) Change in Service Level Adjustments.

7 (1) The Total Rate shall be increased (or decreased) by 100 percent of
8 the increase (or decrease) or incremental increase (or incremental decrease), as the case
9 may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or
10 variable) associated with the change in the level of the Solid Waste Facility Fee which
11 may be required of, or agreed to by, a Grantee. A Change In Service Level Adjustment
12 shall be effective on and after the actual date of the requirement to or agreement to
13 change operations which results from the change in service, but, absent the consent of
14 the Division, not sooner than the effective date of the change in service. In no event shall
15 any Change In Service Level Adjustment be effective prior to the Board's approval of an
16 amendment to the applicable Franchise Agreement.

17 (2) In the event that the Division and the Grantee claiming to be affected
18 by the change in service level cannot agree on either the existence, or the effect on
19 demonstrable costs, of a change in service level, the dispute resolution provisions of the
20 Franchise Agreement shall apply.

21 (f) Change in Law Adjustments.

22 (1) The Total Rate shall be increased (or decreased) by 100 percent of
23 the increase (or decrease) or incremental increase (or incremental decrease), as the case
24 may be, in the demonstrable costs (i.e., on any direct or indirect cost, whether fixed or
25 variable) associated with the change in the manner or nature of conducting Solid Waste
26 Facility Fee necessitated by a Change In Law. A Change In Law Adjustment shall be
27 effective on and after the actual date of the change in operations which resulted from the
28 Change In Law, but, absent the consent of the Division, not sooner than the effective date

1 of the Change In Law. In no event shall any Change In Law Adjustment be effective prior
2 to the Board's approval of an amendment to the applicable Franchise Agreement.

3 (2) In the event that the Division and the Grantee claiming to be affected
4 by the Change In Law cannot agree on either the existence, or the effect on demonstrable
5 costs, of a Change In Law, the dispute resolution provisions of the Franchise Agreement
6 shall apply.

7 **46.0403 Notice to Subscribers Regarding Certain Adjustments.**

8 No Change In Service Level Adjustment increase or Change In Law Adjustment
9 increase which applies to 500 or more Solid Waste Handling Service Subscribers or to
10 Subscribers cumulatively generating 1,500 or more cubic yards of Solid Waste per month
11 may be implemented until at least ten days after completion of publication of a notice of
12 the proposed increase as set forth in the Franchise Agreement.

13 **46.0404 Discontinuance of Service for Non-Uniform Handling Service.**

14 Where a waiver from Uniform Handling Service has been granted, Grantee may
15 discontinue service for non-payment of Subscriber's billing or Subscriber's failure to
16 substantially comply with the requirements of the applicable provisions of State or local
17 law which govern use, storage and Collection of Solid Waste. After the Grantee has given
18 15 days' written notice to Subscriber for non-payment, Grantee shall notify the Director in
19 writing of any service termination including a written copy of the notice to the Subscriber.
20 Upon payment of the Delinquent Fees, if applicable, Grantee shall resume Collection on
21 the next regularly scheduled Collection day. Any Grantee operating in a Uniform Handling
22 Area shall not discontinue service except as allowed in section 46.0507.

23
24 **CHAPTER 5: UNIFORM HANDLING SERVICE**

25 **Section**

26 **46.0501 Uniform Handling Service.**

27 **46.0502 Owner Responsible for Payment for Uniform Handling Service.**

28 **46.0503 Failure to Provide Sufficient Solid Waste Containers.**

- 1 **46.0504 Exemption from Uniform Handling Service.**
2 **46.0505 Temporary Suspension of Service or Waiver of Fees.**
3 **46.0506 Handling of Delinquent Accounts.**
4 **46.0507 Discontinuance of Service.**
5 **46.0508 Penalties for Violations.**
6 **46.0509 Illegal Dumping Retrieval Services.**

7
8 **46.0501 Uniform Handling Service.**

9 (a) Uniform Handling Service shall be implemented in every Franchise Area,
10 and imposed on the owners of all classes of dwellings or commercial or industrial units
11 within a given uniform handling area, unless otherwise specified within a Franchise
12 Agreement. All owners of a dwelling or a commercial or industrial unit within the uniform
13 handling area who are required to have Uniform Handling Service shall, upon notice
14 thereof, be required to accept Uniform Handling Service from the Grantee (or one of the
15 Grantees) holding a Franchise Agreement for the uniform handling area and pay the rate
16 for such services currently in effect under the Total Rate of the applicable Franchise
17 Agreement.

18 (b) Uniform Handling Service shall not be imposed on the owner of any class
19 of dwelling or commercial or industrial unit located in an Agricultural Preserve Overlay
20 District within the sphere of influence of the City of Chino or of the City of Ontario, as
21 designated upon the land use district maps of the County General Plan.

22 **46.0502 Owner Responsible for Payment for Uniform Handling Service.**

23 (a) The owner of each dwelling or commercial or industrial unit subject to
24 Uniform Handling Service shall be required to accept, and pay the applicable rate set out
25 in the Total Rate for, the Uniform Handling Service rendered to such unit by a Grantee
26 and shall place at a location accessible to the Grantee, a container(s) of adequate
27 capacity and functional design in accordance with this Division 6 of Title 4 and with
28 Division 3 of Title 3 of this Code for the storage of Solid Waste generated on the premises.

1 Such owner shall be responsible to provide such container(s) unless the Franchise
2 Agreement requires the Grantee to provide such container(s).

3 (b) Nothing in this Section is intended to prevent the entering into of an
4 arrangement, or the continuance of an existing arrangement, approved in writing by the
5 Grantee, under which statements or invoices for Uniform Handling Service are billed to
6 and payments are made by a tenant or tenants, or any agent, on behalf of the owner.
7 However, unless otherwise provided therein, any such arrangement shall not lessen or
8 substitute for the owner's obligation to the Grantee or, unless separately approved in
9 writing by the Division, to the County under this Division 6.

10 **46.0503 Failure to Provide Sufficient Solid Waste Containers.**

11 When in the judgment of the Director (whether or not at the request of the Grantee
12 or owner) additional Solid Waste container(s) compatible with the Solid Waste Handling
13 system are required, they must be provided by the owner, or by the Grantee if the
14 Franchise Agreement requires the Grantee to provide container(s), upon written
15 notification by the Director. All containers shall conform to the requirements of sections
16 33.0806 and 33.0807 of this Code.

17 **46.0504 Self-Haul Exemption from Uniform Handling Service.**

18 (a) Dwellings.

19 (1) The owner of any dwelling may apply to the Division for an exemption
20 from Uniform Handling Service by submitting a uniform handling exemption request form
21 to the Director or designee accompanied by required documentation identified in the form
22 and a non-refundable application fee requesting a permit to provide Self-Haul Solid Waste
23 Handling. The owner may be granted an exemption provided he/she can adequately
24 document that all Solid Waste generated at the dwelling is transported in a safe and
25 sanitary manner to a landfill Disposal facility owned by San Bernardino County and to
26 proper Recycling and organic Processing facilities (pursuant to conditions listed on
27 exemption application). Upon approval of the exemption request, the Director will notify
28 the owner and the Grantee of the exemption. Exemptions are issued on an annual basis,

1 July 1 through June 30. Exemptions that are not obtained or renewed prior to July 1 of
2 each year will not be effective until the next billing period in accordance with the Franchise
3 Agreement applicable to the owner's dwelling.

4 (2) The exemption and renewal applications shall be made on forms
5 approved by the Director or designee.

6 (3) The application fee shall include an administrative fee, if any, as
7 determined by the Board, in addition to the pre-payment of the average annual landfill
8 Disposal cost for County residents as determined by the Director. Each application for
9 annual renewal of such an exemption shall be accompanied by the administrative fee
10 plus the applicant's required pre-payment of the average annual landfill Disposal cost.
11 This pre-payment will be retained by the Division as a pre-payment for one year's weekly
12 Solid Waste Disposal. The pre-payment requirement shall be waived with respect to
13 residences located within those land use areas for which parcel fees are collected for the
14 operation of County Solid Waste Disposal System.

15 (4) The Director shall provide the owner who pays the pre-payment of
16 the average annual landfill Disposal cost with a card or other document which attests to
17 such pre-payment and which allows weekly Disposal privileges at all facilities within the
18 County Solid Waste Disposal System in a manner consistent with the Disposal rights of
19 a resident who has paid a parcel fee for the operation of County Solid Waste Disposal
20 System.

21 (5) Should the owner violate any provisions of Division 6 of Title 4 or of
22 any provision of Chapter 7 or Chapter 8 of Division 3 of Title 3 of the San Bernardino
23 County Code, the Director may, upon advance written notice to the owner, revoke the
24 exemption and require the owner to subscribe to and pay for Uniform Handling Service
25 as described in this Chapter.

26 (b) Commercial/Industrial Units.

27 (1) The owner of any commercial or industrial unit may apply for
28 exemption from Uniform Handling Service by submitting a written application to the

1 Director on a form issued by the Director, accompanied by a non-refundable application
2 fee, requesting a permit to provide Self-Haul Solid Waste Handling and transportation.
3 This permit, if approved, shall be valid for one year, and must be renewed annually
4 thereafter at the discretion of the Director upon submittal of application and application
5 fees to the Director.

6 (2) The exemption and renewal applications shall be on a form approved
7 by the Director.

8 (3) The owner may be granted an exemption provided he or she can
9 establish to the satisfaction of the Director that he or she can properly transport all Solid
10 Waste generated on the premises, to an approved Solid Waste facility and Recycling and
11 organic Processing facilities (pursuant to conditions listed on exemption application), in a
12 safe and sanitary manner in accordance with each of the following conditions:

13 (A) The vehicles and equipment to be used for transporting the
14 Solid Waste shall be identified in the application by the owner;

15 (B) The vehicles used shall meet all the standards, if any,
16 prescribed for such use by the California Vehicle Code; and

17 (C) A credit account with the Division must be maintained in good
18 standing.

19 (4) The Director may require the owner to furnish evidence of such
20 delivery of Solid Waste.

21 (5) The application fee shall include an administrative fee, if any, as
22 determined by the Board.

23 (6) Should the owner violate any provision of this Division 6 of Title 4 or
24 any provision of Chapter 7 or Chapter 8 of Division 3 of Title 3 of the San Bernardino
25 County Code, the Director may, upon advance written notice to the owner, revoke the
26 exemption and require the owner to subscribe to and pay for Uniform Handling Services
27 as described in this Chapter.

28 **46.0505 Temporary Suspension of Service or Waiver of Fees.**

1 (a) Any Residentialowner may suspend Uniform Handling Service by a Grantee
2 up to 45 consecutive days during a given fiscal year (i.e., July 1 - June 30).

3 (b) The owner shall give written notification to the Grantee at least 15 working
4 (waste Collection) days prior to the first day of the period for which suspension of service
5 is requested pursuant to this section.

6 (c) Should an owner, after suspending service, request that service be re-
7 established, the Grantee may charge a resumption fee not to exceed 50 percent of the
8 cost of one month's regular Uniform Handling Service as specified in the applicable
9 Franchise Agreement. In no event shall a resumption fee exceed \$50.00.

10 (d) Any suspension of service established pursuant to this Section shall be
11 canceled if the Director determines that the conditions cited in subsection (a) of this
12 section no longer exist.

13 (e) In addition, the Director and/or each Grantee servicing a Franchise Area is
14 authorized to waive the Total Rate established in the applicable Franchise Agreement for
15 an individual owner under circumstances approved by the Director or designee, including
16 but not limited to infrequent use of the dwelling or when the property does not require
17 regular Collection service.

18 **46.0506 Handling of Delinquent Accounts.**

19 (a) The Total Rate owed by the owner of a dwelling or commercial or industrial
20 unit for Uniform Handling Service rendered to such owner's property (or which have been
21 attempted to be rendered, if Uniform Handling Service is not allowed to be provided by
22 action of the owner or tenant) shall be a civil debt owed to the Grantee providing the
23 Uniform Handling Service.

24 (b) Any Delinquent Fees, and the related penalties and interest and costs of
25 Collection, shall be considered a debt owed to the County.

26 (c) Annually each Grantee shall provide a list to the Division of all accounts
27 which have Delinquent Fees. This list shall set out the amount of the Delinquent Fees,
28 the time period for which the services related to the Delinquent Fees were provided, the

1 identity of the property to which the service has been provided and the owner of such
2 property.

3 (d) Pursuant to Health and Safety Code sections 5473 through 5473a, the
4 County elects to have Delinquent Fees, and the related penalties and interest and costs
5 of Collection, collected on the tax roll in the same manner, by the same Person, and at
6 the same time as, together with but not separately from, its general taxes. This election
7 shall remain in effect until June 30, 2025.

8 (1) Pursuant to Health and Safety Code section 5473.10 the County
9 hereby imposes:

10 (A) A basic penalty of 10 percent of the Delinquent Fees, which
11 shall be assessed and shall be due and owing at the same time and in the same manner
12 as the Delinquent Fees; and

13 (B) Simple interest on the Delinquent Fees of one and one-half
14 percent per month, which interest shall be assessed and shall be due and owing at the
15 same time and in the same manner as the Delinquent Fees.

16 (2) The County shall cause a written report to be prepared each year
17 and filed with the Clerk of the Board. The report shall contain a description of each parcel
18 of real property receiving Uniform Handling Service for which Delinquent Fees exist, and
19 the amount of the Delinquent Fees (and the associated basic penalty and interest and
20 costs of Collection) related to that real property.

21 (3) After providing any statutorily required notice and holding any
22 statutorily required hearing, and following the final determination of the Board as to the
23 Delinquent Fees detailed in the report, pursuant to Health and Safety Code section
24 5473.4, the Clerk of the Board shall, on or before August 10 of each year, file with the
25 County Auditor/Controller-Recorder a copy of the report with a statement endorsed
26 thereon over his or her signature that the report has been finally adopted by the Board.
27 The Auditor/Controller-Recorder shall then enter the amounts of the Delinquent Fees (and
28 the associated basic penalty and interest and costs of Collection) against the respective

1 lot or parcel of land as they appear on the current assessment roll. Pursuant to Health
2 and Safety Code sections 5473.5 and 5473.6, the amount of charges shall constitute a
3 lien against the lot or parcel of land against which the charge has been imposed and the
4 tax collector shall include the amount of charges on bills for taxes levied against the
5 respective lots and parcels of land.

6 (e) Any Delinquent Fees (and the associated basic penalty and interest and
7 costs of Collection) which are collected by the County shall be allocated as follows:

8 (1) First, to the County up to the amount of the County's costs of
9 Collection;

10 (2) Next, to the Grantee which provided the Uniform Handling Service
11 which gave rise to the Delinquent Fees, up to the amount of the Delinquent Fees and the
12 associated interest provided for in Subdivision (d)(1)(B); and

13 (3) The remainder, if any, to the County.

14 (f) As used herein, the County's costs of Collection include, but are not limited
15 to, any staff time and related expenses or Division charges involved in preparing the
16 report, placing the Delinquent Fees on the tax roll, collecting or distributing the Delinquent
17 Fees and determining which monies received by the Division from the tax collector relate
18 to which Delinquent Fees account.

19 (g) The County has no liability to pay the Grantee any amount or sum for any
20 Delinquent Fees and/or the associated interest to the extent same are not collected by
21 the County.

22 **46.0507 Discontinuance of Service.**

23 Unless Grantee is otherwise directed by Director, Grantee shall not refuse to
24 provide, or discontinue the providing of, Solid Waste Handling service to any Subscriber
25 in a uniform handling area required to subscribe for Uniform Handling Service.

26 **46.0508 Penalties for Violations.**

27 Except as otherwise allowed in sections 46.1301, 46.1302, 46.1303, and 45.1304,
28 it shall be unlawful for any Person to fail or refuse to subscribe or pay for Uniform Handling

Service implemented under this Chapter. Such a failure or refusal to subscribe or pay for required Uniform Handling Service shall subject such Person to the penalties provided in section 46.1501.

46.0509 Illegal Dumping Retrieval Service Fee.

Within uniform handling areas, at the direction of the County, Grantee agrees to bill Subscribers for and Collect an illegal dumping retrieval service fee as established from time to time by the Board as part of the County Code. Such fee may be changed by the Board, by providing 60 days written notice of a change to Grantee. The Grantee, as directed in writing by the County, shall either remit the fee collected to the County or provide mutually agreed upon specified illegal dumping retrieval and Disposal services.

**CHAPTER 6: COMMERCIAL SOLID WASTE AND ORGANIC WASTE
RECYCLING PROGRAM**

Section

46.0601 Purpose.

46.0602 Definitions.

46.0603 Commercial Solid Waste Recycling.

46.0604 Commercial Organics Recycling/Diversion.

46.0605 Donate or Sell of Recyclables.

46.0601 Purpose.

This Chapter shall apply to Businesses subject to the AB 341 and AB 1826 laws.

46.0602 Definitions.

For purposes of this Chapter the following terms shall have the meanings set forth in this Section:

(a) **BUSINESS.** A commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity, or a multifamily Residential dwelling with five

or more units, located within the Unincorporated County.

46.0603 Commercial Solid Waste Recycling.

(a) The County's commercial Solid Waste Recycling program consists of the requirements contained in Division 6 and education, outreach and monitoring of Businesses, including notification to Businesses if they are not in compliance.

(b) A Business that generates four or more cubic yards of commercial Solid Waste per week or is a multifamily Residentialdwelling of five units or more shall arrange for Recycling services, consistent with State and local laws by taking at least one of the following actions:

(1) Source separate Recyclables from the Solid Waste being discarded and subscribe to the Grantee for the location of the Business, for the pickup and Diversion of the Recyclables separately from the discarded Solid Waste.

(2) Source separate Recyclables from the Solid Waste being discarded and Self-Haul the Recyclables to a permitted Materials Recovery Facility, Recycling facility, or other Mixed Waste Processing facility for Diversion from Disposal in a landfill.

(3) Subscribe, with the Grantee for the location of the Business, to a Recycling service that includes Mixed Waste Processing that specifically includes the Diversion of the Recyclables from Disposal in a landfill.

(4) Sell or donate Recyclables to the Grantee or a third party in compliance with the Franchise Agreement.

(c) Commercial Recycling Collection containers:

(1) Each Business subject to this Section that provides customers access to the Business shall provide customers with a commercial Solid Waste Recycling Bin or container to Collect material purchased on the premises and that meets the following requirements:

(A) Is adjacent to each Bin or container for trash other than recyclable commercial Solid Waste, except in restrooms.

(B) Is visible and easily accessible.

1 (C) Is clearly marked with education signage indicating what is
2 appropriate to place in the commercial Solid Waste Recycling Bin or container.

3 (2) Full-service restaurants are exempt from the requirement to provide
4 customers with a commercial Solid Waste Recycling Bin or container if the full-service
5 restaurant provides its employees with a commercial Solid Waste Recycling Bin or
6 container to Collect material purchased on the premises and implements a program to
7 Collect recyclable commercial Solid Waste.

8 (d) Each Business subject to this Section that does not subscribe with the
9 Grantee for the location of the Business shall be responsible for ensuring and
10 demonstrating its compliance with the requirements of this Section to the Division with
11 satisfactory proof of acceptable levels of waste Diversion as determined by the Director
12 or designee and requested by the Division.

13 (e) To comply with this Chapter, property owners of multifamily
14 Residentialdwellings of five units or more may require tenants to source separate their
15 Recyclables. Tenants must source separate their Recyclables as required by property
16 owners of multifamily Residentialdwellings of five units or more.

17 (f) Within 30 days, all Businesses are required to complete and return to
18 Grantee or Division all commercial Solid Waste Recycling surveys sent to Business. If
19 Grantee or Division request additional information from Business, Business shall respond
20 within 15 days.

21 (g) The County may grant, on a case by case basis and subject to the discretion
22 of the Director or the Director's designee, an exemption (which exemption may be
23 revoked by the Director or the Director's designee upon 30 days written notice to
24 Business) to a Business from compliance with this section for any of the following
25 reasons:

26 (1) Lack of sufficient space in the Business to provide additional
27 Recycling Bins.

28 (2) The current implementation by a Business of actions that result in

1 the Recycling of a significant portion of its commercial waste.

2 (3) The Business does not generate at least one-half of a cubic yard of
3 Recyclables per week.

4 (4) Lack of viable markets or Recycling facilities available for
5 Recyclables generated by the Business.

6 (5) Any other reason that is authorized by the State of California.

7 **46.0604 Commercial Organics Recycling/Diversion.**

8 (a) The County's commercial Organic Waste Recycling program consists of the
9 requirements contained in Division 6 and education, outreach and monitoring of
10 Businesses, including the notification to Businesses if they are not in compliance.

11 (b) A Business generating two cubic yards or more of commercial Solid Waste
12 per week shall arrange for Recycling services specifically for Organic Waste, consistent
13 with State and local laws, by taking one, or any combination, of the following actions:

14 (1) Source separate Organic Waste from other Solid Waste and
15 subscribe to the Grantee for the location of the Business, for the Collection and Recycling
16 of the Organic Waste.

17 (A) If the Grantee for the location of the Business does not offer a
18 program for the Collection and Recycling of the Organic Waste, a Business may contract
19 with another entity for the service. That a hauler that is not a Grantee may provide the
20 Collection and Recycling of Organic Waste at a lower cost to Business does not authorize
21 a Business to use the hauler that is not a Grantee, if the Grantee provides a Collection
22 and Recycling of Organic Waste program to Business.

23 (2) Recycle its Organic Waste onsite or Self-Haul its own Organic Waste
24 for Recycling.

25 (3) Subscribe, with the Grantee for the location of the Business, to an
26 Organic Waste Recycling service that may include Mixed Waste Processing that
27 specifically Recycles Organic Waste.

28 (4) Sell or donate recyclable Organic Waste to the Grantee or a third

1 party in compliance with the Franchise Agreement.

2 (c) Commercial Organic Waste Collection containers:

3 (1) Each Business subject to this Section that provides customers
4 access to the Business shall provide customers with an Organic Waste Recycling Bin or
5 container to Collect material purchased on the premises for immediate consumption and
6 that meets the following requirements:

7 (A) Is adjacent to each Bin or container for trash other than
8 recyclable Organic Waste, except in restrooms.

9 (B) Is visible and easily accessible.

10 (C) Is clearly marked with education signage indicating what is
11 appropriate to place in the Organic Waste Recycling Bin or container.

12 (2) Full-service restaurants are exempt from the requirement to provide
13 customers with an Organic Waste Recycling Bin or container if the full-service restaurant
14 provides its employees with an Organic Waste Recycling Bin or container to Collect
15 material purchased on the premises for immediate consumption and implements a
16 program to Collect recyclable Organic Waste.

17 (d) When arranging for gardening or landscaping services, the contract or work
18 agreement between a Business subject to this Section and a gardening or landscaping
19 service shall require that the Organic Waste generated by those services be managed in
20 compliance with this Section.

21 (e) A Business that is a multifamily Residentialdwelling is not required to
22 arrange for the Organic Waste Recycling services specified in this Section for food waste
23 that is generated by the Business.

24 (f) Each Business subject to this Section that does not subscribe with the
25 Grantee for the location of the Business shall be responsible for ensuring and
26 demonstrating its compliance with the requirements of this Section to the Division with
27 satisfactory proof of acceptable levels of Organic Waste Recycling as determined by the
28 Director and requested by the Division, or its designee.

1 (g) To comply with this Chapter, property owners of multifamily
2 Residentialdwellings of five units or more may require tenants to source separate their
3 Organic Waste. Tenants must source separate their Organic Waste as required by
4 property owners of multifamily Residentialdwellings of five units or more.

5 (h) The County may grant, on a case by case basis and subject to the discretion
6 of the Director or the Director's designee, an exemption (which exemption may be
7 revoked by the Director or the Director's designee upon 30 days written notice to
8 Business) to a Business from compliance with this section 46.0603 for any of the following
9 reasons:

10 (1) Lack of sufficient space in the Business to provide additional Organic
11 Waste Recycling Bins.

12 (2) The current implementation by a Business of actions that result in
13 the Recycling of a significant portion of its Organic Waste.

14 (3) The Business does not generate at least one-half of a cubic yard of
15 Organic Waste per week.

16 (4) Limited-term exemptions for extraordinary or unforeseen events.

17 (5) Any other reason that is authorized by the State of California.

18 (i) Within 30 days, all Businesses are required to complete and return to
19 Grantee or Division all commercial Organic Waste Recycling surveys sent to Business.
20 If Grantee or Division request additional information from Business, Business shall
21 respond within 15 days.

22 **46.0605 Donate or Sell of Recyclables.**

23 Nothing in this Chapter is intended to limit the right of any Business to donate or
24 sell its Recyclables or Organic Waste as provided by section 41952, 42649.84 and
25 42649.5 of the Public Resources Code.

26
27 **CHAPTER 7: RESERVED**
28

1 CHAPTER 8: GRANTEE REPORTING REQUIREMENTS, FINANCIAL
2 INFORMATION AND AUDIT RIGHTS

3 Section

4 46.0801 General.

5 46.0802 Types of Reports.

6 46.0803 County Right of Audit.

7
8 46.0801 General.

9 (a) Each Grantee shall keep, maintain, and furnish copies of such operating
10 records and reports as may be requested by the Division to ascertain compliance with
11 Division 6 and as set forth in the Franchise Agreement. The Division reserves the right
12 to request that additional information be provided to it, as necessary to meet its needs,
13 including but not limited to AB 939, AB 341, AB 1826 and SB 1383, as may be amended,
14 and other applicable reporting requirements.

15 (b) All information required to be kept, maintained or furnished to County shall
16 be maintained a minimum of seven years after the entry of the most recent item therein.

17 (c) The Grantee's financial and accounting records required to be maintained
18 under the provisions of this Division 6 shall be maintained on an accrual basis in
19 accordance with the most current edition of Generally Accepted Accounting Principles
20 published by the American Institute of Certified Public Accountants. Unless inconsistent
21 with Generally Accepted Accounting Principles, Gross Receipts must be recorded as
22 revenues.

23 (d) Data and information pertaining to services performed under any Franchise
24 Agreement become the property of the County upon submittal to the Division.

25 46.0802 Types of Reports.

26 Each Franchise Agreement shall require the Grantee to provide specific
27 information to the County related to the operation of the franchise, including but not limited
28 to the following types of reports:

1 (a) Each month the Grantee shall complete report forms provided by the
2 Division containing sufficient information to identify the source of generation, e.g.,
3 residential, commercial, and multi-jurisdictional reports that contain accurate source
4 information collected from the driver of the refuse truck at each landfill and split source
5 and tonnage information, for Solid Waste loads from more than one community.

6 (b) Each quarter, except as otherwise directed in writing by the Director, each
7 Grantee shall submit quarterly reports identified as the Collection information reports,
8 service performance report, the program implementation, and a report summarizing
9 calculation of the Franchise Fee. To the extent permitted by Applicable Law, financial
10 information submitted to County by the Grantee pursuant to this Subdivision will be kept
11 confidential and will be available to County personnel only on a need-to-know basis.

12 (c) Each year, the Grantee shall submit reports to the Division, covering
13 operations for each calendar year, including a summary of information contained in the
14 quarterly reports required to be provided quarterly pursuant to Subdivision (b) above
15 ("summary reports"), a complete inventory of Collection equipment and other major
16 equipment which is or may be used in its operations ("equipment inventory report"), a
17 report that identifies all future programs and facilities that may be needed but have not
18 been planned for ("future programs report"), declarations of the current status of all
19 pending criminal or civil litigation, if any, against the Grantee and its parent company, and
20 all other subsidiaries of such parent company that may have an effect on the Grantee's
21 ability to meet the obligations of its agreement or provide a satisfactory level of service
22 ("litigation information report").

23 (d) Within 120 days following the close of Grantee's fiscal year, Grantee shall
24 furnish a summary of the reports required to be provided quarterly pursuant to subdivision
25 (b), above. The summary must be reviewed by the Grantee's independent certified public
26 account, in accordance with the standards of the accounting industry, and include the
27 appropriate statement from said accountant relative to his or her review.

28 (e) Within 120 days following the close of Grantee's fiscal year, Grantee shall

1 organize, summarize and make available for review full and complete financial
2 information, consistent with the preparation of the Grantee's financial statements, with
3 respect to the operations necessary to provide the services required under its Franchise
4 Agreement, including revenues, costs and expenses. Such information is not required to
5 be certified by an independent certified public accountant. The Grantee shall make the
6 financial information available for the review by the Division, or its designee, at the local
7 office of Grantee.

8 (f) Periodic revenue, cost and expense information reports are required from
9 Grantees as soon as possible in advance of the negotiations on a proposed Franchise
10 Agreement, and again at least three months prior to the date that a decision would be
11 made under section 46.0301(d)(2) of this code regarding the denial of an extension of the
12 term of a Franchise Agreement. Such reports shall organize, summarize and make
13 available for review full and complete financial information, consistent with the preparation
14 of the Grantee's financial statements, with respect to the operations necessary to provide
15 the services required under its Franchise Agreement, including revenues, costs and
16 expenses. Such information is required to be certified by an independent certified public
17 accountant. The Grantee shall make the financial information available for the review by
18 the Division, or its designee, at the local office of Grantee. Notwithstanding the forgoing,
19 if Grantee and any company which is within a "controlled group of corporations" with
20 Grantee (within the meaning of 26 U.S.C. section 1563) have, in the aggregate, 15 or
21 fewer full time employees, and Grantee petitions the Director that the cost of required
22 certification would pose an undue hardship, the Director may waive the certification
23 requirement and may, at Division expense, engage a certified public account of his or her
24 choice to conduct the necessary certification.

25 (g) Grantee shall be required to provide audited financial statements upon 120
26 days advance written notice by the Division, for its most recently completed fiscal year,
27 together with the related opinion of the independent certified public accountant who
28 certified such audited financial statement. The Grantee shall make the audited financial

1 statement and related opinion available for the review by the Division, or its designee, at
2 the local office of Grantee. If Grantee is a subsidiary of another corporation, Grantee
3 shall provide the audited financial statement of such parent corporation and need only
4 provide a copy of the financial statement of Grantee utilized in the preparation of the
5 audited financial statement of the parent corporation. Notwithstanding, the forgoing, if
6 Grantee and any company which is within a "controlled group of corporations" with
7 Grantee (within the meaning of 26 U.S.C. section 1563) have, in the aggregate, 15 or
8 fewer full time employees, and Grantee petitions the Director that the cost of an audited
9 financial statement would pose an undue hardship, then Director may waive the
10 requirement to provide an audited financial statement and may, at Division expense,
11 engage an auditor of his or her choice to conduct a financial audit.

12 **46.0803 County Right of Audit.**

13 Grantee shall make its Subscriber base and business, operational and financial
14 records available to the Division, or its designee, for audit at reasonable times for
15 purposes relevant to review of performance and rate adjustment issues relevant to the
16 Grantee's Franchise Agreement. In the event an audit is undertaken and shows that the
17 Franchise Fee paid by Grantee to the County (relative to any period of time in excess of
18 three months) has been understated by at least \$50,000 or two percent, whichever is
19 less, then Grantee shall reimburse County for the cost of such audit and shall, in addition,
20 pay the County the amount of the understated Franchise Fee, plus simple interest on
21 such understated amount at the rate of 10 percent per annum from the date originally due
22 until paid.

23
24 **CHAPTER 9: GRANTEE INDEMNIFICATION, INSURANCE AND BONDING**

25 **Section**

26 **46.0901 Indemnification of County.**

27 **46.0902 Hazardous Waste Indemnification.**

28 **46.0903 Insurance Requirements.**

- 1 **46.0904 Performance Bonds or Other Security.**
- 2 **46.0905 Liquidated Damages Deposit.**
- 3 **46.0906 Modification.**
- 4

5 **46.0901 Indemnification of County.**

6 Separate and distinct from the insurance provisions required by this Division 6,
7 each Franchise Agreement shall require each Grantee to appear and defend (with
8 counsel approved by County) all actions against the Division and the County, and the
9 Grantee agrees to defend (with counsel approved by County), indemnify, and hold the
10 County and/or its officers, agents, volunteers and employees harmless from and against,
11 any and all claims and demands, causes of action of every kind and description,
12 damages, liabilities, costs or expenses for any damages or injuries to any Person or
13 property, including, but not limited to, injury to Grantee's officers, agents, or employees
14 which arise directly or indirectly from or are connected with or are caused or claimed to
15 be caused by acts, errors or omissions of Grantee, or its officers, agents, or employees,
16 in exercising its rights or in performing its duties under its Franchise Agreement or under
17 this Division 6, and all costs and expenses of investigating and defending against same,
18 except to the extent such indemnification is prohibited by law.

19 **46.0902 Hazardous Waste Indemnification.**

20 Without limiting the generality of the foregoing, if Grantee has negligently or willfully
21 acted or failed to act with respect to the Collection, handling or transportation of
22 Hazardous Waste, Grantee shall indemnify, defend (with counsel approved by County),
23 protect and hold harmless the County and its respective officers, employees, agents,
24 volunteers, assigns, and any successor or successors harmless from and against all
25 claims, actual damages (including, but not limited to, special and consequential
26 damages), natural resources damage, punitive damages, injuries, costs, response
27 remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action,
28 suits, legal or administrative proceedings, interest, fines, charges, penalties, and

1 expenses (including, but not limited to, attorneys and expert witness fees and costs
2 incurred in connection with defending against any of the foregoing or in enforcing this
3 indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against,
4 County or its respective officers, employees, agents, or Grantees arising from or
5 attributable to any repair, cleanup or detoxification, or preparation and implementation of
6 any removal, remedial response, closure or other plan (regardless of whether undertaken
7 due to governmental action) concerning any Hazardous Waste which Grantee has
8 negligently or willfully acted or failed to act with respect to its Collection, handling or
9 transportation at any place where Grantee stores, handles, transports or disposes of Solid
10 Waste pursuant to its Franchise Agreement. The foregoing indemnity is intended to
11 operate and shall operate as an agreement pursuant to section 107(e) of the
12 Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA" 42
13 U.S.C. section 9607(e) and Health and Safety Code section 25364, to insure, protect,
14 indemnify, and hold the County harmless from liability.

15 **46.0903 Insurance Requirements.**

16 (a) In order to accomplish the indemnifications provided above, but without
17 limiting the duty, each Grantee shall secure and maintain at its sole cost throughout the
18 term of its respective Franchise Agreement, insurance issued by companies acceptable
19 to the County's Risk Manager with limits as may be reasonably prescribed by the County's
20 Risk Manager as a reflection of the County's risk in respect to operations under a
21 particular Franchise Agreement, and with such terms and provisions as may be required
22 from time to time by the County's Risk Manager. At a minimum such insurance policies
23 include, but are not limited to:

- 24 (1) Workers compensation.
- 25 (2) Comprehensive general and automobile liability insurance.
- 26 (3) Environmental liability.

27 (b) Prior to commencing operations under a Franchise Agreement, Grantee
28 shall furnish to the Division certificates of insurance evidencing the required insurance

1 coverage. Each such certificate shall provide that the insurance coverage evidenced
2 thereby shall not be expired, canceled, terminated or reduced in amount without at least
3 30 days advance written notice to the Division. Within 60 days after the effective date of
4 a Franchise Agreement, the Grantee shall furnish to the Division certified copies of all of
5 the policies and endorsements required by this Section. Proofs of renewal or of
6 substitution of carriers shall be provided to the Division promptly as such events occur.

7 (c) All insurance requirements are subject to annual review by the County, with
8 the results of such review to be provided to a Grantee on or before the anniversary of the
9 effective date of its Franchise Agreement. If the County's Risk Manager determines at
10 any annual review that heretofore unreasonably priced or unavailable types of insurance
11 coverage or coverage limits become reasonably priced or available, the County's Risk
12 Manager is authorized, but not required, to change the above insurance requirements to
13 require additional types of insurance coverage or higher coverage limits, provided that
14 any such change is reasonable in light of past claims against the County, inflation, or any
15 other item reasonably related to the County's risk. Any such change shall be treated as
16 a Change In Law Adjustment, under the provisions of Division 6.

17 (d) Grantee shall not be required to maintain separate policies of insurance for
18 any type of insurance required under both this section and Chapter 8 of Division 3 of Title
19 3 of this Code. However, Grantee must maintain the level of insurance which is the higher
20 of that required in this section and Chapter 8 of Division 3 of Title 3 of this Code, and must
21 obtain and maintain insurance coverage which satisfies all of the provisions of this section
22 and Chapter 8 of Division 3 of Title 3 of this Code, including without limit, providing
23 certificates of insurance to all specified departments of the County and requiring
24 notification of the cancellation or termination of any insurance policy be given by the
25 insurance company to all specified departments of the County.

26 **46.0904 Performance Bonds or Other Security.**

27 Grantee shall furnish to the County, without additional charge, a corporate surety
28 bond, a letter of credit or other Security device acceptable to the Division, as Security for

performance under its Franchise Agreement (collectively "Security"). The amount of the Security shall be the average of one month's expected Gross Receipts less Disposal charge. Adequate proof of the existence of the Security shall be provided (e.g., a certificate from the surety showing that the bond premiums have been paid in full shall accompany the bond and each renewal thereof). The surety on the bond, the bank on which the letter of credit is drawn and the surety for any other Security device shall be a company or financial institution acceptable to the County and shall be authorized to do business in the State of California. A surety company shall be as defined in Code of Civil Procedure section 995.120 or any successor section. The surety must be acceptable to the County and may be subject to objection to sufficiency pursuant to Code of Civil Procedure sections 995.660 et seq., or any successor sections.

46.0905 Liquidated Damages Deposit.

Each Grantee shall be required to maintain a bank account from which the Division will have the ability to remove, on the sole signature of the Director, sums of money equal to any liquidated damages assessed against Grantee under the provisions of section 46.1002 of this code.

46.0906 Modification.

The requirements of this Chapter may be modified or waived in writing by the Board upon the request of Grantee, provided the Board reasonably determines such modification or waiver is in the best interest of County and of the public welfare, considering all relevant factors, including acceptable financial guarantees provided by Grantee or by a parent company of Grantee.

CHAPTER 10: FRANCHISE ADMINISTRATION, ENFORCEMENT AND REMEDIES

Sections

46.1001 Administration, Enforcement and Remedies.

46.1002 Liquidated Damages.

46.1003 Resolution of Subscriber Complaints.

1 **46.1004 Notices.**

2
3 **46.1001 Administration, Enforcement and Remedies.**

4 (a) If the Director determines at any time that the Grantee's performance of the
5 Solid Waste Facility Fee authorized or required in its Franchise Agreement, or any of its
6 other actions, are not in conformity with the provisions of the Franchise Agreement, the
7 provisions of this Code, the requirements of the CalRecycle, or its successor agency,
8 including but not limited to, requirements for source reduction and Recycling (as to the
9 waste stream subject to the Franchise Agreement) or any other applicable Federal, State,
10 or local law or regulation, including but not limited to, the laws governing Collection,
11 Transfer, storage and/or Disposal of Solid Waste, the Director will notify Grantee in writing
12 of such deficiencies ("notice of deficiency") as shall be defined in the Franchise
13 Agreement with the Grantee.

14 (b) The notice of deficiency may provide a reasonable time within which
15 correction of all noted deficiencies is to be made. Some deficiencies are by their nature
16 not curable, and no time period to correct or remedy such deficiency shall be given in the
17 notice of deficiency.

18 (c) The Director shall review the Grantee's response to the notice of deficiency.
19 If the Director determines that the Grantee has not cured the deficiency, or if there is no
20 cure period provided in the notice of deficiency given the nature of the deficiency, the
21 Director shall either:

22 (1) Refer the matter directly to the Board for decision pursuant to
23 Subdivision (d); or

24 (2) Decide the matter and notify the Grantee of that decision, in writing.

25 (A) The decision of the Director may be to terminate the Franchise
26 Agreement or may be to impose some lesser sanction;

27 (B) The decision of the Director shall be final and binding on
28 Grantee unless the Grantee files a "notice of appeal" with the Director within 30 days of

1 receipt of the Director's decision. The notice of appeal shall be in writing, shall contain a
2 detailed and precise statement of the basis for the appeal, and shall be accompanied by
3 the fee, if any, which is applicable to the filing of such an appeal.

4 (C) Within ten working days of receipt of a notice of appeal, the
5 Director shall either refer the appeal to the Board for proceedings in accordance with
6 subdivision (d), or refer the matter to a hearing officer for proceedings pursuant to Chapter
7 27 of Division 2 of Title 1 of this Code.

8 (d) (1) Should the Director refer the notice of deficiency to the Board in the
9 first instance, or if the matter reaches the Board pursuant to a notice of appeal, the Board
10 shall either:

11 (A) Refer the matter to a hearing officer for proceedings pursuant
12 to Chapter 27 of Division 2 of Title 1 of this Code; or

13 (B) Set the matter for hearing.

14 (2) If the Board sets the matter for hearing:

15 (A) The Board shall give Grantee, and any interested Person
16 requesting the same, 14 days written notice of the time and place of the public hearing.
17 At the hearing, the Board shall consider the report of the Director indicating the
18 deficiencies, and shall give the Grantee, or its representatives and any other interested
19 Person, a reasonable opportunity to be heard.

20 (B) Based on the evidence presented at the public hearing, the
21 Board shall decide the appropriate action to be taken. If, based upon the record, the Board
22 determines that as noted in the notice of deficiency, the Grantee's performance of the
23 Solid Waste Facility Fee authorized or required in its Franchise Agreement, or any of its
24 other actions, are not in conformity with the provisions of the Franchise Agreement, the
25 provisions of this Code, the requirements of the CalRecycle, or its successor agency,
26 including but not limited to, requirements for source reduction and Recycling (as to the
27 waste stream subject to the Franchise Agreement) or any other applicable Federal, State,
28 or local law or regulation, including but not limited to the laws governing Collection,

1 Transfer, storage and/or Disposal of Solid Waste, then the Board, in the exercise of its
2 sole discretion, may terminate the Franchise Agreement immediately or impose such
3 lesser sanction as it deems appropriate. The decision of the Board shall be final and
4 conclusive.

5 (e) Grantee's performance under its Franchise Agreement is not excused
6 during the period of time prior to the Director's or the Board's final determination, as the
7 case may be, regarding the validity of, and appropriate response to, the deficiencies noted
8 in the notice of deficiency.

9 (f) In the event Grantee: (i) has received a notice of deficiency and fails to
10 perform Solid Waste Facility Fee; or (ii) has had its Franchise Agreement terminated; the
11 County, acting through the Division, reserves the right, in addition to all other rights
12 available to the County, to take any one or combination of the following actions:

13 (1) To rent or lease from Grantee, at its respective fair and reasonable
14 rental value, all or any part of the Grantee's equipment (including Collection containers
15 utilized by Subscribers and office equipment and billing programs), equipment yard and
16 office utilized by Grantee in providing the Solid Waste Facility Fee required under its
17 Franchise Agreement. The County may rent or lease such equipment and real property
18 for a period not to exceed 6 months, for the purpose of performing the Solid Waste Facility
19 Fee, or any part thereof, which Grantee is (or was) obligated to provide pursuant to its
20 Franchise Agreement. The County may use said rented equipment and real property to
21 directly perform such Solid Waste Handling service or to assign it to some other Grantee
22 or Person to act on the County's behalf. Grantee shall be held responsible for the costs
23 to insure the County or its assignee from all liability resulting from the operation of
24 Grantee's equipment. In the case of equipment or real property not owned by Grantee,
25 Grantee shall assign to the County, to the extent Grantee is permitted to do so under the
26 instruments pursuant to which Grantee possesses such equipment or real property, the
27 right to possess the equipment or real property.

28 (2) As used in this Subdivision, means the rate for such equipment as

1 listed in the State Department of Transportation publication, Labor Surcharge and
2 Equipment Rental Rates, in effect at the time the County leases the equipment. If a
3 particular piece of equipment is not listed in said publication or if said publication is not
4 current, the reasonable rental value may be established by the Director by any equitable
5 alternative method. For real property, the REASONABLE RENTAL VALUE means its
6 market rental rate as established by the Director using an equitable method.

7 (3) If the County exercises its rights under this Subdivision, the County
8 shall pay or owe Grantee the reasonable rental value of the equipment and real property
9 so used for the period of the County's possession thereof. The County may offset any
10 amounts due to Grantee pursuant to this provision against any amounts due to County
11 from Grantee.

12 (4) All revenues owed by Subscribers which are attributable to services
13 performed by or at the direction of the County during County's assumption of Grantee's
14 Solid Waste Handling duties shall be billed by and paid to the County. To the extent
15 Grantee receives such revenue after County's assumption of Grantee's Solid Waste
16 Handling duties, Grantee shall pay such revenue to County promptly after receipt thereof
17 (or promptly after County has performed the services related to such revenue, if the
18 revenue was received by the Grantee prior to the County's assumption of duties) and
19 Grantee shall be deemed to have assigned to County all of Grantee's right and interest
20 to any such revenues.

21 (g) The County rights set forth in this Section are in addition to, and not in
22 limitation of, any other powers or rights available to the County upon failure of Grantee to
23 perform its obligations under Division 6 or its Franchise Agreement. Further, by entering
24 into its Franchise Agreement issued pursuant to Division 6 each Grantee acknowledges
25 that its violation of the terms of Division 6 or its breach of the terms of its Franchise
26 Agreement shall cause the County to suffer irreparable injury and damages sufficient to
27 support injunctive relief to enforce the provisions of the Franchise Agreement, and to
28 enjoin the breach thereof.

1 (h) This Section shall not apply to violations or deficiencies which fall within the
2 sole jurisdiction of the County's Department of Public Health, Division of Environmental
3 Health Services under Grantee's required Health and Safety Permit and which are not,
4 and do not become, violations or deficiencies under Division 6.

5 **46.1002 Liquidated Damages.**

6 (a) Each Franchise Agreement shall provide for a process to establish that
7 Grantee has met its service obligations under the Franchise Agreement and shall provide
8 a schedule of liquidated damages for each violation or breach which has been verified to
9 the satisfaction of the Division.

10 (b) A high level of Collection service quality and Subscriber satisfaction and
11 therefore consistent and reliable service is of utmost importance to the County and the
12 Solid Waste Facility Fee Subscriber. County will have considered and relied on Grantee's
13 representations as to its quality of service commitment in approving any Franchise
14 Agreement, and any violation or breach by Grantee of its Solid Waste Handling service
15 obligations referenced in this Section represents a loss of bargain to the County. The
16 Grantee further acknowledges that quantified standards of performance are necessary
17 and appropriate to ensure such consistent and reliable Collection service, and if Grantee
18 fails to meet service obligations referenced in this Section, County will suffer damages
19 (including but not limited to, its Subscribers inconvenience; complaints by Subscribers;
20 lost Board and staff time; and loss of bargain) and that it is and will be impracticable and
21 extremely difficult to ascertain and determine the value thereof. Therefore, the County
22 and Grantee acknowledge that the liquidated damages established by schedules to each
23 Franchise Agreement, represent a reasonable estimate of the amount of such damages,
24 considering all of the circumstances, including the relationship of the amount of the
25 liquidated damages to the range of harm to County that reasonably could be anticipated
26 and the anticipation that proof of actual damages would be extremely costly and
27 inconvenient for both the Grantee and County. By entering into its Franchise Agreement,
28 the Grantee will specifically affirm the accuracy of the statements made relating to

1 liquidated damages and the fact that Grantee will have had ample opportunity to consult
2 with legal counsel and obtain an explanation of the liquidated damage provision contained
3 therein.

4 (c) The rights of the County set forth in this Section are in addition to, and not
5 a limitation on, any other rights which County may have against Grantee for the failure to
6 observe any condition or term of Division 6 or its Franchise Agreement, including the
7 violations or breaches of same set forth in this Section for which liquidated damages are
8 provided.

9 **46.1003 Resolution of Subscriber Complaints.**

10 Procedures for resolution of complaints and other disputes shall be as follows:

11 (a) A Subscriber dissatisfied with Grantee's decision regarding a complaint
12 may ask the Director to review the complaint. To obtain this review, the Subscriber may
13 request County review within 30 days of receipt of Grantee's response to the complaint,
14 or within 45 days of submitting the complaint to the Grantee, if the Grantee has failed to
15 respond to the complaint. The Director may extend the time to request the County's
16 review for good cause.

17 (b) Before reviewing the complaint, the Director shall refer it to the Grantee. If
18 the Grantee fails to cure the complaint within ten days after such referral, the Director
19 shall review the complaint and determine if further action is warranted. The Director may
20 request written statements from the Grantee and Subscriber, or oral presentations or both
21 written and oral presentations.

22 (c) The Director shall determine if the Subscriber's complaint is justified, and if
23 so, what remedy, if any, shall be applied. The remedy provided to the Subscriber under
24 this Section shall be limited to a refund of Subscriber charges related to the period of
25 violation of any of the terms of Division 6 or of the breach of any term of the applicable
26 Franchise Agreement. In addition to any other remedy of County contained in this Section,
27 County may impose liquidated damages of up to \$100.00 payable to the County for any
28 single event or series of related events, or actual damages as demonstrated during the

1 resolution procedure.

2 (d) The Director may delegate the duties under this Section to a designee. The
3 decision of the Director or a designee shall be final on any matter of \$5,000.00 or less.
4 In the event of a decision on a matter awarding more than \$5,000.00, Grantee may seek
5 review pursuant to the notice of appeal procedure contained in section 46.0801.

6 (e) This Section shall not apply to disputes involving the implementation of the
7 Total Rate approved by the Board or the adjustments thereto specifically authorized by
8 Division 6.

9 **46.1004 Notices.**

10 Except as otherwise required by governing law, any notice, information, request or
11 reply ("notice") required or permitted to be given under the provisions of Division 6 shall
12 be in writing and shall be given or served either personally or by mail. If given or served
13 by mail, such notice shall be deemed sufficiently given if: (1) (i) deposited in the United
14 States mail, certified mail, return receipt requested, postage prepaid, or (ii) sent by
15 express mail, Federal Express, or other similar overnight service, provided proof of
16 service is available; and (2) addressed to (i) the Grantee at its most recent address of
17 record with the Division or (ii) to the Director at the then-current address of the Division,
18 as the case may be.

19
20 **CHAPTER 11: GRANTEE SB 1383 ORGANIC WASTE COLLECTION SERVICES**
21 **IMPLEMENTATION**

22 **Section**

23 **46.1101 Requirements for Grantees.**

24 **46.1102 Education, Equipment, Monitoring and Reporting.**

25
26 **46.1101 Requirements for Grantees.**

27 Grantees providing SB 1383-compliant residential, Commercial, or industrial
28 Organic Waste Collection services to Generators within the County's boundaries, except

1 in a Franchise Area that has been granted a waiver from SB 1383 Organic Waste
2 Collection services, shall meet the following requirements and standards as a condition
3 of approval of a contract, agreement, or other authorization with the County to Collect
4 Organic Waste:

5 (a) Through written notice to the County, identify facilities to which they will
6 transport Organic Waste including facilities for Source Separated Recyclables, Source
7 Separated Green Container Organic Waste, Source Separated Brown Container Organic
8 Waste, and Mixed Waste.

9 (b) Transport Source Separated Recyclables, Source Separated Green
10 Container Organic Waste, Source Separated Brown Container Organic Waste, and Mixed
11 Waste to a facility, operation, activity or property that recovers Organic Waste as defined
12 in 14 CCR Division 7, Chapter 12, Article 2.

13 (c) Obtain approval from the County to haul Organic Waste, unless it is
14 transporting Source Separated Organic Waste to a Community Composting site or
15 lawfully transporting Construction & Demolition debris in such a manner that complies
16 with 14 CCR section 18989.1 and section 63.1501 of the County Code.

17 **46.1102 Education, Equipment, Monitoring and Reporting.**

18 Grantee shall comply with Education, Equipment, signage, container labeling,
19 container color, contamination Monitoring, and Reporting, and other requirements
20 contained within its Franchise Agreement.

21
22 **CHAPTER 12: COMMERCIAL BUSINESSES SB 1383 ORGANIC WASTE**
23 **COLLECTION SERVICES IMPLEMENTATION**

24 **Section**

25 **46.1201 Purpose.**

26 **46.1202 Requirements for Commercial Businesses.**

27 **46.1203 Donate or Sell of Recyclables.**
28

1 **46.1201 Purpose.**

2 This Chapter shall apply to Commercial Businesses subject to the Organic Waste
3 Collection services requirements of the SB 1383 Regulations.

4 **46.1202 Requirements for Commercial Businesses.**

5 Generators that are Commercial Businesses, including Multi-family Residential
6 Dwellings with five or more units, shall comply with the following requirements:

7 (a) Subscribe to the County's Collection services and comply with the
8 requirements of those services as described below in subsection (b), except for those
9 that meet the Self-Hauler requirements of this ordinance. The County shall have the right
10 to review the number and size of a Generator's containers and frequency of Collection to
11 evaluate adequacy of capacity provided for each type of Collection service for proper
12 separation of materials and containment of materials; and, Commercial Businesses shall
13 adjust their service level for their Collection services as requested by the County.

14 (b) Except for those that meet the Self-Hauler requirements of this ordinance,
15 participate in the County's Organic Waste Collection services by placing designated
16 materials in designated containers as described below and specified in the Franchise
17 Agreement.

18 (1) Option 1: A three and three-plus-container Collection service (Blue
19 Container, Green Container, Brown Container, and/or Gray Container).

20 (A) Option 1a: Generator shall place Source Separated Green
21 Container Organic Waste, including Food Waste, in the Green Container; Source
22 Separated Recyclables in the Blue Container; and Gray Container Waste in the Gray
23 Container. Generator shall not place materials designated for the Gray Container into the
24 Green or Blue Containers.

25 (B) Option 1b: Generator shall place Source Separated Green
26 Container Organic Waste, except Food Waste, in the Green Container; Source Separated
27 Recyclables in the Blue Container; and Mixed Waste, including Food Waste, in the Gray
28 Container. Generator shall not place materials designated for the Green Container or

1 Blue Container in the Gray Container.

2 (C) Option 1c: Generator shall place Source Separated Green
3 Container Organic Waste, except Food Waste, in the Green Container; Source Separated
4 Brown Container Organic Waste in the Brown Container; Source Separated Recyclables
5 in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall
6 not place materials designated for the Gray Container into the Green, Brown, or Blue
7 Containers.

8 (2) Option 2: Two-container Collection service (Green Container/Gray
9 Container system or Blue Container/Gray Container system).

10 (A) Option 2a, Green Container/Gray Container: Generator shall
11 place only Source Separated Green Container Organic Waste in a Green Container.
12 Generator shall place all other materials (Mixed Waste) in a Gray Container.

13 (B) Option 2b, Blue Container/Gray Container: Generator shall
14 place only Source Separated Recyclables in a Blue Container. Generator shall place all
15 other materials (Mixed Waste) in a Gray Container.

16 (3) Option 3: An unsegregated single container (one-container)
17 Collection service.

18 (A) Generator shall place all materials (Mixed Waste) in a Gray
19 Container.

20 (c) Supply and allow access to adequate number, size and location of
21 Collection containers with sufficient labels or colors for employees, contractors, tenants,
22 and customers, consistent with County's container Collection systems.

23 (d) Excluding Multi-Family Residential Dwellings, shall provide containers for
24 the Collection of Source Separated Green Container Organic Waste, Source Separated
25 Brown Container Organic Waste, and Source Separated Recyclables in all indoor and
26 outdoor areas where Disposal containers are provided for customers, for materials
27 generated by that Commercial Business. Such containers do not need to be provided in
28 restrooms. If a Commercial Business does not generate any of the materials that would

1 be collected in one type of container, then the Commercial Business does not have to
2 provide that particular container in all areas where Disposal containers are provided for
3 customers. Pursuant to 14 CCR section 18984.9(b), the containers provided by the
4 Commercial Business shall have either:

5 (1) A body or lid that conforms with the container colors provided through
6 the Collection service provided by the County, with either lids conforming to the color
7 requirements or bodies conforming to the color requirements, or both lids and bodies
8 conforming to color requirements. A Commercial Business is not required to replace
9 functional containers, including containers purchased prior to January 1, 2022, that do
10 not comply with the requirements of the subsection prior to the end of the useful life of
11 those containers, or prior to January 1, 2036, whichever comes first.

12 (2) Container labels that include language or graphic images, or both,
13 indicating the primary material accepted and the primary materials prohibited in that
14 container, or containers with imprinted text or graphic images that indicate the primary
15 materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR
16 section 18984.8, the container labeling requirements are required on new containers
17 commencing January 1, 2022.

18 (e) Multi-Family Residential Dwellings are not required to comply with container
19 replacement requirements or labeling requirement in subsection (d) above pursuant to 14
20 CCR section 18984.9(b).

21 (f) To the extent practical through education, training, Inspection, and/or other
22 measures, excluding Multi-Family Residential Dwellings, shall prohibit employees from
23 placing materials in a container not designated for those materials per the County's Blue
24 Container, Green Container, Brown Container, and Gray Container Collection service.

25 (g) Excluding Multi-Family Residential Dwellings, shall periodically inspect Blue
26 Containers, Green Containers, Brown Containers, and Gray Containers for contamination
27 and inform employees if containers are contaminated and of the requirements to keep
28 contaminants out of those containers pursuant to 14 CCR section 18984.9(b)(3).

1 (h) Annually provide information to employees, contractors, tenants, and
2 customers about Organic Waste Recovery requirements and about proper sorting of
3 Source Separated Green Container Organic Waste, Source Separated Brown Container
4 Organic Waste, and Source Separated Recyclables.

5 (i) Provide education information before or within 14 days of occupation of the
6 premises to new tenants that describes the requirements to keep Source Separated
7 Green Container Organic Waste, Source Separated Brown Container Organic Waste,
8 and Source Separated Recyclables separate from Gray Container Waste (when
9 applicable) and the location of containers and the rules governing their use at each
10 property.

11 (j) Provide or arrange access for County or its agent to their properties during
12 all inspections conducted in accordance with this ordinance to confirm compliance with
13 the requirements of this ordinance.

14 (k) Nothing in this section prohibits a Generator from preventing or reducing
15 waste generation, managing Organic Waste on site, or using a Community Composting
16 site pursuant to 14 CCR section 18984.9(c).

17 **46.1203 Donate or Sell of Recyclables.**

18 Nothing in this Chapter is intended to limit the right of any Commercial Business
19 to donate or sell its Recyclables or Organic Waste as provided by sections 41952,
20 42649.84 and 42649.5 of the Public Resources Code.

21
22 **CHAPTER 13: SINGLE-FAMILY GENERATORS SB 1383 ORGANIC WASTE**
23 **COLLECTION SERVICES IMPLEMENTATION**

24 **Section**

25 **46.1301 Purpose.**

26 **46.1302 Requirements for Single-Family Generators.**

27
28 **46.1301 Purpose.**

1 This Chapter shall apply to Single-Family Generators subject to the Organic Waste
2 Collection services requirements of the SB 1383 Regulations.

3 **46.1302 Requirements for Single-Family Generators.**

4 Single-Family Organic Waste Generators shall comply with the following
5 requirements:

6 (a) Shall subscribe to the County's Organic Waste Collection services for all
7 Organic Waste generated as described in subsection (b) below. The County shall have
8 the right to review the number and size of Generator's containers to evaluate adequacy
9 of capacity provided by each type of Collection service for proper separation of materials
10 and containment of materials; and a Single-Family Generator shall adjust its service level
11 for its Collection services as requested by the County. Generators may additionally
12 manage their Organic Waste by preventing or reducing their Organic Waste, managing
13 Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR
14 section 18984.9(c).

15 (b) Shall participate in the County's Organic Waste Collection services by
16 placing designated materials in designated containers as described below and shall not
17 place Prohibited Container Contaminants in Collection containers.

18 (1) Option 1: A three- and three-plus container Collection service (Blue
19 Container, Green Container, and Gray Container).

20 (A) Option 1a: Generator shall place Source Separated Green
21 Container Organic Waste, including Food Waste, in the Green Container; Source
22 Separated Recyclables in the Blue Container; and Mixed Waste in the Gray Container.
23 Generator shall not place materials designated for the Green Container or Blue Container
24 in the Gray Container.

25 (B) Option 1b: Generator shall place Source Separated Green
26 Container Organic Waste, except Food Waste, in the Green Container; Source Separated
27 Recyclables in the Blue Container; and Mixed Waste, including Food Waste, in the Gray
28 Container. Generator shall not place materials designated for the Green Container or

Blue Container in the Gray Container.

(2) Option 2: Two-container Collection service (Green Container/Gray Container system or Blue Container/Gray Container system).

(A) Option 2a, Green Container/Gray Container: Generator shall place only Source Separated Green Container Organic Waste in a Green Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(B) Option 2b, Blue Container/Gray Container: Generator shall place only Source Separated Recyclables in a Blue Container. Generator shall place all other materials (Mixed Waste) in a Gray Container.

(3) Option 3: An unsegregated single container (one-container) Collection service.

(A) Generator shall place all materials (Mixed Waste) in a Gray Container.

CHAPTER 14: SB 1383 WAIVERS FOR GENERATORS

Section

46.1401 Purpose.

46.1402 De Minimis Waivers.

46.1403 Physical Space Waivers.

46.1404 Collection Frequency Waivers.

46.1405 Review and Approval of Waivers.

46.1401 Purpose.

This Chapter shall apply to Generators subject to the Organic Waste Collection services requirements of the SB 1383 Regulations.

46.1402 De Minimis Waivers.

The County may waive a Commercial Business' obligation (including Multi-Family Dwellings with five or more units) to comply with some or all of the SB 1383 Organic

1 Waste requirements of this ordinance if the Commercial Business provides
2 documentation that the Commercial Business generates below a certain amount of
3 Organic Waste material as described below in subsection (b). Commercial Businesses
4 requesting a de minimis waiver shall:

5 (a) Either provide documentation that:

6 (1) The Commercial Business' total Solid Waste Collection service is two
7 cubic yards or more per week and Organic Waste subject to Collection in a Blue
8 Container, Green Container, or Brown Container comprises less than 20 gallons per week
9 per applicable container of the business' total waste; or

10 (2) The Commercial Business' total Solid Waste Collection service is
11 less than two cubic yards per week and Organic Waste subject to Collection in a Blue
12 Container, Green Container, or Brown Container comprise less than 10 gallons per week
13 per applicable container of the business' total waste.

14 (b) Notify the County if circumstances change such that the Commercial
15 Business' Organic Waste exceeds the threshold required for a de minimis waiver, in which
16 case the waiver will be rescinded.

17 (c) Provide written verification of eligibility for a de minimis waiver every 5
18 years, if County has approved a de minimis waiver.

19 **46.1403 Physical Space Waivers.**

20 The County may waive a Commercial Business' or property owner's obligations
21 (including Multi-Family Residential Dwellings with five or more units) to comply with some
22 or all of the SB 1383 Recyclables and/or Organic Waste Collection service requirements
23 if the County has evidence from its own staff, a hauler, licensed architect, or licensed
24 engineer demonstrating that the premises lacks adequate space for the Collection
25 containers required for compliance with the SB 1383 Organic Waste Collection
26 requirements of this Ordinance.

27 (a) A Commercial Business or property owner may request a physical space
28 waiver through the following process:

1 (1) Provide documentation that the premises lacks adequate space for
2 Blue Containers and/or Green Containers including documentation from its hauler,
3 licensed architect, or licensed engineer.

4 (2) Provide written verification to the County that it is still eligible for a
5 physical space waiver every five years if the County has approved an application for such
6 waiver.

7 **46.1404 Collection Frequency Waiver.**

8 The County, at its discretion and in accordance with 14 CCR section
9 18984.11(a)(3), may allow the owner or tenant of any residence, premises, business
10 establishment or industry that subscribes to the County's three-, three-plus, or two-
11 container SB 1383 Organic Waste Collection service to arrange for the Collection of their
12 Blue Container, Gray Container, or both once every 14 days rather than once per week.

13 **46.1405 Review and Approval of Waivers.**

14 The Director, or designee, shall have the authority to review and approve all
15 waivers.

16
17 **CHAPTER 15: REQUIREMENTS FOR FACILITY OPERATORS AND**
18 **COMMUNITY COMPOSTING OPERATIONS**

19 **Section**

20 **46.1501 Requirements for Facility Operators and Community**
21 **Composting Operations.**

22
23 **46.1501 Requirements for Facility Operators and Community Composting**
24 **Operations.**

25 (a) Owners of facilities, operations, and activities that recover Organic Waste,
26 including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-
27 owned treatment works shall, upon County request, provide information regarding
28 available and potential new or expanded capacity at their facilities, operations, and

activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the County shall respond within 60 days.

(b) Community Composting operators, upon County request, shall provide information to the County to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the Jurisdiction shall respond within 60 days.

CHAPTER 16: PENALTIES FOR VIOLATION

Section

46.1601 Penalties for Violation.

46.1601 Penalties for Violation.

A violation of this Division is an infraction punishable as provided in section 11.0201 of this Code. Each and every day constitutes a separate violation of this provision.

CHAPTER 17: AMENDMENT

Section

46.1701 Amendment.

46.1701 Amendment.

The County retains the right to amend Division 6 in any respect, notwithstanding the existence of one or more Franchise Agreement. Until the commencement date of any extended term of a Franchise Agreement, including its extension pursuant to the terms of section 46.0301(d) of this Code, the Grantee shall be subject to and bound by the terms of Division 6 as same exists on the date of the granting of its Franchise Agreement by the County. Each Grantee shall be subject to and bound by the terms of Division 6, as

1 amended, upon the commencement date of any extension of the term of the Franchise
2 Agreement of the Grantee, including its extension pursuant to the terms of section
3 46.0301(d) of this Code. The amendments to Division 6 to which a Grantee shall be
4 subject upon the commencement date of its Franchise Agreement or of the extension of
5 its Franchise Agreement shall be those amendments which have been adopted by the
6 Board (whether or not the amendment is effective) prior to the following date, as
7 applicable: (i) the date the Board acts to grant Grantee its Franchise Agreement; (ii) the
8 date by which the Board is required to determine that the Grantee's Franchise Agreement
9 shall not be extended, as provided in section 46.0301(d) of this Code, in the event that
10 the Franchise Agreement is extended pursuant to the terms of section 46.0301(d) of this
11 Code; or (iii) the date the Board acts to extend the term of Grantee's Franchise
12 Agreement, if the agreement is extended other than pursuant to the provisions of section
13 46.0301(d) of this Code.

14
15 SECTION 2. Chapter 15 is added to Title 3, Division 3 to read in its entirety as
16 follows:

17 **CHAPTER 15: FOOD RECOVERY**

18 **Section**

19 **33.1501 Intent and Enforcement Authority.**

20 **33.1502 Scope of Authority.**

21 **33.1503 Definitions.**

22 **33.1504 Tier One and Tier Two Commercial Edible Food Generators.**

23 **33.1505 Food Recovery organizations and Food Recovery services.**

24 **33.1506 Edible Food Recovery capacity planning.**

25 **33.1507 Inspections and investigations.**

26 **33.1508 Enforcement.**

27
28 **33.1501 Intent and Enforcement Authority.**

On September 19, 2016, Governor Brown signed into law Senate Bill No. 1383 (SB 1383), the Short-lived Climate Pollutant Reduction Act, which places requirements on multiple entities including the San Bernardino County, other jurisdictions, Residential households, Commercial Businesses and business owners, commercial Edible Food Generators, Solid Waste haulers, Self-Haulers, Food Recovery organizations, and Food Recovery services to support achievement of statewide Organic Waste Disposal reduction targets, reduce greenhouse gas emissions generated from the production of methane from the landfilling of organics and also help reduce food insecurity by requiring commercial Edible Food Generators arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption.

33.1502 Scope of Authority.

Pursuant to Title 14, Division 7, Chapter 12, Section 18791.2 of CCR, San Bernardino County has found that the public's interest in achieving the organic waste Disposal targets set by the State will be best served by Department of Public Health, Division of Environmental Health Services ("DEHS"). The Director, each Inspector, other designated employees of DEHS and Enforcement Officers as defined in this Chapter are hereby authorized to enforce and administer all State law pertaining to environmental health and all provisions of this Environmental Health Code (E.H. Code) within this jurisdiction, the unincorporated areas of San Bernardino County and any contracted cities therein. This authority is granted to the Director, each Inspector, other designated employees of DEHS and Enforcement Officers as defined in this Chapter. DEHS may charge reasonable fees for their services, including fees as are prescribed by the San Bernardino County Code Schedule of Fees.

33.1503 Definitions.

For the purposes of this Chapter, the following terms have the following meanings. The word "shall" is mandatory and not merely directory or permissive.

CALRECYCLE. California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and

1 enforcing SB 1383 Regulations on Jurisdictions (and others).

2 CALIFORNIA CODE OF REGULATIONS or CCR means the State of California
3 Code of Regulations. CCR references in this ordinance are preceded with a number that
4 refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

5 COMMERCIAL EDIBLE FOOD GENERATOR includes a Tier One or a Tier Two
6 Commercial Edible Food Generator as defined in section 33.1503 of this ordinance or as
7 otherwise defined in 14 CCR section 18982(a)(73) and (a)(74). For the purposes of this
8 definition, Food Recovery Organizations and Food Recovery Services are not
9 Commercial Edible Food Generators pursuant to 14 CCR section 18982(a)(7).

10 COMPOSTABLE PLASTICS means plastic materials that meet the ASTM D6400
11 standard for compostability, or as otherwise described in 14 CCR section
12 18984.1(a)(1)(A) or 18984.2(a)(1)(C).

13 EDIBLE FOOD means food intended for human consumption and collected or
14 received from a Tier One or Tier Two Commercial Edible Food Generator. For the
15 purposes of this ordinance or as otherwise defined in 14 CCR section 18982(a)(18),
16 "Edible Food" is not solid waste if it is recovered and not discarded. Nothing in this
17 ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of
18 Edible Food that does not meet the food safety requirements of the California Retail Food
19 Code.

20 EDIBLE FOOD RECOVERY means actions to Collect, receive, and/or re distribute
21 Edible Food for human consumption from Tier One and Tier Two Commercial Edible Food
22 Generators that otherwise would be disposed.

23 ENFORCEMENT ACTION means an action of DEHS or its Enforcement Officer to
24 address non-compliance with this ordinance including, but not limited to, issuing
25 administrative citations, fines, penalties, or using other remedies.

26 ENFORCEMENT OFFICER means an entity that DEHS contracts with or
27 otherwise arranges to carry out any of the DEHS's responsibilities of this ordinance as
28 authorized in 14 CCR section 18981.2. An Enforcement Officer may be a government

1 entity, a hauler, a private entity, or a combination of those entities, specifically:

2 (a) The Division Chief, each Code Enforcement Supervisor, and each Code
3 Enforcement Officer or other designated employee of the Code Enforcement Division of
4 the Land Use Services Department;

5 (b) The Building Official, each Regional Building and Safety Supervisor, each
6 Building Inspector, and other designated employees of the Building and Safety Division
7 of the Land Use Services Department;

8 (c) The Fire Chief/Fire Warden, Fire Marshal, and other designated employees
9 of the San Bernardino County Fire Protection District;

10 (d) The Division Chief, each Animal Control Supervisor/Officer, and other
11 designated employees of the Animal Care and Control Program of the Department of
12 Public Health;

13 (e) The Sheriff-Coroner, each Deputy Sheriff (all ranks), and other designated
14 employees of the Department of the Sheriff-Coroner;

15 (f) The Director and other designated employees of the Public Works
16 Department; and

17 (g) Any other Director and other designated employees of a County
18 Department or Special District as designated by DEHS Administrative Officer or the Board
19 of Supervisors.

20 FOOD DISTRIBUTOR means a company that distributes food to entities including,
21 but not limited to, Supermarkets and Grocery Stores.

22 FOOD FACILITY has the same meaning as in Section 113789 of the Health and
23 Safety Code.

24 FOOD RECOVERY means actions to Collect and distribute food for human
25 consumption that otherwise would be disposed, or as otherwise defined in 14 CCR
26 section 18982(a)(24).

27 FOOD RECOVERY ORGANIZATION means an entity that engages in the
28 Collection or receipt of Edible Food from Commercial Edible Food Generators and

1 distributes that Edible Food to the public for Food Recovery either directly or through
2 other entities, including, but not limited to:

- 3 (a) A food bank as defined in Section 113783 of the Health and Safety Code;
- 4 (b) A nonprofit charitable organization as defined in Section 113841 of the
5 Health and Safety code; and,
- 6 (c) A nonprofit charitable temporary food facility as defined in Section 113842
7 of the Health and Safety Code.

8 A Food Recovery Organization is not a Commercial Edible Food Generator for the
9 purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12
10 pursuant to 14 CCR Section 18982(a)(7).

11 FOOD RECOVERY SERVICE means a Person or entity that Collects and
12 transports Edible Food from a Commercial Edible Food Generator to a Food Recovery
13 Organization or other entities for Food Recovery. A Food Recovery Service is not a
14 Commercial Edible Food Generator for the purposes of this ordinance and
15 implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section
16 18982(a)(7).

17 FOOD SCRAPS means non-wholesome or inedible food such as, but not limited
18 to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread,
19 cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials
20 are Source Separated from other Food Scraps.

21 FOOD SERVICE PROVIDER means an entity primarily engaged in providing food
22 services to institutional, governmental, commercial, or industrial locations of others based
23 on contractual arrangements with these types of organizations.

24 FOOD-SOILED PAPER is compostable paper material that has come in contact
25 with food or liquid, such as, but not limited to, compostable paper plates, paper coffee
26 cups, napkins, pizza boxes, and milk cartons.

27 FOOD WASTE means Food Scraps, Food-Soiled Paper, and Compostable
28 Plastics.

1 GROCERY STORE means a store primarily engaged in the retail sale of canned
2 food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area
3 that is not separately owned within the store where the food is prepared and served,
4 including a bakery, deli, and meat and seafood departments.

5 HEALTH FACILITY means a health facility as defined in Section 1250 of the Health
6 and Safety Code.

7 HOTEL means a hotel as defined in Section 17210 of the Business and
8 Professions Code.

9 INSPECTION means, for the purposes of Edible Food Recovery, actions to review
10 contracts and other records related to the recovery of Edible Food and may occur off-site
11 via email and other forms of electronic communication, as well as the on-site review of an
12 entity's records and Collection, handling, and other procedures for the recovery of Edible
13 Food to determine if the entity is complying with the requirements of this Ordinance.

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

21 LARGE VENUE means a permanent venue facility that annually seats or serves
22 an average of more than 2,000 individuals within the grounds of the facility per day of
23 operation of the venue facility. For purposes of this ordinance and implementation of 14
24 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public,
25 nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement
26 park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing
27 arts center, fairground, museum, theater, or other public attraction facility. For purposes
28 of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under

1 common ownership or control that includes more than one Large Venue that is contiguous
2 with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR
3 Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section
4 18982(a)(39) shall apply to this ordinance.

5 LOCAL EDUCATION AGENCY means a school district, charter school, or county
6 office of education that is not subject to the control of city or county regulations
7 related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

8 NOTICE OF VIOLATION (NOV) means a notice that a violation has occurred that
9 includes a compliance date to avoid an action to seek penalties, or as otherwise defined
10 in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

11 RESTAURANT means an establishment primarily engaged in the retail sale of food
12 and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR
13 Section 18982(a)(64).

14 SELF-HAULER means, for the purposes of Edible Food Recovery, a Commercial
15 Edible Food Generator which holds a contract with and hauls Edible Food to a Food
16 Recovery Organization or other site for redistribution according to the requirements of this
17 Ordinance.

18 STATE AGENCY means State office, officer, department, division, bureau, board,
19 and commission.

20 SUPERMARKET means a full-line, self-service retail store with gross annual sales
21 of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned
22 goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR
23 Section 18982(a)(71).

24 TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR means a Commercial
25 Edible Food Generator that is one of the following:

- 26 (a) Supermarket.
27 (b) Grocery Store with a total facility size equal to or greater than 10,000 square
28 feet.

- (c) Food Service Provider.
- (d) Food Distributor.
- (e) Wholesale Food Vendor.

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

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR means a Commercial Edible Food Generator that is one of the following:

- (a) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (b) Hotel with an on-site Food Facility and 200 or more rooms.
- (c) Health facility with an on-site Food Facility and 100 or more beds.
- (d) Large Venue.
- (e) Large Event.
- (f) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (g) A Local Education Agency facility with an on-site Food Facility.

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

WHOLESALE FOOD VENDOR means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

33.1504 Tier One and Tier Two Commercial Edible Food Generators.

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR

1 Section 18991.3.

2 (b) Large Venue or Large Event operators not providing food services, but
3 allowing for food to be provided by others, shall require Food Facilities operating at the
4 Large Venue or Large Event to comply with the requirements of this Section, commencing
5 January 1, 2024.

6 (c) Tier One and Tier Two Commercial Edible Food Generators shall comply
7 with the following requirements:

8 (1) Arrange to recover the maximum amount of Edible Food that would
9 otherwise be disposed.

10 (2) Use the CalRecycle Model Food Recovery Agreement or the
11 contractual elements contained in the Requirements for Food Recovery Organizations
12 and Food Recovery Services section of this Ordinance to contract with, or otherwise enter
13 into a written agreement with Food Recovery Organizations or Food Recovery Services
14 for:

15 (A) The Collection of Edible Food for Edible Food Recovery from
16 the Tier One or Tier Two Commercial Edible Food Generator's premises; or

17 (B) The acceptance of Edible Food that the Tier One or Tier Two
18 Commercial Edible Food Generator Self-Hauls to the Food Recovery Organization.

19 (3) Shall not intentionally spoil Edible Food that is capable of being
20 recovered by a Food Recovery Organization or a Food Recovery Service.

21 (4) Allow DEHS or its Enforcement Officer to access the premises and
22 review records related to Edible Food Recovery and/or provide them electronically if
23 requested by DEHS.

24 (5) Keep records that include the following information:

25 (A) A list of each Food Recovery Organization or a Food
26 Recovery Service that Collects or receives Edible Food from the Tier One or Tier Two
27 Commercial Edible Food Generator pursuant to a contract or written agreement as
28 required by this Ordinance.

1 (B) A copy of all contracts or written agreements established
2 under the provisions of this Ordinance.

3 (C) A record of the following information for each of those Food
4 Recovery Services or Food Recovery Organizations:

5 (i) The name, address and contact information of the
6 Food Recovery Service or Food Recovery Organization.

7 (ii) The types of food that will be collected by or Self-
8 Hauled to the Food Recovery Service or Food Recovery Organization.

9 (iii) The established schedule or frequency that food will be
10 collected or Self-Hauled.

11 (iv) The quantity of food, measured in pounds recovered
12 per month, collected or Self-Hauled to a Food Recovery Service or Food Recovery
13 Organization for Food Recovery.

14 (6) Commencing no later than July 1, 2022 for Tier One Commercial
15 Edible Food Generators and July 1, 2024 for Tier Two Commercial Edible Food
16 Generators, and July 1 each year therein after, they shall provide an annual Edible Food
17 Recovery report to County that includes, but is not limited to, the information collected in
18 records per section 33.1504(5) in addition to the following information: a list of all types
19 of Edible Food categories they generate, such as "baked goods," that are not accepted
20 by the Food Recovery Organizations and Food Recovery Services with whom they
21 contract, and certification that all staff responsible for Edible Food Recovery have
22 obtained a valid and unexpired San Bernardino County food handler card. With the
23 exception of the food safety and handling training certification, Tier One and Tier Two
24 Commercial Edible Food Generators may coordinate with their Edible Food Recovery
25 contractors to supply this information.

26 (7) Tier One and Tier Two Commercial Edible Food Generators who
27 Self-Haul.

28 Edible Food shall require those transporting Edible Food for recovery to

1 obtain a valid and unexpired San Bernardino County food handler card and follow the
2 best practices and standards for proper temperature control, methods, and procedures
3 for the safe handling and transport of food.

4 (8) Nothing in this ordinance shall be construed to limit or conflict with
5 the protections provided by the California Good Samaritan Food Donation Act of 2017,
6 the Federal Good Samaritan Act, or share table and school food donation guidance
7 pursuant to Senate Bill 557 of 2017.

8 **33.1505 Food Recovery organizations and Food Recovery services.**

9 (a) Food Recovery Services operating in the County and collecting or receiving
10 Edible Food directly from Tier One and/or Tier Two Commercial Edible Food Generators
11 via a contract or written agreement established under the requirements of this Ordinance,
12 shall maintain the following records:

13 (1) The name, address, and contact information for each Tier One and
14 Tier Two Commercial Edible Food Generator from which the service Collects Edible
15 Food.

16 (2) The quantity in pounds of Edible Food by type collected from each
17 Tier One and Tier Two Commercial Edible Food Generator per month.

18 (3) The quantity in pounds of Edible Food by type transported to each
19 Food Recovery Organization or redistribution site per month.

20 (4) The name, address, and contact information for each Food Recovery
21 Organization or redistribution site that the Food Recovery Service transports Edible Food
22 to for Edible Food Recovery.

23 (b) Commencing no later than July 1, 2022, Food Recovery Organizations and
24 Food Recovery Services operating in the county and collecting or receiving Edible Food
25 from Tier One and Tier Two Commercial Edible Food Generators or any other source
26 shall report to County the following: a detailed Edible Food activity report of the
27 information collected as required under this Ordinance, including information collected in
28 records per section 33.1505(a) in addition to a brief analysis of any necessary process

1 improvements or additional infrastructure needed to support Edible Food Recovery
2 efforts, such as training, staffing, refrigeration, vehicles, etc., and an up to date list of Tier
3 One and Tier Two Commercial Edible Food Generators with whom they have contracts
4 or agreements established as required under this Ordinance. This Edible Food activity
5 report shall be submitted quarterly, or at the discretion of DEHS or its Enforcement Officer,
6 and shall cover the activity that occurred since the period of the last submission.

7 (c) In order to provide the required records to the State, the County, and Tier
8 One or Tier Two Commercial Edible Food Generators, contracts between Food Recovery
9 Organizations and Food Recovery Services and Tier One and Tier Two Commercial
10 Edible Food Generators shall include the following elements:

11 (1) List/description of allowable foods the Food Recovery
12 Organization/Food Recovery Service will receive.

13 (2) List/description of foods not accepted by the Food Recovery
14 Organization/Food Recovery Service.

15 (3) Conditions for refusal of food.

16 (4) Food safety requirements, training, and protocols.

17 (5) Transportation and storage requirements and training.

18 (6) A protocol for informing the Tier One or Tier Two Commercial Edible
19 Food Generators of a missed or delayed pickup.

20 (7) Notice that donation dumping is prohibited.

21 (8) Provisions to Collect sufficient information to meet the record-
22 keeping requirements of this Ordinance.

23 (9) Fees/financial contributions/acknowledgement of terms for the
24 pickup and redistribution of Edible Food.

25 (10) Terms and conditions consistent with the CalRecycle Model Food
26 Recovery Agreement.

27 (11) Information supplying the Tier One or Tier Two Commercial Edible
28 Food Generators with the annual amount of Edible Food recovered.

1 (12) Contact name, address, phone number, and email for both
2 responsible parties, including the current on-site staff responsible for Edible Food
3 Recovery.

4 (13) Food Recovery Organizations accepting Self-Hauling of Edible Food
5 from Tier One and Tier Two Commercial Edible Food Generators must provide a
6 schedule, including days of the week and acceptable times for drop-offs, and information
7 about any limitation on the amount of food accepted, and/or the packaging requirements
8 or other conditions of transport, such as, but not limited to, maintaining proper
9 temperature control, and other requirements for the safe handling and transport of food,
10 the self- hauler must follow for the Edible Food to be accepted.

11 (d) Food Recovery Organizations and Food Recovery Services operating in the
12 County shall use the appropriate temperature control equipment and methods and
13 maintain the required temperatures for the safe handling of Edible Food recovered from
14 Tier One and Tier Two Commercial Edible Food Generators for the duration of the
15 transportation of the Edible Food for redistribution, including Edible Food transported by
16 private vehicles.

17 (e) In order to ensure recovered Edible Food is eaten and to prevent donation
18 dumping, Food Recovery Organizations and Food Recovery Services operating in the
19 County shall provide documentation that all redistribution sites which are not themselves
20 Food Recovery Organizations to which they deliver Edible Food have a feeding or
21 redistribution program in place to distribute, within a reasonable time, all the Edible Food
22 they receive. Such documentation may include a website address which explains the
23 program or pamphlets/brochures prepared by the redistribution site.

24 (f) Food Recovery Organizations and Food Recovery Services operating in the
25 county shall visually inspect all Edible Food recovered or received from a Tier One and
26 Tier Two Commercial Edible Food Generator. If significant spoilage is found, or if the food
27 is otherwise found to be unfit for redistribution for human consumption, Food Recovery
28 Organizations and Food Recovery Services shall immediately notify the County using the

process found on the San Bernardino County's DEHS website. The notice shall include:

(1) The type and amount, in pounds, of spoiled food or food unfit for redistribution for human consumption, or provide a photographic record of the food, or both.

(2) The date and time such food was identified.

(3) The name, address and contact information for the Tier One or Tier Two Commercial Edible Food Generator which provided the food.

(4) The date and time the food was picked up or received.

(5) A brief explanation of why the food was rejected or refused.

(g) Contracts between Tier One or Tier Two Commercial Edible Food Generators and Food Recovery Organizations or Food Recovery Services shall not include any language prohibiting Tier One or Tier Two Commercial Edible Food Generators from contracting or holding agreements with multiple Food Recovery Organizations or Food Recovery Services.

(h) Allow DEHS or its Enforcement Officer for Edible Food Recovery to access the premises and inspect procedures and review records related to Edible Food Recovery and/or provide them electronically if requested by the County.

33.1506 Edible Food Recovery capacity planning.

(a) In order to support Edible Food Recovery capacity planning assessments or other such studies, Food Recovery Services and Food Recovery Organizations operating in the County shall provide information and consultation to the County upon request, regarding existing, or proposed new or expanded, Edible Food Recovery capacity that could be accessed by the County and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the County shall respond to such requests for information within 60 days.

33.1507 Inspections and Investigations.

(a) DEHS or its Enforcement Officer are authorized to conduct inspections and investigations, at random or otherwise, to confirm compliance with this Ordinance by Tier

1 One and Tier Two Commercial Edible Food Generators, Food Recovery Services, and
2 Food Recovery Organizations, subject to Applicable Laws.

3 (b) Regulated entities shall provide or arrange for access during all inspections
4 and shall cooperate with the County's representative during such inspections and
5 investigations. Such inspections and investigations may include confirmation of proper
6 placement of materials in containers, Edible Food Recovery activities, records, or any
7 other requirement of this Ordinance described herein. Failure to provide or arrange for:
8 (i) access to an entity's premises; (ii) access to records for any inspection or investigation
9 is a violation of this Ordinance and may result in penalties described.

10 (c) Any records obtained by the County during its inspections or other reviews
11 shall be subject to the requirements and applicable disclosure exemptions of the Public
12 Records Act as set forth in Government Code Section 6250 et seq.

13 (d) DEHS or its Enforcement Officer are authorized to conduct any inspections,
14 or other investigations as reasonably necessary to further the goals of this Ordinance,
15 subject to Applicable Laws.

16 (e) DEHS or its Enforcement Officer shall receive complaints from Persons
17 regarding an entity that may be potentially non-compliant with this Ordinance or SB 1383
18 Edible Food Recovery Regulations, including receipt of anonymous complaints.

19 **33.1508 Enforcement.**

20 (a) Violation of any provision of this Ordinance shall constitute grounds for
21 issuance of a Notice of Violation and assessment of a fine by DEHS or its Enforcement
22 Officer. DEHS may commence Enforcement Actions under this Ordinance by issuing an
23 administrative citation and assessing a fine. County's procedures on imposition of
24 administrative fines are hereby incorporated in their entirety, as modified from time to
25 time, and shall govern the imposition, enforcement, Collection, and review of
26 administrative citations issued to enforce this Ordinance and any rule or regulation
27 adopted pursuant to this Ordinance, except as otherwise indicated in this Ordinance.

28 (b) Other remedies allowed by law may be used, including civil action or

1 prosecution as an infraction. DEHS may pursue civil actions in the California courts to
2 seek recovery of unpaid administrative citations. DEHS may elect to delay court action
3 until such time as a sufficiently large number of violations, or cumulative size of violations
4 exist such that court action is a reasonable use of County staff and resources.

5 (c) Responsible Entity for Enforcement

6 (1) Enforcement pursuant to this Ordinance may be undertaken by
7 DEHS Enforcement Official or county manager or representative who will interpret the
8 Ordinance; determine the applicability of waivers, if violation(s) have occurred; implement
9 Enforcement Actions; and, determine if compliance standards are met.

10 (d) Process for Enforcement

11 (1) DEHS will monitor compliance with the Ordinance randomly and
12 through investigation of complaints, and an inspection program.

13 (2) DEHS may issue an official notification to notify regulated entities of
14 its obligations under the Ordinance.

15 (3) DEHS will issue a Notice of Violation to any Tier One or Tier Two
16 Commercial Edible Food Generator found to have Edible Food in any waste Collection
17 container, or to any Food Recovery Organization or Food Recovery Service found to have
18 Edible Food recovered from a Tier One or Tier Two Edible Food Generator in a waste
19 Collection container which has not been documented by a notice of significant spoilage
20 as required in this Ordinance. Such notice will be provided by written communication
21 immediately upon identification of the violation or within three (3) calendar days after
22 determining that a violation has occurred. If DEHS observes Edible Food in a Tier One or
23 Tier Two Commercial Edible Food Generator, or Food Recovery Organization, or Food
24 Recovery Service waste container on more than two (2) consecutive occasion(s), DEHS
25 may assess an administrative citation and fine, pursuant to the Edible Food Recovery
26 penalties provisions contained in this Ordinance, on the Tier One or Tier Two Commercial
27 Edible Food Generator, Food Recovery Organization, or Food Recovery Service.

28 (4) DEHS shall issue a Notice of Violation requiring compliance within

1 60 days of issuance of the notice.

2 (5) Absent compliance by the entity within the deadline set forth in the
3 Notice of Violation, DEHS shall commence an action to impose penalties, via an
4 administrative citation and fine, pursuant to the Edible Food Recovery penalties
5 provisions contained in this Ordinance.

6 (e) Penalty Amounts for Types of Violations

7 The penalty levels are as follows:

8 (1) For a first violation, the amount of the base penalty shall be \$100 per
9 violation.

10 (2) For a second violation, the amount of the base penalty shall be \$200
11 per violation.

12 (3) For a third or subsequent violation, the amount of the base penalty
13 \$500 per violation.

14 (f) Compliance Deadline Extension Considerations

15 DEHS may extend the compliance deadlines set forth in a Notice of
16 Violation issued when such failure or delay in compliance is caused by or results from
17 causes beyond the reasonable control of the entity such as:

18 (1) Acts of God such as earthquakes, wildfires, flooding, and other
19 emergencies or natural disasters;

20 (2) Delays in obtaining discretionary permits or other government
21 agency approvals; or,

22 (3) Deficiencies in Organic Waste Recycling infrastructure or Edible
23 Food Recovery capacity and DEHS is under a corrective action plan with CalRecycle
24 pursuant to 14 CCR Section 18996.2 due to those deficiencies.

25 (g) Appeals Process

26 (1) Persons receiving an administrative citation containing a penalty for
27 an uncorrected violation may request a hearing to appeal the citation. A hearing will be
28 held only if it is requested within the time prescribed and consistent with County's

1 procedures in DEHS's codes for appeals of administrative citations. Evidence may be
2 presented at the hearing. DEHS will appoint a hearing officer who shall conduct the
3 hearing and issue a final written order.

4 (h) Education Period for Non-Compliance

5 Beginning January 1, 2022 and through December 31, 2023, DEHS will
6 conduct inspections to determine compliance, and if DEHS determines that a Tier One
7 Commercial Edible Food Generator, Food Recovery Organization, or Food Recovery
8 Service is not in compliance, it shall provide educational materials and training to the
9 entity describing its obligations under this Ordinance and a notice that compliance is
10 required by January 1, 2022, and that violations may be subject to administrative civil
11 penalties starting on January 1, 2024.

12 (i) Civil Penalties for Non-Compliance

13 Beginning January 1, 2024, if DEHS determines that Tier One or Tier Two
14 Commercial Edible Food Generator, Food Recovery Organization, or Food Recovery
15 Service is not in compliance with this ordinance, it shall document the noncompliance or
16 violation, issue a Notice of Violation, and take Enforcement Action pursuant to this
17 ordinance, as needed.

18
19 SECTION 3. Section 14.0117 is added to the San Bernardino County Code to
20 read as follows:

21 **14.0117 Recovered Organic Waste Product - Mulch Procurement.**

22 All County departments when procuring mulch shall procure Mulch that meets or
23 exceeds the physical contamination, maximum metal concentration, and pathogen
24 density standards for land application specified in Title 14 of the California Code of
25 Regulations, Division 7, Section 17852(a)(24.5)(A)1 through 3. The Mulch is required to
26 be produced at one or more of the following:

27 (1) A compostable material handling operation or facility as defined in
28 14 CCR Section 17852(a)(12), other than a chipping and grinding operation or facility as

1 defined in 14 CCR Section 17852(a)(10), that is permitted or authorized under this
2 division; or

3 (2) A Transfer/Processing facility or Transfer/Processing operation as
4 defined in 14 CCR Sections 17402(a)(30) and (31), respectively, that is permitted or
5 authorized under this division; or

6 (3) A Solid Waste landfill as defined in Public Resources Code Section
7 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.
8

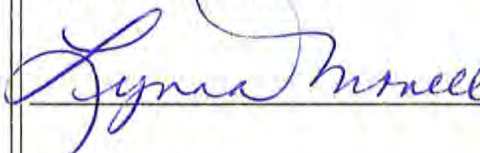
9 SECTION 4. The Board of Supervisors declares that it would have adopted this
10 ordinance and each section, sentence, clause, phrase, or portion of it irrespective of the
11 fact that any one or more sections, subsections, clauses, phrases or portions of it be
12 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
13 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
14 enforceable.
15

16 SECTION 5. This ordinance shall take effect thirty (30) days from the date of
17 adoption.
18

19 
CURT HAGMAN, Chairman
Board of Supervisors
20

21 SIGNED AND CERTIFIED THAT A COPY
22 OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

23 LYNNA MONELL, Clerk of the
24 Board of Supervisors

25 
26
27
28

1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of
6 said County and State, held on the 14th day of June, 2022, at which meeting were present
7 Supervisors: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe
8 Baca, Jr. and the Clerk, the foregoing ordinance was passed and adopted by the following
9 vote, to wit:

10 AYES: SUPERVISORS: Col. Paul Cook (Ret.), Janice Rutherford,
11 Dawn Rowe, Curt Hagman, Joe Baca, Jr.

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
15 of the Board of Supervisors this 14th day of June, 2022.

16 LYNNA MONELL, Clerk of the
17 Board of Supervisors of
18 San Bernardino County,
19 State of California

20 Deputy



21 Approved as to Form:

22 TOM BUNTON
23 County Counsel

24 By: Jolena E. Grider
25 JOLENA E. GRIDER
26 Deputy County Counsel

27 Date: 6/14/22
28

EXHIBIT D DEFINITIONS

For the purposes of this Franchise Agreement, the following terms, when used with initial capitalization, shall have the meanings set forth in this Section:

- (a) AB 341. "AB 341" (Chapter 476, Statutes of 2011) means the Assembly Bill approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, relating to Solid Waste.
- (b) AB 939. "AB 939" means the California Integrated Waste Management Act of 1989, beginning at California Public Resources Code Section 40000 et seq., as it may be amended from time to time.
- (c) AB 1594. "AB 1594" means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which amended Sections 40507 and 41781.3 of the Public Resources Code, relating to Solid Waste.
- (d) AB 1826. "AB 1826" means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as "AB 1826,"
- (e) APPLICABLE LAW. "Applicable Law" means all Federal, State, County, and local laws, regulations, rules, orders, judgments, decrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, Processing, and Disposal of Discarded Materials that are in force on the Effective Date and as may be enacted, issued or amended during the Term of this Agreement. Applicable Law includes, but is not limited to, AB 939, AB 341, AB 1826, and SB 1383.
- (f) BACK-HAUL. "Back-Haul" means generating and Transporting Recyclables and/or Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as defined in 14 CCR Section 18982(a)(66)(A).
- (g) BIN. "Bin" means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels (where appropriate), that is serviced by a front end-loading Collection vehicle, including Bins with Compactors attached to increase the capacity of the Bin.
- (h) BLUE CONTAINER. "Blue Container" has the same meaning as in 14 CCR Section 18982(a)(5) and shall be used for the purpose of storage and Collection of Recyclables or SSBCOW.
- (i) BOARD. "Board" means the San Bernardino County Board of Supervisors.

(j) RESERVED

(k) BULKY WASTE. "Bulky Waste" means discarded furniture (including but not limited to chairs, sofas, mattresses, and area rugs); appliances (including but not limited to refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances, and other similar items, commonly known as "white goods") ; discarded stereos, televisions , computers, VCR's, and other similar items (commonly known as "Electronic Waste"); wood waste (excluding treated wood), tree trunks, large branches, and scrap wood (excluding treated wood) that can be reasonably handled by two employees and complies with the maximum size requirements of the Designated Facility. Bulky Waste does not include C&D, waste tires, or large items such as car bodies, Jacuzzi tubs or spas, or other items that cannot be handled by two Persons. In addition, Bulky Waste does not include waste tires or Excluded Waste.

(l) BUSINESS DAYS. "Business Days" mean days when County offices are open to do business with the public.

(m) CALIFORNIA CODE OF REGULATIONS (CCR). "California Code of Regulations" or "CCR" means the State of California Code of Regulations. CCR references in this Franchise Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., "14 CCR" refers to Title 14 of CCR).

(n) CART. "Cart" means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. Cart sizes vary depending on the manufacturer, and any reference to Cart sizes or volumes in this Agreement is an approximation, but vary no more than 5%.

(o) CHANGE IN LAW. "Change in Law" means the imposition, modification, or removal after the Effective Date of the Franchise Agreement, of any duty or burden imposed upon the Grantee by Applicable Law that impacts the performance of the Solid Waste Handling Services required of it under its Franchise Agreement which is or becomes additional to (or is subtracted from) or different from those duties required or contemplated in its Franchise Agreement, or which must be performed in a different manner from that in which it is initially contemplated to be performed, and which results from any of the following:

- (1) The enactment, issuance, adoption, repeal, amendment, modification, or written change in administrative or judicial interpretation of any Applicable Law.
- (2) A regulatory agency or other administrative agency interpreting a regulation, a judicial decision of a federal court interpreting Applicable Law, or a judicial decision of a court having jurisdiction within California interpreting Applicable Law.
- (3) Change in Law does not include any of the items noted in sub-subsections (1) or (2) above, which relate to any tax, [other than a business license tax imposed by the County on a Grantee's performance of Solid Waste Handling Services under its Franchise Agreement] including without limit, any tax based or measured on net or gross income, any business, payroll tax or any employment tax.

(p) CHANGE IN LAW ADJUSTMENT. "Change in Law Adjustment" means the adjustment to Total Rate as determined under the provisions of Section 13.2(e) of this Franchise Agreement.

- (q) **CHANGE IN OWNERSHIP.** "Change in Ownership" occurs when either a single transaction or event or the cumulative effect of more than one transaction or event, results in fifty percent (50%) or more of the beneficial ownership of the Grantee being different than such ownership as of the date of the approval by the County of the Franchise Agreement or, if applicable, as of the date of the most recent consent of the County to a Change in Ownership. The owners of the beneficial ownership of Grantee on the date of the approval of the Franchise Agreement or, if applicable, on the date of the most recent consent of the County to a Change in Ownership, shall be referred to in this subsection as an "Initial Owner." A Change in Ownership will be determined by application of the following:
- (1) Any beneficial interest owned by an individual related by blood or marriage to an Initial Owner shall be considered as owned by an Initial Owner in determining if a Change in Ownership has occurred.
 - (2) Any public offering of stock where the stock is offered for sale to the general public and does not constitute a private placement shall be disregarded in determining if a Change in Ownership has occurred.
 - (3) Sales, transfers, issuances or pledges of non-voting shares of stock will not be considered in determining if a Change in Ownership has occurred, until and unless and only to the extent that such stock is converted into voting shares of stock.
 - (4) The pledge of, or any other action taken relative to, voting shares of stock which results in any voting rights of such stock being exercised by other than an Initial Owner shall be considered to be a transfer of such stock for the purposes of determining if a Change in Ownership has occurred.
- (r) **CHANGE IN SERVICE LEVEL.** "Change in Service Level" means change in the level of the Solid Waste Handling Services that may be required of, or agreed to by, Grantee as described in this Franchise Agreement. A Change in Service Level shall include County directed changes, including changes necessary as a result from a Change in Law.
- (s) **CHANGE IN SERVICE LEVEL ADJUSTMENT.** "Change in Service Level Adjustment" means the adjustment to Total Rate in the event of a Change in Service Level and as described in Section 13.2 of the Franchise Agreement.
- (t) **COLLECT or COLLECTION.** "Collect," "Collection" (or any variation thereof) means the act of taking physical possession of Discarded Materials at Single-Family premises, multi-family premises, or Commercial Businesses within the County, and Transporting the Discarded Materials to a Designated Facility for Processing, Transfer, or Disposal.
- (u) **COMMERCIAL BUSINESS.** "Commercial Business" means a firm, partnership, proprietorship, joint- stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-Family Residential Dwelling.
- (1) A Multi-Family Residential Dwelling that consists of fewer than five Dwelling Units is not a Commercial Business for the purposes of this Franchise Agreement.
- (v) **COMPOST OR COMPOSTING.** "Compost," "Composting" (or any variation thereof) has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the Effective Date of this Franchise Agreement, that "Compost" means the product resulting

from the controlled biological decomposition of Organic Waste that are Source Separated from the Solid Waste stream, or are separated at a centralized Designated Facility.

- (w) COMPOSTABLE PLASTIC. "Compostable Plastics" or "Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for Compostability.
- (x) CONSTRUCTION AND DEMOLITION DEBRIS or C&D. "Construction and Demolition Debris" or "C&D" means the nonhazardous waste building material, inerts, soil, packaging, Yard Trimmings, rubble, and other used or Discarded Materials resulting from construction or demolition.
- (y) CONSUMER PRICE INDEX. "Consumer Price Index" or "CPI" means the Consumer Price Index – All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA, all items less food and energy, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Series ID. CUURS49ASAOLE, or the most similar successor index if the index is no longer published.
- (z) CONTAINER. "Container(s)" mean Bins, Carts, compactors, and Roll-Offs.
- (aa) COUNTY. "County" means the County of San Bernardino, State of California.
- (bb) COUNTY CODE. "County Code" means the San Bernardino County, California Code of Ordinances as it may be amended from time to time.
- (cc) COUNTY SOLID WASTE DISPOSAL SYSTEM. "County Solid Waste Disposal System" means at any particular time, the then-existing Landfill Disposal Facilities that the County owns, leases, or has a contractual right to use.
- (dd) DEPARTMENT OF PUBLIC HEALTH, DIVISION OF ENVIRONMENTAL HEALTH SERVICES. "Department of Public Health, Division of Environmental Health Services" means the County division of that name or such County department, division or office which is the successor thereto.
- (ee) DESIGNATED C&D PROCESSING FACILITY. "Designated C&D Processing Facility" means a C&D Processing Facility that is approved for use by the Division and is referenced in Exhibit "J."
- (ff) DESIGNATED LANDFILL DISPOSAL FACILITY. "Designated Landfill Disposal Facility" means a Disposal Facility that is approved for use by the Division and is referenced in Exhibit "J."
- (gg) DESIGNATED LANDFILL DISPOSAL FACILITY FEE. "Designated Landfill Disposal Facility Fee" means the fee charged for the use of a Designated Landfill Disposal Facility.
- (hh) DESIGNATED FACILITY(IES). "Designated Facility(ies)" means any one of or any combination of the: Designated C&D Processing Facility; Designated Landfill Disposal Facility; Designated Organic Waste Processing Facility, Designated Recyclables Processing Facility; and Designated Transfer Facility, and is approved for use by the Division.

(ii) RESERVED

(jj) DESIGNATED ORGANIC WASTE PROCESSING FACILITY. "Designated Organic Waste Processing Facility" means an Organic Waste Processing Facility that is approved for use by the Division and is referenced in Exhibit "J."

(kk) DESIGNATED ORGANIC WASTE PROCESSING FACILITY FEE. "Designated Organic Waste Processing Facility Fee" means the fee charged for use of a Designated Organic Waste Processing Facility.

(ll) DESIGNATED RECYCLABLES PROCESSING FACILITY. "Designated Recyclables Processing Facility" means the Recyclables Processing Facility that is approved for use by the Division and is referenced in Exhibit "J."

(mm) DESIGNATED TRANSFER FACILITY. "Designated Transfer Facility" means a Transfer facility that is approved for use by the Division and is referenced in Exhibit "J."

(nn) DIRECTOR. "Director" means the Director of the Department of Public Works or the designee of such individual.

(oo) DISCARDED MATERIALS. "Discarded Materials" means material deemed to have been discarded, without regard to whether they are destined for Recycling or Disposal, and whether or not they have been Source Separated, in all cases where a fee or other compensation, in any form or amount, is directly or indirectly solicited from, or levied, charged, or otherwise imposed on, or paid by, the Generator or Subscriber in exchange for Solid Waste Handling Services. Discarded Materials do not include Edible Food that is recovered for human consumption. For the purposes of this Agreement, Discarded Materials include Recyclables, SSBCOW, SSGCOW, Solid Waste and C&D. Discarded Materials excludes Excluded Waste.

(pp) DISPOSE or DISPOSAL. "Dispose" or "Disposal" (or any variation thereof) means the final disposition of any Solid Waste Collected by the Grantee at a permitted landfill or other permitted Solid Waste facility.

(qq) DIVERT OR DIVERSION. "Divert" or "Diversion" (or any variation thereof) means to Divert from Disposal facilities or Transformation facilities (including incineration, pyrolysis, distillation, gasification or biological conversion) through source reduction, Recycling and Composting, as provided in Section 41780 of California Public Resources Code as such act may be hereafter amended or superseded provided that Divert or Diversion shall include delivery to Transformation facilities if the overall Diversion achieved by the County is at a level where delivery to such facilities shall be considered Diversion pursuant to the Act.

(rr) DIVISION. "Division" means the County Department of Public Works Solid Waste Management Division or such County department, division or office which is the successor thereto.

(ss) DWELLING or DWELLING UNIT. "Dwelling" or "Dwelling Unit" means any individual living unit in a Single-Family or Multi-Family 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.

- (tt) **EDIBLE FOOD.** "Edible Food" means food intended for human consumption. For the purposes of this Franchise Agreement, Edible Food is not Discarded Materials if it is recovered and not discarded. Nothing in this Franchise Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Franchise Agreement.
- (uu) **EFFECTIVE DATE.** "Effective Date" means July 1, 2023.
- (vv) **ELECTRONIC WASTE.** "Electronic Waste" means electronic devices as defined in 22 CCR § 66273.9, including but not limited to computers, televisions, VCRs, stereos, copiers, fax machines, and other "covered electronic devices" as defined in Public Resources Code Section 42463. E-Waste does not mean a major appliance, as defined in Public Resources Code Section 42166.
- (ww) **EXCLUDED WASTE.** "Excluded Waste" means hazardous substance, lithium-ion batteries, Hazardous Waste, Special Waste, Universal Waste, infectious waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that Grantee or the Designated Facility operator(s) reasonably believe(s) would, as a result of or upon acceptance, Transfer, Processing, or Disposal, be a violation of Applicable Law, including: land use restrictions or conditions, waste that cannot be Disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in Grantee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Grantee or County to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe Collection, Processing, Recycling, treatment, and Disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters, non-lithium-ion household batteries, Universal Wastes, and/or latex paint when such materials are defined as allowable materials for Collection through this Franchise Agreement and the Generator or Subscriber has properly placed the materials for Collection pursuant to instructions provided by County or Grantee as set forth in this Franchise Agreement.
- (xx) **FOOD RECOVERY.** "Food Recovery" means actions to Collect and distribute food for human consumption which otherwise would be Disposed, as defined in 14 CCR Section 18982(a)(24).
- (yy) **FOOD RECOVERY ORGANIZATION.** "Food Recovery Organization" means an entity that primarily engages in the Collection or receipt of Edible Food from and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:
- (1) A food bank as defined in Section 113783 of the Health and Safety Code;
 - (2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,
 - (3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

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

- (zz) FOOD RECOVERY SERVICE. "Food Recovery Service" means a Person or entity that Collects and Transports Edible Food to a Food Recovery Organization or other entities for Food Recovery as defined in 14 CCR Section 18982(a)(26).
- (aaa) FOOD SCRAPS. "Food Scraps" means 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. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- (bbb) FOOD-SOILED PAPER. "Food-Soiled Paper" means Compostable paper material that has come in contact with food or liquid, such as, but not limited to, Compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- (ccc) FOOD WASTE. "Food Waste" means Source Separated Food Scraps, Food-Soiled Paper, and Compostable Plastics. Food Waste is a subset of Organic Waste.
- (ddd) FRANCHISE AGREEMENT. "Franchise Agreement" means this agreement entered into between the County and the Grantee under the provisions of County Code section 46.0301 as currently existing or as hereinafter amended which authorizes/requires the Grantee to provide Solid Waste Handling Services in a specified Franchise Area.
- (eee) FRANCHISE AREA. "Franchise Area" means the geographic territory in the Unincorporated County for which the Grantee has been granted a franchise to provide Solid Waste Handling Services, as specified in each Franchise Agreement.
- (fff) FRANCHISE FEE. "Franchise Fee" means the fee paid to the County by the Grantee in consideration of the granting of a franchise pursuant to County Code Section 46.0101 et seq. as currently existing or as hereinafter amended.
- (ggg) GENERATOR. "Generator" means any Person who first discards materials, and by that act makes Discarded Materials subject to regulation under federal, State, or local regulations.
- (hhh) GRANTEE. "Grantee" means a Person granted a franchise pursuant to a Franchise Agreement.
- (iii) GRAY/BLACK CONTAINER. "Gray/Black Container" has the same meaning as "Gray container" as defined in 14 CCR Section 18982(a)(28) and shall be used for the purpose of storage and Collection of Gray/Black Container Waste.
- (jjj) GRAY/BLACK CONTAINER WASTE. "Gray/Black Container Waste" means Solid Waste that is Collected in a Gray/Black Container that is part of a three-Container Organic Waste Collection service that prohibits the placement of Prohibited Container Contaminants in the Gray/Black Container as specified in 14 CCR Sections 18984.1(a)

and (b). For the purposes of this Franchise Agreement, Gray/Black Container Waste includes carpet and textiles. Gray/Black Container Waste excludes Excluded Waste.

(kkk) GREEN CONTAINER. "Green Container" has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of SSGCOW.

(lll) GREEN WASTE. "Green Waste" means Discarded Materials consisting of grass clippings, leaves, branches, tree trunks and other vegetative matter not more than six (6) inches in diameter or four (4) feet in length.

(mmm) GROSS RECEIPTS. "Gross Receipts" means all monies received by Grantee for providing the Solid Waste Handling Services specified in its Franchise Agreement.

(nnn) GROSS RECEIPTS LESS DISPOSAL CHARGES. "Gross Receipts Less Disposal Charges" means Gross Receipts less that part of the monies received by the Grantee that are collected from Subscribers for payment of the fee imposed for Disposing of the Solid Waste at a Designated Landfill Disposal Facility and the fee imposed for Other Operations.

(ooo) GROSS RECEIPTS FOR COMMERCIAL ORGANIC WASTE SERVICE. "Gross Receipts for Commercial Organic Waste Service" means all monies received by Grantee for providing the Organic Waste handling services specified in its Franchise Agreement.

(ppp) GROSS RECEIPTS FOR COMMERCIAL ORGANIC WASTE SERVICE LESS PROCESSING COSTS. "Gross Receipts for Commercial Organic Waste Service Less Processing Costs" means Gross Receipts for Commercial Organic Waste Service less that part of the monies received by the Grantee that are collected from Subscribers for payment of the fee imposed for Processing of the Organic Waste at a Designated Organic Waste Processing Facility.

(qqq) HAZARDOUS WASTE. "Hazardous Waste" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Waste" includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iv) defined as a "Hazardous Waste," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Wastes Release Response Plans and Inventory); (v) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (vi) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Captor 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5

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

(rrr) HEALTH AND SAFETY PERMIT. "Health and Safety Permit" means a current permit issued by the Department of Public Health, Division of Environmental Health Services to a refuse Collection operator, garbage hauler or nondomestic waste hauler (all as defined in Section 33.0801 of the County Code as currently existing or as hereinafter amended), in accordance with Title 14 of the California Code of Regulations and Title 3 of the County Code as currently existing or as hereinafter amended. The Health and Safety Permit evidences, for a specified period of time, the health and safety inspection and the approval of vehicles, facilities and equipment utilized by a refuse Collection operator, garbage hauler or nondomestic waste hauler.

(sss) RESERVED.

(ttt) INCOMPATIBLE MATERIALS OR INCOMPATIBLES. "Incompatible Material" or "Incompatibles" mean(s) human-made inert material, including, but not limited to, glass, metal, plastic, and also includes Organic Waste that the receiving end-user, facility, operation, property, or activity is not designed, permitted, or authorized to perform Organic Waste recovery activities as defined in 14 CCR Section 18983.1(b), or as defined by 14 CCR Section 17402(a)(7.5).

(uuu) LANDFILL DISPOSAL FACILITY. "Landfill Disposal Facility" means any County owned/operated facility that is designed to manage any type of Solid Waste and includes, but is not limited to, Disposal, Transfer, Processing, Composting, and Transformation.

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

(www) LARGE VENUE. "Large Venue" means a permanent venue facility that annually seats or serves an average of more than two thousand (2,000) individuals within the grounds of the facility per day of operation of the venue facility. For purposes of 14 CCR, Division 7, Chapter 12 and this Franchise Agreement, a venue facility includes,

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

(xxx) MULCH. "Mulch" means a layer of material applied on top of soil, and, for the purposes of the Franchise Agreement, Mulch shall conform with the following conditions, or conditions as specified in 14 CCR Section 18993.1(f)(4)(b):

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

(2) Was produced at one or more of the following types of facilities:

(A) A Compostable material handling operation or facility as defined in 14 CCR Section 17852(a)(12), that is permitted or authorized under Division 7 of Title 14 of the CCR, other than a chipping and grinding operation or facility as defined in 14 CCR Section 17852(a)(10);

(B) A Transfer/Processing facility or Transfer/Processing operation as defined in 14 CCR Section 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 CCR, Division 7, Chapter 12; or,

(C) A Solid Waste landfill as defined in PRC Section 40195.1 that is permitted under 27 CCR, Division 2.

(yyy) MULTI-FAMILY. "Multi-Family" means any Residential Premises, other than a Single-Family Premises, with five (5) or more Dwelling Units used for Residential purposes (regardless of whether residence therein is temporary or permanent, vacant or occupied), that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more Dwelling Units who receive individual service and are billed separately shall not be considered Multi-Family.

(zzz) MULTI-JURISDICTION LOAD/DETAIL REPORT. "Multi-Jurisdiction Load/Detail Report" means a report which sets out the amount, and place of Collection, of Discarded Materials delivered to the Designated Facility.

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

(bbbb) ONSITE WASTE ASSESSMENT. "Onsite Waste Assessment" means an in-person visit by the Grantee to a Subscriber to collect and evaluate information on the types and quantities of Discarded Materials generated by the Subscriber, as well as

identify opportunities for additional Processing of Discarded Materials. At a minimum, the Grantee will perform the tasks described in the Franchise Agreement.

(cccc) ORGANIC WASTE OR MIXED ORGANIC WASTE. "Organic Waste" or "Mixed Organic Waste" means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, Food Waste, Green Waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, as defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively. Organic Waste excludes Excluded Waste. For purposes of this Franchise Agreement, paper products and printing and writing paper shall be treated as Recyclable Materials.

(dddd) ORGANIC WASTE HANDLING SERVICES. "Organic Waste Handling Services" means: (1) the Collection of Organic Waste from a Commercial Business, Residential, construction or industrial source; and (2) the Transportation of such Organic Waste to a Designated Organic Waste Processing Facility. Organic Waste Handling Services is a subset of Solid Waste Handling Services.

(eeee) ORGANIC WASTE PROCESSING FACILITY. "Organic Waste Processing Facility" means a permitted facility where Organic Waste is sorted, mulched, or separated for the purposes of Recycling, reuse, or Composting.

(ffff) ORGANIC WASTE PROCESSING FACILITY FEE. "Organic Waste Processing Facility Fee" means the fee charged for use of an Organic Waste Processing Facility.

(gggg) OTHER OPERATIONS. "Other Operations" means all operational cost categories that are not included in fuel, service and landfill Disposal; "Other Operations" may include, but are not limited to, non-County facilities for Transfer, Processing, Composting, and Transformation.

(hhhh) PERSON. "Person" means, without limitation, individuals, associations, clubs, societies, firms, partnerships, joint ventures, sole proprietorships, corporations, limited liability companies, schools, colleges and all governmental agencies and entities.

(iiii) PROCESSING. "Processing" (or any variation thereof) means the reduction, separation, recovery, conversion, or Recycling of Discarded Materials.

(jjjj) PROHIBITED CONTAINER CONTAMINANTS. "Prohibited Container Contaminants" means the following:

- (i) Discarded Materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclables for the County's Blue Container; (ii) Discarded Materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the County's Green Container; (iii) Discarded Organic Waste or Recyclable Materials placed in the Gray/Black Container that are acceptable Source Separated Recyclables and/or Source Separated Green Container Organic Waste to be placed in County's Green Container and/or Blue Container; and (iv) Excluded Waste placed in any Container.

(kkkk) PUTRESCIBLE WASTE. "Putrescible Waste" means wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances

because of odors, gases, or other offensive conditions, and includes materials such as, but not limited to Food Waste, offal, and dead animals; as defined in 14 CCR Section 17402(a)(21).

(IIII) RECYCLABLE MATERIALS or RECYCLABLES. "Recyclable Materials" or "Recyclables" means the commodities listed in Exhibit "A-1" that may be sorted, cleansed, treated, Processed, and/or reconstituted, and which is segregated for the purpose of reuse or Recycling, including, but not limited to, separated paper, glass, cardboard, plastic, ferrous materials or aluminum.

(mmmm) RECYCLE or RECYCLING. "Recycle," "Recycling" (or any variation thereof) means the process of Collecting, sorting, cleansing, treating, and reconfiguring materials for the purpose of returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling includes processes deemed to constitute a reduction of Landfill Disposal pursuant to 14 CCR, Division 7, Chapter 12, Article 2. Recycling does not include gasification or Transformation as defined in Public Resources Code Section 40201.

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

(oooo) RESIDENTIAL. "Residential" means of, from, or pertaining to a Single-Family Premises or Multi-Family Premises with less than five (5) Dwelling Units including Single-Family homes, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

(pppp) RESIDUAL SOLID WASTE. "Residual Solid Waste" means the Solid Waste destined for Disposal, Transformation, further Transfer/Processing as defined in California Code of Regulations, Title 14, section 17402(a)(30) or (31), as it currently exists or may be amended, which remains after Processing has taken place.

(qqqq) ROLL-OFF. "Roll-Off" means an open-top Container with a capacity of seven (7) to forty (40) cubic yards that is serviced by a Roll-Off Collection vehicle.

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

(ssss) SECURITY. "Security" means a corporate surety bond, a letter of credit or other security device acceptable to the Division, as described in the Franchise Agreement and County Code Section 46.0904 as currently existing or as hereinafter amended.

(tttt) SELF-HAUL. "Self-Haul" means the Transportation of Solid Waste, Organic Waste, or Recyclables from any premises by the owner or occupant using their own

employee(s) and equipment to a facility lawfully allowed to receive Solid Waste, Organic Waste, or Recyclables in accordance with Applicable Law.

(uuuu) SINGLE-FAMILY. "Single-Family" means, notwithstanding any contrary definition in County Code, any detached or attached house or residence designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such premises as an independent unit, and the owner or occupant of such Dwelling Unit is billed directly for the Collection service.

(vvvv) SOLID WASTE. "Solid Waste" means, except as provided in sub-subsections (1), (2), (3) and (4), all Putrescible Waste and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances (subject to salvage and other special handling requirements under Applicable Law and regulation), dewatered, treated, or chemically fixed sewage sludge which is not Hazardous Waste, manure, vegetable or animal solid and semisolid wastes, and other solid and semisolid wastes.

- (1) Solid Waste does not include Excluded Waste and does not include low-level radioactive waste regulated under Health and Safety Code Sections 114960 et seq., as it currently exists or may be amended.
- (2) Solid Waste does not include medical waste (except treated medical waste) that is regulated pursuant to the Medical Waste Management Act under Health and Safety Code Sections 117600 et seq., as it currently exists or may be amended.
- (3) Solid Waste does not include petroleum or a petroleum product or fraction thereof at reasonably detectable levels, asbestos and, with respect to a particular Solid Waste Facility, any waste or material which a regulatory agency, the facility's Solid Waste facility permit or County policy, does not allow to be accepted for Transfer, Processing, Composting, Transformation, or Disposal at that facility.
- (4) Solid Waste does not include items which would be considered Recyclables but for the fact that they are personally separated from other Solid Waste by the Generator thereof and are donated or sold to third parties.

(www) SOLID WASTE HANDLING SERVICES. "Solid Waste Handling Services" means the following: (1) the Collection of Discarded Materials from a Commercial Business, Residential, construction or industrial source; (2) the Transportation of such Discarded Materials to a Disposal and/or Processing facility; and (3) the Processing, Composting, Transformation, or Disposal of such Discarded Materials at the Designated Facility. The specific Solid Waste Handling required of Grantee shall be specified in its Franchise Agreement.

(xxxx) SOURCE SEPARATED OR SOURCE SEPARATION. "Source Separated" or "Source Separation" (or any variation thereof) means materials, including commingled Recyclables, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or Processing of those materials for Recycling or Reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products that meet the quality standards necessary to be used in the marketplace, as defined in 14 CCR Section 17402.5(b)(4). For the purposes of the Franchise Agreement, Source

Separated shall include separation of materials by the Generator, property owner, property owner's employee, property manager, or property manager's employee into different Containers for the purpose of Collection such that Source Separated materials are separated from Gray/Black Container Waste and other Solid Waste for the purposes of Collection and Processing.

(yyyy) SOURCE SEPARATED BLUE CONTAINER ORGANIC WASTE (SSBCOW). "Source Separated Blue Container Organic Waste" or "SSBCOW" means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a). The accepted types of SSBCOW and process for modifying the accepted types of SSBCOW are specified in Exhibit "A-1." SSBCOW is a subset of Organic Waste.

(zzzz) SOURCE SEPARATED GREEN CONTAINER ORGANIC WASTE (SSGCOW). "Source Separated Green Container Organic Waste" or "SSGCOW" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding SSBCOW, carpets, non-Compostable paper, and textiles. The accepted types of SSGCOW and process for modifying the accepted types of SSGCOW are specified in Exhibit "A-1." SSGCOW is a subset of Organic Waste.

(aaaaa) SPECIAL WASTE. "Special Waste" means hazardous waste which meets all of the criteria and requirements of 22 CCR Section 66261.122, including those wastes listed in 22 CCR Section 66261.120.

(bbbbb) STATE. "State" means the State of California.

(ccccc) SUBSCRIBER. "Subscriber" means any Person receiving Solid Waste Handling Services pursuant to a Franchise Agreement.

(ddddd) TERM. "Term" means the duration of this Agreement, including extension periods, as provided for in Section 4.

(eeeeee) TOTAL RATE. "Total Rate" means the inclusive rate schedule attached to this Franchise Agreement that provides the rates to be paid to Grantee by Subscribers in consideration of the Solid Waste Handling Services provided by Grantee under its Franchise Agreement.

(fffff) TRANSFER. "Transfer" (or any variation thereof) means the act of transferring Discarded Materials Collected by Grantee from Grantee's Collection vehicles into larger vehicles at a Designated Transfer Facility for Transport to other Facilities for Processing or Disposing of such materials. Transfer allows for removal of materials excluded or prohibited from handling at the Transfer facility (e.g., removal of Hazardous Waste).

(ggggg) TRANSFORMATION. "Transformation" shall have the same meaning as set forth in Public Resources Code Section 40201, as it may be amended from time to time.

(hhhhh) TRANSPORTATION OR TRANSPORT. "Transportation" or "Transport" (or any variation thereof) means the act of conveying Collected materials from one location to another.

- (iiii) UNIFORM HANDLING AREAS. "Uniform Handling Areas" means a Franchise Area, or a specified portion of a Franchise Area, in which Uniform Handling Service has been imposed, as specified in a Franchise Agreement.
- (jjjj) UNIFORM HANDLING SERVICE. "Uniform Handling Service" means the mandatory subscription to Solid Waste Handling Service required of owners of specified Single-Family, Multi-Family, and/or Commercial Businesses in a Uniform Handling Area.
- (kkkk) UNINCORPORATED COUNTY. "Unincorporated County" means any community or other area within the County that is outside the boundaries of all incorporated cities and towns.
- (llll) UNIVERSAL WASTE. "Universal Waste" means any of the following waste that are conditionally exempt from classification as Hazardous Wastes pursuant to Title 22 of the California Code of Regulations (22 CCR), § 66261.9: (i) batteries as described in 22 CCR § 66273.2; (ii) thermostats as described in 22 CCR § 66273.4; (iii) lamps as described in 22 CCR § 66273.5; and (iv) cathode ray tube materials as described in 22 CCR § 66273.6.

EXHIBIT E RATES

- (a) **Commercial Business and Industrial Recycling Rates.** Grantee is permitted to charge for Commercial Business and industrial Bin and Roll-Off Diversion services at maximum rates not to exceed the rate established for Collection of Discarded Materials as set forth in the schedule of approved rates.
- (b) **Procedures for Billing and Collection.** The procedures for billing and collection of rates for services provided under the terms of this Franchise Agreement are provided as Attachment 1 to this Exhibit "E."
- (c) **Hard-To-Service Rates.** Grantee may request the Director to designate certain accounts located in portions of its Franchise Area as hard-to-service. Upon approval of the Director, whose approval shall not be unreasonably withheld, Grantee may charge the hard-to-service rates in this Exhibit. Criteria to be used in designating hard-to-service areas shall be established by the Director.

EXHIBIT E: ATTACHMENT 1

- (a) **Residential and Commercial Business Billings.** Grantee shall bill Single-Family Residential accounts on a quarterly basis in advance for regularly-scheduled Collection services provided under this Franchise Agreement. Commercial Business accounts shall be billed on a monthly basis in advance for regularly-scheduled Collection services provided under this Franchise Agreement. Grantee will bill for non-routine special services or charges upon the completion of service. Payments will be due within thirty (30) days from the date of billing.

(b) **Industrial Billings.**

Grantee shall bill industrial accounts on a monthly basis in arrears for regularly-scheduled Collection services provided under this Franchise Agreement. Grantee will bill for non-routine special services or charges upon the completion of service. Payment will be due within thirty (30) days from the date of billing.

(c) **Delinquency and Suspension of Service.**

- (1) The following procedures apply for Collection services that are subject to Uniform Handling Service.
- (A) Grantee will provide an account with a notice of delinquency in the event of non-payment after forty-five (45) days from the date of a billing for Single-Family Residential accounts, and after thirty (30) days from the date billing for all other accounts.
 - (B) Grantee may charge interest on any delinquent account at the maximum rate allowed by law for such time as the bill remains unpaid after the due date, and a late fee of fifty dollars (\$50.00), which may be increased annually by the Consumer Price Index (CPI), per delinquent billing per account.
 - (C) Grantee's billings shall contain statements advising accounts of Grantee's right to charge interest on delinquent bills.
 - (D) Grantee will provide the Director a list of delinquent accounts upon request.
- (2) The following procedures apply for Collection services that are not subject to Uniform Handling Service.
- (A) Grantee will provide an account with a notice of delinquency in the event of non-payment after forty-five (45) days from the date of a billing for Single-Family Residential accounts, and after thirty (30) days from the date billing for all other accounts.
 - (B) If payment is not received within thirty (30) days from the date of the notice of delinquency, Grantee may suspend Collection service at the delinquent account until payment in full has been received, including any accrued interest, payment of a reactivation fee in the amount set forth in Exhibit "E," and reimbursement of any NSF bank charges or other costs of collection.
 - (C) Grantee may charge interest on any delinquent account at the maximum rate allowed by law for such time as the bill remains unpaid after the due date, and

a late fee of fifty dollars (\$50.00), which may be increased annually by the CPI, per delinquent billing per account.

(D) Grantee's billings shall contain statements advising accounts of Grantee's right to charge interest on delinquent bills.

(E) Grantee will provide the Director a list of delinquent accounts upon request.

(d) **Uniform Handling Collection Services.** Pursuant to County Code Section 46.0501, as it currently exists or may hereinafter be amended, Grantee shall provide all Residential dwellings and Commercial Business premises Discarded Materials Collection services as described in Exhibit "A-1" at the rates prescribed in Exhibit "E," unless otherwise approved by the Director. In no event shall any change be effective prior to the Board's approval of an amendment to the Franchise Agreement.

(e) **Uniform Handling Service Areas Delinquent Accounts.** Pursuant to County Code Section 46.0506, as it currently exists or may hereinafter be amended, all Subscribers listed on the annual list of delinquent accounts submitted to the Division shall be notified of the public hearing before the Board regarding the collection of delinquent fees on the tax roll. Grantee shall mail these notices to Subscribers.

EXHIBIT E
CFA 3 - UNINCORP CHINO/UNINCORP CHINO HILLS
PROPOSED RATES (TO BE ADJUSTED BY RATE INCREASE METHODOLOGY PRIOR TO 7/1/2023 EFFECTIVE DATE)

RESIDENTIAL BARREL SERVICE (adjusted as Residential)

SERVICE CATEGORY	RATE	
Cart (96) gallons* (Refuse, Recycling, Organics)	\$	31.00 per month
Extra Cart Refuse 96 Gal*	\$	8.65 per month
Extra Cart Recycling 96 Gal*	\$	2.87 per month
Extra Cart Organics 96 Gal*	\$	2.87 per month
Bulky Item Pick Up (After free 2/yr)	\$	40.17 per occurrence
Cart Exchange	\$	25.39 per occurrence
CFC Removal/Per Item	\$	40.17 per occurrence
E-Waste Pick Up (After free 1/yr)	\$	36.06 per occurrence
Redelivery Fee for Bad Debt	\$	32.53 per occurrence
Reinstate Fee	\$	32.14 per occurrence
Set Up Fee	\$	19.53 per occurrence
Temporary 3 YD Bin (7 Days)	\$	180.35 per dump

*Barrel size variance of +/- 5%

RESIDENTIAL BIN SERVICE (adjusted as Commercial)

SERVICE CATEGORY	FREQUENCY (PER WEEK)
	1X
REFUSE	
2 CY	\$ 70.54
3 CY	\$ 105.77
RECYCLING	
2 CY	\$ 47.24
3 CY	\$ 70.86
4 CY	\$ 94.52
6 CY	\$ 141.75

RESIDENTIAL BIN SERVICE SPECIAL CHARGES (adjusted as Commercial)

SERVICE CATEGORY	RATE	
Bulky Item Pick Up	\$	39.78 per occurrence
Extra Pick Up/Unscheduled	\$	70.87 per occurrence
Extra Pick Up-Same Day	\$	51.53 per occurrence
Locking Bin (Month)	\$	13.39 per month
Overage Fee	\$	51.53 per occurrence
Pull Out Service - up to 26-50'	\$	10.90 per month
Pull Out Service - up to 51-75'	\$	13.99 per month
Pull Out Service - up to 76-100'	\$	15.53 per month
Redelivery for Bad Debt	\$	122.42 per occurrence
Reinstate Fee	\$	31.81 per occurrence
Scout Service	\$	80.52 per occurrence
Set Up Fee	\$	32.21 per occurrence

MULTI-FAMILY BIN SERVICE (adjusted as Commercial)

SERVICE CATEGORY	FREQUENCY (PER WEEK)					
	1X	2X	3X	4X	5X	6X
REFUSE						
96 Gallon Cart	\$ 18.56					
1.5 CY	\$ 56.57	\$ 113.12	\$ 169.67	\$ 226.23	\$ 282.79	\$ 339.37
2 CY	\$ 75.41	\$ 150.83	\$ 226.23	\$ 301.64	\$ 377.05	\$ 452.46
3 CY	\$ 113.12	\$ 226.23	\$ 339.37	\$ 452.46	\$ 565.58	\$ 678.69
4 CY	\$ 150.83	\$ 301.64	\$ 452.46	\$ 603.30	\$ 754.11	\$ 904.93
6 CY	\$ 226.23	\$ 452.46	\$ 678.69	\$ 904.93	\$ 1,131.17	\$ 1,357.38
RECYCLING						
96 Gallon Cart	\$ 11.63					
2 CY	\$ 47.24					
3 CY	\$ 70.86					
4 CY	\$ 94.52					
6 CY	\$ 141.75					

MULTI-FAMILY BIN SERVICE SPECIAL CHARGES (adjusted as Commercial)

SERVICE CATEGORY	RATE	
Bulky Item Pick Up	\$	39.78 per occurrence
Extra Pick Up/Unscheduled	\$	70.87 per occurrence
Extra Pick Up-Same Day	\$	51.53 per occurrence
Locking Bin (Month)	\$	13.39 per month
Overage Fee	\$	51.53 per occurrence
Pull Out Service - up to 26-50'	\$	10.90 per month
Pull Out Service - up to 51-75'	\$	13.99 per month
Pull Out Service - up to 76-100'	\$	15.53 per month
Redelivery for Bad Debt	\$	122.42 per occurrence
Reinstate Fee	\$	31.81 per occurrence
Scout Service	\$	80.52 per occurrence
Set Up Fee	\$	32.21 per month

EXHIBIT E
CFA 3 - UNINCORP CHINO/UNINCORP CHINO HILLS
PROPOSED RATES (TO BE ADJUSTED BY RATE INCREASE METHODOLOGY PRIOR TO 7/1/2023 EFFECTIVE DATE)

COMMERCIAL BIN SERVICE (adjusted as Commercial)

SERVICE CATEGORY	FREQUENCY (PER WEEK)					
	1X	2X	3X	4X	5X	6X
REFUSE						
96 Gallon Cart	\$ 18.56					
1.5 CY	\$ 56.57	\$ 113.12	\$ 169.67	\$ 226.23	\$ 282.79	\$ 339.37
2 CY	\$ 75.41	\$ 150.83	\$ 226.23	\$ 301.64	\$ 377.05	\$ 452.46
3 CY	\$ 113.12	\$ 226.23	\$ 339.37	\$ 452.46	\$ 565.58	\$ 678.69
4 CY	\$ 150.83	\$ 301.64	\$ 452.46	\$ 603.30	\$ 754.11	\$ 904.93
6 CY	\$ 226.23	\$ 452.46	\$ 678.69	\$ 904.93	\$ 1,131.17	\$ 1,357.38
RECYCLING						
96 Gallon Cart	\$ 11.63					
2 CY	\$ 47.24					
3 CY	\$ 70.86					
4 CY	\$ 94.52					
6 CY	\$ 141.75					

COMMERCIAL BIN SERVICE SPECIAL CHARGES (adjusted as Commercial)

SERVICE CATEGORY	RATE	
Bulky Item Pick Up	\$ 39.78	per occurrence
Extra Pick Up/Unscheduled	\$ 70.87	per occurrence
Extra Pick Up-Same Day	\$ 51.53	per occurrence
Locking Bin (Month)	\$ 13.39	per month
Overage Fee	\$ 51.53	per occurrence
Pull Out Service - up to 26-50'	\$ 10.90	per month
Pull Out Service - up to 51-75'	\$ 13.99	per month
Pull Out Service - up to 76-100'	\$ 15.53	per month
Redelivery for Bad Debt	\$ 122.42	per occurrence
Reinstate Fee	\$ 31.81	per occurrence
Scout Service	\$ 80.52	per occurrence
Set Up Fee	\$ 32.21	per month

COMMERCIAL FOOD WASTE SERVICE (adjusted as Food Waste)

SERVICE CATEGORY	FREQUENCY (PER WEEK)				
	1X	2X	3X	4X	5X
FOOD WASTE BARREL SERVICE					
64-Gallon*	\$55.13	\$110.26	\$165.41	\$220.55	\$275.67
FOOD WASTE BIN SERVICE					
2 CY	\$237.34	\$474.68	\$712.03	\$949.36	\$1,186.70

*Barrel size variance of +/- 5%

COMMERCIAL FOOD WASTE SERVICE SPECIAL CHARGES (adjusted as Food Waste)

SERVICE CATEGORY	RATE	
Set Up Fee	\$ 27.37	per occurrence
Delivery Fee	\$ 15.12	per occurrence
Extra Pick Up/Unscheduled	\$ 66.92	per occurrence

ROLLOFF SERVICE

SERVICE CATEGORY	MAXIMUM TONNAGE INCLUDED IN TOTAL RATE	SERVICE (1)	LANDFILL DISPOSAL FACILITY FEE (2)		OTHER DISPOSAL FEE (3)		TOTAL RATE
			PER TON	TOTAL FEE	PER TON (4)	TOTAL FEE	
REFUSE							
10 CY box	N/A (5)	\$ 306.47	\$ 47.94	TBD			\$ 306.47
20 CY box	N/A (5)	\$ 306.47	\$ 47.94	TBD			\$ 306.47
30 CY box	N/A (5)	\$ 306.47	\$ 47.94	TBD			\$ 306.47
40 CY box	N/A (5)	\$ 306.47	\$ 47.94	TBD			\$ 306.47
SPECIAL CHARGES							
Minimum Pull Fee		\$ 306.47					\$ 306.47
Relocation/Trip Charge		\$ 88.57					\$ 88.57
Set Up Fee		\$ 34.07					\$ 34.07

(1) Roll-off service is adjusted by the percentage change in the roll-off operating component.

(2) Landfill disposal facility fee is adjusted by the percentage change in the roll-off landfill disposal fee per ton. Customers will be charged for each ton delivered for disposal.

(3) Other Disposal Fee is adjusted by the percentage change in the roll-off landfill disposal fee per ton.

(4) Other Disposal Fee per ton shown for information purposes; calculated by dividing total processing fee by the maximum tonnage.

(5) A maximum tonnage quantity has not been specified for these rates. Customers will be charged the per ton landfill disposal fee for each ton delivered for disposal.

EXHIBIT E

CFA 3 - UNINCORP CHINO/UNINCORP CHINO HILLS

PROPOSED RATES (TO BE ADJUSTED BY RATE INCREASE METHODOLOGY PRIOR TO 7/1/2023 EFFECTIVE DATE)

Special Cleanup Events Rates Available to County of San Bernardino (adjusted as commercial)

SERVICE CATEGORY	RATE
One-person crew and front-end load vehicle	\$ 150.00 per hour
Two-person crew and front-end load vehicle	\$ 200.00 per hour

EXHIBIT F
FORMER COUNTY OFFICIALS

List of Former County Officials

INSTRUCTIONS: List the full name of the former County Administrative Official, the title/description of the Official's last position with the County, the date the Official terminated County employment, the Official's current employment and/or representation.

OFFICIAL'S NAME

REQUIRED INFORMATION

None

Submitted by: Michael Hammer, President Southern CA Area
(Name and Title)

USA Waste of California, Inc.
(Name of Grantee)

Date: _____

EXHIBIT G
EXAMPLE RATE ADJUSTMENT FORMULAS

EXHIBIT G-1

EXAMPLE RESIDENTIAL CART RATE ADJUSTMENT FORMULA (EXCLUDING STAND-ALONE MIXED ORGANIC WASTE)

Step One: Calculate percentage change in indices

			A	B	C
Row	Adjustment Factor	Index	Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)
1	Landfill Disposal	(1)	\$ 47.94	\$ 47.94	0.0%
2	Fuel - CNG	(2)	\$ 2.49	\$ 2.74	10.0%
3	Service	(3)	289.008	317.909	10.0%
4	Other Operations	(3)	289.008	317.909	10.0%

Step Two: Determine components

			D	E	F
Row	Adjustment Factor	Index	Cost Component Weightings as a % of Component Total (4)	Percent Change In Index (from Column C)	Total Weighted Change (Columns D x E)
5	Landfill Disposal	(1)	22.5%	0.0%	0.0%
6	Fuel - CNG	(2)	5.5%	10.0%	0.6%
7	Service	(3)	72.0%	10.0%	7.2%
8	Other Operations	(3)	<u>0.0%</u>	10.0%	<u>0.0%</u>
9	Total		100.0%		7.8%

Step Three: Apply percentage change to rates

		G	H	I	J
Row	Rate Category (Examples)	Current Customer Rate	Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
10	Res. 96-gallon Cart (Ref, Rec, Org)	\$ 31.00	7.8%	\$ 2.42	\$ 33.42
11	Extra 96-gallon Refuse	\$ 8.65	7.8%	\$ 0.67	\$ 9.32
12	Extra 96-gallon Organics	\$ 2.87	7.8%	\$ 0.22	\$ 3.09
13	Extra 96-gallon Recycling	\$ 2.87	7.8%	\$ 0.22	\$ 3.09
14	Cart Exchange	\$ 25.39	7.8%	\$ 1.98	\$ 27.37
15	Set Up Fee	\$ 19.53	7.8%	\$ 1.52	\$ 21.05

Step Four: Re-weight cost components

			K	L	M	N	O
Row	Adjustment Factor	Index	Cost Component (Column D)	Percent Change in Index (Column E)	Change in Cost Component Weightings (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighted to Equal 100% (Column N Row divided by Column N Total)
16	Landfill Disposal	(1)	22.5%	0.0%	0.0%	22.5%	20.9%
17	Fuel	(2)	5.5%	10.0%	0.6%	6.1%	5.7%
18	Service	(3)	72.0%	10.0%	7.2%	79.2%	73.4%
19	Other Operations	(3)	<u>0.0%</u>	10.0%	0.0%	<u>0.0%</u>	<u>0.0%</u>
20	Total		100.0%			107.8%	100.0%

(1) San Bernardino County Disposal System non-WDA per ton gate rate - actual change July 1 to July 1.

(2) This example used the Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report) - average annual change. For Diesel fleets, use diesel index. California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars Per Gallon), U.S. Energy Information Administration - average annual change. See Exhibit G-5 for example calculation.

(3) CPI for All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA, All items less energy - average annual change. See Exhibit G-5 for example calculation.

(4) First year based on Exhibit H. After the first adjustment, weightings come from Column O of the previous year's rate adjustment worksheet.

EXHIBIT G-2

EXAMPLE RESIDENTIAL, MULTI-FAMILY, AND COMMERCIAL BIN AND CART ADJUSTMENT FORMULA (EXCLUDING STAND-ALONE MIXED ORGANIC WASTE)

Step One: Calculate percentage change in indices					
Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)
1	Landfill Disposal	(1)	\$ 47.94	\$ 47.94	0.0%
2	Fuel - CNG	(2)	\$ 2.49	\$ 2.74	10.0%
3	Service	(3)	289.008	317.909	10.0%
4	Other Operations	(3)	289.008	317.909	10.0%

Step Two: Determine components					
Row	Adjustment Factor	Index	D	E	F
			Cost Component Weightings as a % of Component Total (4)	Percent Change In Index (from Column C)	Total Weighted Change (Columns D x E)
5	Landfill Disposal	(1)	27.0%	0.0%	0.0%
6	Fuel - CNG	(2)	5.5%	10.0%	0.6%
7	Service	(3)	67.5%	10.0%	6.8%
8	Other Operations	(3)	<u>0.0%</u>	10.0%	<u>0.0%</u>
9	Total		100.0%		7.4%

Step Three: Apply percentage change to rates					
Row	Rate Category (Examples)	G	H	I	J
		Current Customer Rate	Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
10	Residential Refuse 2-yd bin 1x/wk	\$ 70.54	7.4%	\$ 5.22	\$ 75.76
11	Multi-Fam. Recycling 3-yd bin 1x,wk	\$ 70.86	7.4%	\$ 5.24	\$ 76.10
12	Commercial Refuse 96-Gallon Cart	\$ 18.56	7.4%	\$ 1.37	\$ 19.93
13	Commercial Recycling 96-Gallon Cart	\$ 11.63	7.4%	\$ 0.86	\$ 12.49
14	Commercial Recycling 3-yd bin 1x,wk	\$ 70.86	7.4%	\$ 5.24	\$ 76.10

Step Four: Re-weight cost components							
Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component (Column D)	Percent Change in Index (Column E)	Change in Cost Component Weightings (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighted to Equal 100% (Column N Row divided by Column N Total)
15	Landfill Disposal	(1)	27.0%	0.0%	0.0%	27.0%	25.1%
16	Fuel	(2)	5.5%	10.0%	0.6%	6.1%	5.7%
17	Service	(3)	67.5%	10.0%	6.8%	74.3%	69.2%
18	Other Operations	(3)	<u>0.0%</u>	10.0%	0.0%	<u>0.0%</u>	<u>0.0%</u>
19	Total		100.0%			107.4%	100.0%

- (1) San Bernardino County Disposal System non-WDA per ton gate rate - actual change July 1 to July 1.
- (2) This example used the Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report) - average annual change. For Diesel fleets, use diesel index. California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars Per Gallon), U.S. Energy Information Administration - average annual change. See Exhibit G-5 for example calculation.
- (3) CPI for All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA, All items less energy - average annual change. See Exhibit G-5 for example calculation.
- (4) First year based on Exhibit H. After the first adjustment, weightings come from Column O of the previous year's rate adjustment worksheet.

EXHIBIT G-3
EXAMPLE RESIDENTIAL, MULTI-FAMILY, AND COMMERCIAL STAND-ALONE MIXED ORGANIC WASTE BIN AND CART ADJUSTMENT FORMULA

Step One: Calculate percentage change in indices

Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)
1	Mixed Organic Waste Processing Facility Fee	(1)	\$ 81.02	\$ 89.12	10.0%
2	Fuel - CNG	(2)	\$ 2.49	\$ 2.74	10.0%
3	Service	(3)	289.008	317.909	10.0%

Step Two: Determine components

Row	Adjustment Factor	Index	D	E	F
			Cost Component Weightings as a % of Component Total (4)	Percent Change In Index (from Column C)	Total Weighted Change (Columns D x E)
4	Mixed Organic Waste Processing Facility Fee	(1)	37.4%	10.0%	3.7%
5	Fuel - CNG	(2)	0.00%	10.0%	0.0%
6	Service	(3)	<u>62.6%</u>	10.0%	<u>6.3%</u>
7	Total		100.0%		10.0%

Step Three: Apply percentage change to rates

Row	Rate Category (Examples)	G	H	I	J
		Current Customer Rate	Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
8	Mixed Organic Waste 64-Gallon Cart 1x,wk	\$55.13	10.0%	\$ 5.51	\$ 60.64
9	Mixed Organic Waste 64-Gallon Cart 2x,wk	\$110.26	10.0%	\$ 11.03	\$ 121.29
10	Mixed Organic Waste 64-Gallon Cart 3x,wk	\$165.41	10.0%	\$ 16.54	\$ 181.95
11	Mixed Organic Waste 2-yd bin 1x,wk	\$237.34	10.0%	\$ 23.73	\$ 261.07
12	Mixed Organic Waste 2-yd bin 2x,wk	\$474.68	10.0%	\$ 47.47	\$ 522.15
13	Mixed Organic Waste 2-yd bin 3x,wk	\$712.03	10.0%	\$ 71.20	\$ 783.23
14	Mixed Organic Waste 2-yd bin 4x,wk	\$949.36	10.0%	\$ 94.94	\$ 1,044.30

Step Four: Re-weight cost components

Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component (Column D)	Percent Change in Index (Column E)	Change in Cost Component Weightings (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighted to Equal 100% (Column N Row divided by Column N Total)
15	Mixed Organic Waste Processing Facility Fee	(1)	37.40%	10.0%	3.7%	41.1%	37.4%
16	Fuel	(2)	0.00%	10.0%	0.0%	0.0%	0.0%
17	Service	(3)	<u>62.60%</u>	10.0%	6.3%	<u>68.9%</u>	<u>62.6%</u>
18	Total		100.0%			110.0%	100.0%

(1) Per ton food waste processing rate at the Organic Waste Processing Facility- actual change July 1 to July 1.

(2) This example used the Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report) - average annual change. For Diesel fleets, use diesel index. California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars Per Gallon), U.S. Energy Information Administration - average annual change. See Exhibit G-5 for example calculation.

(3) CPI for All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA, All items less energy - average annual change. See Exhibit G-5 for example calculation.

(4) First year based on Exhibit H. After the first adjustment, weightings come from Column O of the previous year's rate adjustment worksheet.

EXHIBIT G-4
EXAMPLE ROLL-OFF BOX ADJUSTMENT FORMULA

Step One: Calculate percentage change in indices

Row	Adjustment Factor	Index	A	B	C
			Old Index Value	New Index Value	Percent Change In Index ((Column B/ Column A) -1)
1	Fuel- CNG	(2)	\$ 2.49	\$ 2.74	10.0%
2	Service	(3)	289.008	317.909	10.0%
3	Landfill Disposal	(1)	\$ 59.94	\$ 65.93	10.0%

Step Two: Determine components

Row	Adjustment Factor	Index	D	E	F
			Cost Component Weightings as a % of Component Total (4)	Percent Change In Index (from Column C)	Total Weighted Change (Columns D x E)
4	Operating Fee Component				
5	Fuel - CNG	(2)	6.6%	10.0%	0.7%
6	Service	(3)	<u>93.4%</u>	10.0%	<u>9.3%</u>
7	Total Operating Component		100.0%		10.0%
8	Solid Waste Facility Fee Component				
9	Landfill Disposal	(1)	100.0%	10.0%	\$ 65.93

Step Three: Apply percentage change to rates

Row	Rate Category (Examples)	G	H	I	J
		Current Component Rate	Total Weighted Percentage Change (from Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
10	Service Fee Component				
11	Refuse - 10 cy box	\$ 306.47	10.0%	\$ 30.65	\$ 337.12
12	Recycling - 40 cy box	\$ 306.47	10.0%	\$ 30.65	\$ 337.12
13	Greenwaste - 20 yd box	\$ 306.47	10.0%	\$ 30.65	\$ 337.12
14	Relocation	\$ 88.57	10.0%	\$ 8.86	\$ 97.43
15	Landfill Disposal Facility Fee Component				
16	Refuse - 10 cy				
16	Landfill Disposal Facility Fee	\$ 237.64	10.0%	\$ 23.76	\$ 261.40
17	Total Rate Example				
18	Service Fee Component - Refuse - 10 cy box				\$ 337.12
19	Landfill Disposal Facility Fee Component - Refuse - 10 cy box				<u>\$ 261.40</u>
20	Total Rate				\$ 598.52

Step Four: Re-weight cost components

Row	Adjustment Factor	Index	K	L	M	N	O
			Cost Component (Column D)	Percent Change in Index (Column E)	Change in Cost Component Weightings (Column K x Column L)	Adjusted Cost Component Weightings (Column K + Column M)	Cost Components Reweighted to Equal 100% (Column N Row divided by Column N Total)
21	Fuel	(2)	6.6%	10.0%	0.7%	7.3%	6.6%
22	Service	(3)	<u>93.4%</u>	10.0%	9.3%	<u>102.7%</u>	<u>93.4%</u>
23	Total		100.0%			110.0%	100.0%

- (1) Landfill disposal facility fee is adjusted by the percentage change in the roll-off landfill disposal fee per ton.
- (2) This example used the Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report) - average annual change. For Diesel fleets, use diesel index. California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars Per Gallon), U.S. Energy Information Administration - average annual change. See Exhibit G-5 for example calculation.
- (3) CPI for All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA, All items less energy - average annual change. See Exhibit G-5 for example calculation.
- (4) First year based on Exhibit H. After the first adjustment, weightings come from Column O of the previous year's rate adjustment worksheet.

Exhibit G-5

EXAMPLE RATE ADJUSTMENT FORMULA - CALCULATION FOR AVERAGE ANNUAL CHANGE IN PUBLISHED PRICE INDICES

Rate adjustment indices for fuel and service are calculated using the “average annual change” as demonstrated in the example below, measured for the twelve months ending the December before each rate adjustment, as compared to the twelve months ending the prior December.

The following example is for the Consumer Price Index for All Urban Consumers, Los Angeles-Long Beach-Anaheim, all items less energy index average that is used to adjust the service and other operations cost components. If a rate adjustment based on this CPI index were to be implemented as of July 1, 2022, the twelve-month average annual index for the 12 months ending December 2021 of 289.008 would have been the “New Index Value” to be used in Column B of the example rate adjustment formulas in Exhibit G-1 through G-4 and the twelve-month average annual index for the 12 months ending December 2020 of 281.614 would have been the “Old Index Value” to be used in Column A. This would have resulted in a 2.6% increase to the service cost component in Column C.

Consumer Price Index – All Urban Consumers, Los Angeles-Long Beach-Anaheim, CA **All items less energy, CUURS49ASA0LE**

Year	January	February	March	April	May	June	July	August	September	October	November	December	Average
2020	279.587	280.711	279.462	280.000	280.859	281.664	283.124	283.128	282.244	282.775	283.257	282.559	281.614
2021	282.653	282.868	283.317	286.335	287.403	288.809	290.195	290.490	291.365	293.463	294.979	296.222	289.008
Average Annual Change													2.6%

The diesel fuel index would be calculated in the same manner, using the monthly indices. The natural gas index would average the reports published in January, April, July and October of each year to determine the annual average. See examples below:

California No. 2 Diesel Ultra Low Sulfur (0-15 ppm) Retail Prices (Dollars per Gallon), **U.S. Energy Information Administration**

Year	January	February	March	April	May	June	July	August	September	October	November	December	Average
2020	3.873	3.787	3.601	3.283	3.182	3.216	3.254	3.263	3.259	3.246	3.250	3.356	3.381
2021	3.439	3.607	3.931	3.980	4.024	4.095	4.195	4.291	4.324	4.481	4.745	4.776	4.157
Average Annual Change													23.0%

Natural Gas (CNG) Information Reported by Clean Cities, West Coast **(Table 5 of Quarterly Report)**

Year	January Report	April Report	July Report	October Report	Average
2020	\$ 2.47	\$ 2.53	\$ 2.44	\$ 2.50	\$ 2.49
2021	\$ 2.43	\$ 2.41	\$ 2.42	\$ 2.55	\$ 2.45
Average Annual Change					-1.3%

EXHIBIT H-1 – Rate Adjustment Indices and Initial Cost Component Weightings

Residential and Commercial Rate Adjustment Indices and Initial Cost Component Weightings

<u>Cost Category</u>	<u>Initial Weightings for 7/1/23 Rate Adjustment</u>		<u>Rate Adjustment Factor for CFA 3 (1)</u>
	Residential (2)	Commercial (3)	
Landfill Disposal	22.5%	27.0%	Non-WDA per ton disposal rate at the San Bernardino County Disposal System
Fuel	5.5%	5.5%	Based on the fuel type used by the majority of the fleet that the Company operates in the franchise area, either: California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars per Gallon), U.S. Energy Information Administration or Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report). The average index for the calendar year shall be for the data printed in the reports dated in January, April, July, and October of each calendar year.
Service	72.0%	67.5%	Consumer Price Index for All Urban Consumers (CUURS49ASA0LE), Los Angeles-Long Beach-Anaheim, CA, All items less energy index
Other Operations	0.0%	0.0%	Consumer Price Index for All Urban Consumers (CUURS49ASA0LE), Los Angeles-Long Beach-Anaheim, CA, All items less energy index
Total	100.0%	100.0%	

(1) If an index is discontinued, see Section 13.2(a)6.

(2) "Residential" weightings will be applied to the following rate categories:

- Residential Cart and Residential Bin Rates (including extra carts and special charges)

(3) "Commercial" weightings will be applied to the following rate categories:

- Multi-Family and Commercial Cart and Bin Rates (including refuse, recycling and special charges)

EXHIBIT H-2 – Rate Adjustment Indices and Initial Cost Component Weightings

Residential, Multi-Family, and Commercial Organic Waste Rate Adjustment Indices and Initial Cost Component Weightings

<u>Cost Category</u>	<u>Initial Weightings for 7/1/2023 Rate Adjustment (2)</u>	<u>Rate Adjustment Factor for CFA 3 (1)</u>
Organic Waste	37.4%	Per ton organic waste processing rate at the Organic Waste Processing Facility – actual change July 1 to July 1
Fuel	0.0%	<p><i>Based on the fuel type used by the majority of the fleet that Company operates in the franchise area, either:</i></p> <p><i>California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars per Gallon), U.S. Energy Information Administration</i></p> <p><i>or</i></p> <p><i>Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report). The average index for the calendar year shall be for the data printed in the reports dated in January, April, July and October of each calendar year.</i></p>
Service	62.6%	<i>Consumer Price Index for All Urban Consumers (CUURS49ASA0LE), Los Angeles-Long Beach-Anaheim, CA, All items less energy index</i>
<i>Total</i>	<i>100.0%</i>	

(1) If an index is discontinued, see Section 13.2(a)6.

(2) Weightings will be applied to the following rate categories:

- Organic Waste Cart and Bin Rates (Includes special charges)

EXHIBIT H-3 – Rate Adjustment Indices and Initial Cost Component Weightings

Roll-off Box Service Rate Adjustment Indices and Initial Cost Component Weightings

<u>Cost Category</u>	<u>Initial Weightings for 7/1/23 Rate Adjustment</u>	<u>Rate Adjustment Factor for CFA 3 (1)</u>
Solid Waste Facility Fee Component		
Landfill Disposal	100%	Per ton disposal rate at the San Bernardino County Disposal System for Roll-Off Loads
Operating Component		
Fuel	6.6%	Based on the fuel type used by the majority of the fleet that the Company operates in the franchise area, either: California No. 2 Diesel Ultra Low-Sulfur (0-15 ppm) Retail Prices (Dollars per Gallon), U.S. Energy Information Administration or Natural Gas (CNG) Information Reported by Clean Cities, West Coast (Table 5 of quarterly report). The average index for the calendar year shall be for the data printed in the reports dated in January, April, July, and October of each calendar year.
Service	93.4%	Consumer Price Index for All Urban Consumers (CUURS49ASA0LE), Los Angeles-Long Beach-Anaheim, CA, All items less energy index
Total	100.0%	Total Operating Component

(1) If an index is discontinued, see Section 13.2(a)6.

EXHIBIT I EXAMPLE FRANCHISE FEE CALCULATION

The following is an example of how to calculate franchise fees due.

Customer Rate Categories	Gross Receipts		Fuel % + Service % ⁴		Receipts Subject to Franchise Fee		Franchise Fee	Franchise Fees Due
Residential (Excluding Residential Bin and Stand-Alone Organic Waste) ¹	\$100,000	x	5.5% + 72.0% = 77.5%	=	\$77,500	x	10%	\$7,750
Commercial (Excluding Organic Waste) ²	\$100,000	x	5.5% + 67.5% = 73.0%	=	\$73,000	x	10%	\$7,300
Organic Waste ³	\$100,000	x	0.0% + 62.6% = 62.6%	=	\$62,600	x	10%	\$6,260
Roll-Off Box Service – Gross Receipts net of Landfill Disposal Costs					\$20,000	x	10%	\$2,000
Total Franchise Fees Due								\$23,310

¹Includes gross receipts from:

- Residential Cart Rates (Excluding Residential Bin Service and Stand-Alone Organic Waste Service)

²Includes gross receipts from:

- Residential Stand-Alone Cart and Bin Rates (Excluding Organic Waste)
- Multi-family Cart and Bin Rates (Excluding Organic Waste)
- Commercial Cart and Bin Rates (Excluding Organic Waste)

³Includes gross receipts from:

- Organic Waste Cart and Bin Rates

⁴First year based on Exhibits “H-1” through “H-3” – (Rate Adjustment Indices and Initial Cost Component Weightings). After first year, use percentages from “Column O – Cost Components Reweighted to Equal 100%” of the “Exhibits G- 1, G-2, G-3 and G-4 – Example Rate Adjustment Formula.” The Fuel and Service weighting percentages represent the portion of Gross Receipts upon which Franchise Fees are assessed for residential and commercial gross receipts.

EXHIBIT J

PROCESSING, TRANSFER, AND DISPOSAL SERVICES AND FACILITY STANDARDS

Grantee has selected and County has approved Discarded Materials to be Transported to Designated Facilities and Alternative Facilities for Transfer, Recyclables Processing, SSGCOW Processing, Organic Waste Processing, C&D Processing, and Disposal. The Designated Facilities and Alternative Facilities, which are owned by Grantee or Grantee's Affiliates ("Affiliated Designated Facilities"), or Third-Party Designated Facilities shall comply with the standards specified in this Exhibit. If the Grantee does not own or operate one (1) or more of the Designated Facilities, ("Third Party Designated Facilities"), Grantee will notify the County if it becomes aware of non-compliance by a Subcontractor within five (5) Business Days. Grantee shall use commercially reasonable efforts to have the non-compliant Third-Party Designated Facilities modify operating practices in order to comply with Exhibit "J" or propose an Alternative Facility within thirty (30) days for County consideration.

Section 1. General Requirements

- (a) Overview. Grantee agrees to Transport and deliver Discarded Materials it Collects in the County to an appropriate Designated Facility(ies) for Transfer, Processing, or Disposal, as applicable, for each type of Discarded Material. As of the Effective Date of this Franchise Agreement, the Designated Facilities, which were selected by Grantee and reviewed and approved by the County, are listed in the table on the following page. Grantee (including its Affiliates and Subcontractors) will perform all Transfer, Processing, and Disposal services at Designated Facilities in accordance with Applicable Law, standard industry practice, and specifications and other requirements of this Franchise Agreement.
- (b) Discarded Materials that Grantee determines to be suitable for Processing may be delivered by Grantee to a Materials Recovery Facility or waste Processing facility selected by Grantee that is not more than twenty (20) miles from the County boundary, and only the Residual Solid Waste resulting from Processing will be subject to the waste delivery designation. The Director shall retain discretion to waive the requirement to return and deliver Residual Solid Waste originating from facilities located within twenty (20) miles, as circumstances warrant.
- (c) If Director and Grantee have agreed that Grantee will export Discarded Materials Collected pursuant to this Franchise Agreement to a Transformation, Processing, Organic Waste Processing, or other facility located more than twenty (20) miles outside San Bernardino County, Grantee shall not be required to deliver and return the Residual Solid Waste to the County Solid Waste Disposal System.

Notwithstanding the foregoing, the Grantee and the County intend and agree that County shall have the unilateral right, where adverse weather conditions or other events necessitate, to periodically designate (up to forty-five (45) days cumulatively in any calendar year) a substitute facility and to divert Grantee to that Alternative Facility within San Bernardino County for delivery of Grantee's Discarded Materials without a rate adjustment.

Designated Facilities

Material Type	Designated Transfer Facility (if applicable)	Designated Processing Facility and Description of Processing Methodology	Designated Disposal Facility
Source Separated Recyclables	<p>Pomona Valley Transfer Station 1371 E. 9th St., Pomona, CA 91766</p> <p>SWIS#: 19-AA-1128</p> <p>Owner: Valley Vista</p>	<p>Azusa Material Recycling Facility 1501 West Gladstone, Azusa, CA 91702</p> <p>SWIS# 19-AA-1127 WM Affiliate Owner/Operator Source separated recyclables</p>	<p>San Bernardino County Landfill</p>
Green Waste	<p>Viramontes Express 17130 Hellman Avenue, Chino, CA 92330</p> <p>SWIS# 36-AA-0441</p> <p>Independently owned and operated facility Pre-process and send to final destination</p> <p>Owner: Viramontes Express, Inc.</p>	<p>South Valley Organic Composting Facility 24487 Road 140, Tulare, CA 93274</p> <p>SWIS# 43-AA-0017 WM Affiliate Owner/Operator Mixed Organic Waste: Windrow Composting</p> <p>Ecology AZ Composting 59260 Highway 72 Salome, AZ 85348</p> <p>Mixed Organic Waste: Windrow Composting</p>	<p>Antelope Valley Public Landfill 1200 W. City Ranch Road Palmdale, CA 93551</p> <p>SWIS# 19-AA-5624 WM Affiliate Owner/Operator</p> <p>La Paz County Landfill 26999 Hwy 95, Mile Post 128 Parker, AZ 85344 La Paz County</p>
Food Waste	N/A	N/A	N/A
SSGCOW	N/A	N/A	N/A
Mixed Organics Waste	<p>Viramontes Express 17130 Hellman Avenue, Chino, CA 92330</p> <p>SWIS# 36-AA-0441</p> <p>Independently owned and operated facility Pre-process and send to final destination</p> <p>Owner: Viramontes Express, Inc.</p>	<p>South Valley Organic Composting Facility 24487 Road 140, Tulare, CA 93274</p> <p>SWIS# 43-AA-0017 WM Affiliate Owner/Operator Mixed Organic Waste: Windrow Composting</p> <p>Ecology AZ Composting 59260 Highway 72 Salome, AZ 85348</p> <p>Mixed Organic Waste: Windrow Composting</p>	<p>Antelope Valley Public Landfill 1200 W. City Ranch Road Palmdale, CA 93551</p> <p>SWIS# 19-AA-5624 WM Affiliate Owner/Operator</p> <p>La Paz County Landfill 26999 Hwy 95, Mile Post 128 Parker, AZ 85344 La Paz County</p>

Material Type	Designated Transfer Facility (if applicable)	Designated Processing Facility and Description of Processing Methodology	Designated Disposal Facility
Gray/Black Container Waste	Pomona Valley Transfer Station 1371 E. 9th St., Pomona, CA 91766 SWIS# 19-AA-1128 Grand Central Recycling and T.S. Valley Vista		San Bernardino County Landfill
C&D	Pomona Valley Transfer Station 1371 E. 9th St., Pomona, CA 91766 SWIS# 19-AA-1128 Grand Central Recycling and T.S. Valley Vista	Maitri Road Recycling 24980 Maitri Rd. Corona, CA 92883 SWIS# 33-AA-0359 Independently owned and operated facility Construction & Demolition Debris	San Bernardino County Landfill

Section 2. Facility Capacity Guarantee.

- (a) Grantee shall guarantee sufficient capacity over the Term of this Franchise Agreement to Transfer (if applicable), Transport, and Process all Recyclables, Green Waste, Food Waste, SSGCOW, and C&D Collected under this Franchise Agreement and to Transfer (if applicable), Transport, and Dispose all Gray/Black Container Waste Collected under this Franchise Agreement. Grantee shall cause the Designated Facility(ies) to Recycle or Process the Discarded Materials. If requested by the County, Grantee shall provide information on Affiliated Designated Facilities confirming the availability of such capacity that meets the requirements of CalRecycle. If requested by the County, Grantee shall use commercially reasonable efforts to obtain information from Third Party Designated Facilities confirming the availability of such capacity that meets the requirements of CalRecycle, and provide such information to the County.

Section 3. Facility Permits.

Grantee or facility operator shall keep all existing permits and approvals necessary for use of the Designated Facility(ies), in full regulatory compliance. Grantee, or facility operator of such Facility, shall, upon request, provide copies of permits and/or notices of violation of permits to the County.

Section 4. Transfer Facility.

- (a) At Grantee's option, Grantee may rely on a Transfer facility and, in such case, shall Transport and deliver some or all Discarded Materials to the Designated Transfer Facility for pre-Processing (if applicable) and Transfer in accordance with the facility permit.

- (b) If Grantee delivers some or all Discarded Materials to a Transfer Facility, it shall use commercially reasonable efforts to receive assurances from the facility operator that the facility operator will Transport or arrange for Transport of the Discarded Materials to appropriate Designated Facility(ies) for Processing or Disposal, as applicable for each type of Discarded Material. In such case, Grantee shall use commercially reasonable efforts to receive written documentation from the facility operator(s) of the facilities used for Processing and Disposal of Discarded Materials.
- (c) Grantee (including its Affiliates and Subcontractors) shall comply with separate handling requirements of this Exhibit "J," Section 13.

Section 5. Grantee-Initiated Change in Facility(ies).

- (a) Grantee may change its selection of one or more of the Designated Facility(ies) following the written approval of the Director, which shall not be unreasonably withheld, based on the following factors: the ability of the facility to meet the requirements of Applicable Law, the cost to the Customers, the permitting status of and LEA inspection records related to the proposed facility, the distance of the facility from the County. If Grantee elects to use a facility(ies) that is(are) not listed on the then-current list of Designated Facility(ies) in this Exhibit, it shall submit a written request for approval to the County thirty (30) days prior, or as soon as practicable, to the desired date to use the facility and shall obtain the County's written approval prior to use of the facility.

Section 6. Notification of Emergency Conditions

- (a) Grantee shall notify the County of any unforeseen operational restrictions that have been imposed upon one or more of the Designated Facility(ies) by a regulatory agency or any unforeseen equipment or operational failure that will temporarily prevent the facility from Processing the Discarded Materials Collected for more than twenty-four (24) hours under this Franchise Agreement. Grantee shall notify the County in accordance with this Exhibit "J."

Section 7. Designated Facility Unavailable/Use of Alternative Facility

- (a) If Grantee is unable to use the Designated Facility due to a sudden unforeseen closure of the facility or other emergency condition described in this Exhibit "J," Grantee may use an Alternative Facility provided that the Grantee provides verbal and written notice to the County and receives written approval from the County at least twenty-four (24) hours prior to the use of an Alternative Facility to the extent reasonably practical given the nature of the emergency or sudden closure. The Grantee's written notice shall include a description of the reasons use of the Designated Facility is not feasible and the period of time Grantee proposes to use the Alternative Facility. As appropriate for the type of Discarded Materials to be delivered to the Alternative Facility, the Alternative Facility shall meet the applicable facility standards as set forth in Applicable Law. If Grantee is interested in using a facility for SSGCOW that is not listed above and not currently approved by CalRecycle, Grantee shall be responsible for securing the approvals necessary from CalRecycle prior to the County's final approval of such facility or activity, and shall do so in accordance with the procedures specified in 14 CCR Section 18983.2.

- (b) In the event a Designated Facility becomes temporarily unavailable due to the gross negligence or willful misconduct of Grantee, Grantee shall indemnify the County for all additional costs for use of an Alternative Facility including increased Processing costs, Disposal Costs, Transportation costs, Transfer costs, and all other costs.
- (c) The table listing Designated Facilities in this Exhibit shall be modified accordingly to reflect the new County-Designated Facility(ies) upon approval of the Director.

Section 8. Compliance with Applicable Law

- (a) Grantee (including its Affiliates) warrants throughout the Term of this Franchise Agreement and any extensions that the Designated Affiliated Facilities are respectively authorized and permitted to accept Discarded Materials in accordance with Applicable Law. Grantee shall use commercially reasonable efforts to obtain warrants throughout the Term of this Franchise Agreement and any extensions that the Designated Third-Party Facilities are respectively authorized and permitted to accept Discarded Materials in accordance with Applicable Law.

Section 9. Records and Investigations

- (a) Grantee (including its Affiliates) shall maintain accurate records of the quantities of Discarded Materials Transported to and accepted at the Designated Facility(ies) and shall cooperate with County and any regulatory authority in any audits or investigations of such quantities. Grantee shall use commercially reasonable efforts to ensure that Designated Third Party Facilities maintain accurate records of the quantities of Discarded Materials Transported to and accepted at the Designated Facility(ies) and shall cooperate with County and any regulatory authority in any audits or investigations of such quantities.

Section 10. Inspection and Investigations

- (a) An authorized County employee or agent shall be allowed to enter each Designated Facility during normal working hours in order to conduct inspections and investigations in order to examine facility operations; Processing activities; contamination monitoring; material sampling and sorting activities, including inspection of end-of-line materials after sorting; and records pertaining to the Facility in order to determine compliance with Applicable Law, including SB 1383, to understand protocols and results, and conduct investigations, if needed, provided such employee or agent provides five (5) working days advanced notice, is escorted by an employee of the Designated Facility, and follows all appropriate facility procedures and safety rules. The LEA is not subject to any provisions of this Section that prevents them from conducting their responsibilities under Applicable Law, including but not limited to, unannounced periodic inspections.
- (b) Record Keeping and Reporting. Grantee (including its Affiliates and subcontractors) shall maintain a record of any Designated Facility incidents that prevent Grantee from performing its obligations under this Agreement and report this information to the County in accordance with Section 12 of the Franchise Agreement.

Section 11. County's Right to Direct Flow

In the event that the County is notified by CalRecycle, or otherwise obtains credible evidence, that the Designated Facility is non-compliant with the requirements of SB 1383, or if the Designated Facility becomes otherwise unavailable, the County reserves the right to direct the Grantee to transport materials to an Alternate Facility, until the non-compliant Designated Facility becomes compliant with the requirements of SB 1383 or a new Designated Facility is selected by Grantee and approved by the County.

Section 12. Facility Standards

- (a) Grantee shall Transport all Discarded Materials to the Designated Facility(ies) specified in this Exhibit "J" and shall Transfer, Process, and Dispose of Discarded Materials in accordance with this Section. The Designated Facilities shall comply with the following requirements:
 - (1) Three-Container (Blue Container, Green Container and Gray/Black Container).
 - (A) Designated Transfer Facility. Grantee's Designated Transfer Facility shall be a Transfer Facility or operation that Transfers Single-Family, Multi-Family, and Commercial Business Recyclables, SSGCOW, and Gray/Black Container Waste Collected in accordance with Applicable Law.
 - (B) Designated Recyclables Processing Facility (Blue Containers). Grantee's Designated Recyclables Processing Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Business Recyclables to recover materials designated for Collection in the Blue Container.
 - (C) Designated Organic Waste Processing Facility (Green Containers). Grantee's Designated Organic Waste Processing Facility shall be a facility that Processes Single-Family, Multi-Family, and Commercial Business SSGCOW to recover Source Separated Organic Waste.
 - (D) Designated Landfill Disposal Facility (Gray/Black Containers). Grantee's Designated Landfill Disposal Facility shall be a Disposal facility that accepts Single-Family, Multi-Family, and Commercial Business Gray/Black Container Waste Collected in accordance with Applicable Law for Disposal.
 - (E) Reserved.

Section 13. Processing Standards

- (a) Recovery Required. Grantee agrees to Transport and deliver all Recyclables, SSBCOW, SSGCOW, and C&D Collected under this Franchise Agreement, as specified in the Exhibit "A," to a Designated Facility for Processing as applicable for each material type to recover Recyclables and Organic Waste to reduce Disposal. The Processing shall be performed in a manner that minimizes Disposal to the greatest extent commercially reasonable and complies with Applicable Law. Grantee may Dispose of Organic Waste from homeless encampments and illegal Disposal sites and quarantined Organic Waste rather than Process such materials.
- (b) Residual Solid Waste Disposal. Grantee (including its Affiliates and subcontractors) shall be responsible for Disposal of Residual Solid Waste from Processing activities at its own

expense and may select the Disposal Facility(ies) to be used for such purpose from the list of Designated Facilities included in this Exhibit "J."

- (c) Processing Facility Certified Statement. Upon request of the County, Grantee shall provide a certified statement from the Designated Facility(ies) operator(s) documenting its Residual Solid Waste level. The Residual Solid Waste level shall be calculated separately for each material type and for each Designated Facility used for Recycling and Processing.
- (d) Recyclables Processing Standards.
 - (1) Grantee shall deliver for Processing of all Recyclables at a Designated Facility that recovers materials designated for Collection in the Blue Container and in a manner deemed not to constitute landfill Disposal pursuant to 14 CCR Section 18983.1(a).
- (e) SSGCOW Processing Standards.
 - (1) Grantee shall deliver for Processing of all SSGCOW at a Designated Facility that recovers Source Separated Organic Waste in a manner deemed not to constitute landfill Disposal pursuant to 14 CCR Section 18983.1(a).
 - (2) Grantee shall arrange for SSGCOW Processing at the Designated Organic Waste Processing Facility that meets one or more of the following criteria, and such Facility or operation is capable of and permitted to accept and recover the types of Organic Wastes included in the SSGCOW:
 - (A) "Compostable Material Handling Operation or Facility" as defined in 14 CCR Section 17852(a)(12); small Composting facilities that are otherwise excluded from that definition; or Community Composting as defined within 14 CCR Section 18982(a)(8). The Compostable materials handling operation or facility shall comply with 14 CCR Section 17867(a)(16) demonstrating that the percentage of Organic Waste in the materials sent to Disposal is:
 - (i) On and after January 1, 2022, less than 20 percent (20%); and,
 - (ii) On and after January 1, 2024, less than 10 percent (10%).
 - (B) An "In-vessel Digestion Operation or Facility" as defined in 14 CCR Section 17896.5. The in-vessel digestion facility or operation shall comply with 14 CCR Section 17896.44.1, demonstrating that the percentage of Organic Waste in the materials sent to Disposal is:
 - (i) On and after January 1, 2022, less than 20 percent (20%); and,
 - (ii) On and after January 1, 2024, less than 10 percent (10%).
 - (C) A "Biomass Conversion Operation" as defined in Section 40106 of the California Public Resources Code.
 - (D) Soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill, that is defined as a reduction in landfill Disposal in accordance with 14 CCR Section 18983.1(b).
 - (E) Land application of Compostable materials consistent with 14 CCR Section 17852(a) (24.5) and subject to the conditions in 14 CCR Section 18983.1(b)(6).

- (F) Lawful use as animal feed, as set forth in California Food and Agricultural Code Section 14901 et seq. and Title 3, Division 4, Chapter 2, Subchapter 2 commencing with 14 CCR Article 1, Section 2675.
- (G) Other operations or facilities with processes that reduce short-lived climate pollutants that are approved by the State in accordance with 14 CCR Section 18983.2.

If Grantee is interested in using an operation, facility, or activity not expressly identified above for SSGCOW Processing, Grantee or Facility operator shall be responsible for securing the approvals necessary from CalRecycle prior to the County's final approval of such operation, facility, or activity, and shall do so in accordance with the procedures specified in 14 CCR Section 18983.2.

(3) Limits on Incompatible Materials in Recovered Organic Waste

- (A) Measurement. The Designated Transfer/Processing Facility operator shall measure the actual levels of Incompatible Materials in accordance with procedures described in 14 CCR Section 17409.5.8(b), 14 CCR Section 17409.5.9 or Applicable Laws.
- (B) Exceptions. The limits in Exhibit "J," Section 13(e)(2) shall not apply to the recovered Organic Waste sent offsite from the Designated Transfer/Processing Facility or operation, if the Grantee (including its Affiliates and subcontractors) sends the recovered Organic Waste from the Designated Transfer/Processing Facility or operation to one or more Designated Facilities that will further Process the Organic Waste as specified in 14 CCR Section 17409.5.7(c).

(f) Reserved.

(g) C&D Program Standards

- (1) Grantee shall comply with the CalGreen Construction and Demolition Debris Recycling requirements (Part 11, Title 24, California Code of Regulations).
- (2) Grantee shall deliver mixed C&D loads to the Designated C&D Processing Facility for Recycling.
- (3) Grantee shall deliver Source Separated C&D such as, but not limited to, dirt, concrete, untreated wood waste, cardboard, or other Recyclable C&D materials to the Designated C&D Processing Facility or other facility authorized for Recycling C&D, and shall deliver salvageable materials to a party for reuse or salvage.
- (h) Plastic Bags. If the Designated Organic Waste Processing Facility accepts plastic bags, Grantee shall annually submit to County written notice from the Designated Organic Waste Processing Facility confirming said Designated Facility can remove plastic bags when Processing SSGCOW.
- (i) Compostable Plastics. If the Designated Organic Waste Processing Facility accepts Compostable Plastics, Grantee may deliver Compostable Plastics to the Designated Organic Waste Processing Facility.
- (j) Disposal of Recyclables, SSGCOW, and C&D Prohibited, except where allowed in accordance with Exhibit "A." With the exception of Processing Residual Solid Waste, which shall not exceed the limits established under Applicable Law, Recyclables, SSGCOW, and

C&D Collected to be Processed under this Franchise Agreement, as specified in the Exhibit "A," may not be Disposed of in lieu of Recycling, Processing, or marketing the material, without the expressed written approval of the County.

Section 14. Gray/Black Container Waste Disposal Standards

- (a) Disposal of Gray/Black Container Waste Collected. Grantee shall Transport all Gray/Black Container Waste Collected, under this Franchise Agreement to the Designated Landfill Disposal Facility.
- (b) Disposal at Designated Facility. Grantee shall not Dispose of Gray/Black Container Waste, or Residual Solid Waste by depositing it on any public or private land, in any river, stream, or other waterway, or in any sanitary sewer or storm drainage system or in any other manner which violates Applicable Laws.

Section 15. Weighing of Discarded Materials

- (a) Maintenance and Operation. This Section 15 of Exhibit "J" applies to motor vehicle scales used at the Designated Facilities. Designated Facilities shall be equipped with one or more State-certified motor vehicle scales in accordance with Applicable Law. Upon request, Grantee shall arrange for Designated Facility operator to provide documentary evidence of such scale certification within ten (10) days of County's request during the Term. Grantee shall arrange for Designated Facility operator to provide County with access to weighing information at all times and copies thereof within three (3) Business Days following the County's request. Exceptions to weighing requirements are specified in Exhibit "J," Section 15(g).
- (b) Vehicle Tare Weights for Designated Facility(ies). Within thirty (30) days prior to the Effective Date, Grantee shall coordinate with the Designated Facility operator(s) to ensure that all Collection vehicles used by Grantee to Transport Discarded Materials to Designated Facilities are weighed to determine unloaded ("tare") weights. Grantee shall work with facility operator(s) to electronically record the tare weight, identify vehicle as Grantee's, and provide a distinct vehicle identification number for each vehicle. Grantee shall provide County with a report listing the vehicle tare weight information upon request.
- (c) Substitute Scales. If any scale at the Designated Facility is inoperable, being tested, or otherwise unavailable, Designated Facility operator shall use reasonable business efforts to weigh vehicles on the remaining operating scale(s). To the extent that all the scales are inoperable, being tested, or otherwise unavailable, Designated Facility operator shall substitute portable scales until the permanent scales are replaced or repaired. Designated Facility operator shall arrange for any inoperable scale to be repaired as soon as possible.
- (d) Estimates. Pending substitution of portable scales or during power outages, Designated Facility operator shall estimate the tonnage of the Discarded Materials Transported to and accepted at the Designated Facilities.

During any period of time the scales are out of service, Designated Facility operator shall continue to record all information required by Section 15 of this Exhibit "J" for each delivery

of Discarded Materials to the Designated Facilities and each load of material Transferred to another Designated Facility(ies).

- (e) Weighing Standards and Procedures. At the Designated Facilities, the operator shall weigh and record inbound weights of all vehicles delivering Discarded Materials when the vehicles arrive at the facility.

Furthermore, facility operator shall weigh and record loaded outbound weights of all Transfer vehicles Transporting Discarded Materials from a Transfer Facility to another Designated Facility(ies) for Processing or Disposal.

- (f) Records. Designated Facility operator shall maintain scale records and reports that provide information including date of receipt, inbound time, inbound weights (or tare weights) of vehicles, vehicle identification number, jurisdiction of origin of materials delivered, type of material, Grantee/hauler identification, and classification, type, weight, and final destination of Discarded Material if the Discarded Materials are Transferred to another Designated Facility(ies).
- (g) Exceptions to Weighing Requirements. If the Designated Facility does not have motor vehicle scales to weigh Grantee's vehicles and Discarded Materials delivered to the facility, Grantee shall obtain a receipt for delivery of the Discarded Materials that identifies the date and time of delivery, the type of material delivered, and the vehicle number. Grantee or facility operator shall estimate the tonnage of material delivered for each load based on the volumetric capacity of the vehicle and material density factors (e.g., pounds per cubic yard) approved by or designated by the County.
- (h) Upon-Request Reporting. If vehicle receiving and unloading operations are recorded on video cameras at the Designated Facilities, Grantee shall make those videos available for County review during the Designated Facilities' operating hours, upon request of the County, and shall provide the date and time of the particular load(s) if available.

Section 16. Rejection of Excluded Waste at Designated Facilities

- (a) Inspection. Grantee (including its Affiliates) will use standard industry practices to detect and reject Excluded Waste in a uniform and non-discriminatory manner, will not knowingly accept Excluded Waste at the Designated Facility(ies), will comply with the inspection procedure contained in the Designated Facility's permit requirements, and will promptly modify that procedure to reflect any changes in permits or Applicable Law. Grantee shall use commercially reasonable efforts to ensure that all Designated Third-Party Facilities comply with this Section.
- (b) Excluded Waste Handling and Costs. Grantee will arrange for or provide handling, Transportation, and delivery to a Recycling, incineration, or a Disposal facility permitted in accordance with Applicable Law of all Excluded Waste detected at the Designated Facility(ies). Grantee is solely responsible for making those arrangements or provisions and all costs thereof. Nothing in this Franchise Agreement will excuse the Grantee from the responsibility of handling Excluded Wastes that Grantee inadvertently accepts in a lawful manner and of arranging for the disposition of that Excluded Waste in accordance with Applicable Law. The foregoing shall not apply to any facilities owned and/or operated by the County.

Section 17. Waste Evaluations at Designated Facilities

- (a) General. Grantee shall conduct, or cause to be conducted, the following “evaluations” at Designated Facilities:
 - (1) Gray/Black Container Waste Evaluations. Waste evaluations of Gray/Black Container Waste at the Designated Transfer Facility (if applicable) or the Designated Landfill Disposal Facility in accordance with 14 CCR Sections 18998.1(a)(3)(A) and 17409.5.7.
 - (2) Organic Waste Recovery Efficiency Evaluations. Waste evaluations at Designated Transfer Facility (if applicable) or Designated Processing Facility(ies) in accordance with 14 CCR Sections 17409.5.1 to 17409.5.5.
 - (3) Evaluation of Organic Waste in Residuals. Compliance evaluations of Organic Waste to determine the level of Organic Waste in materials sent for Disposal in accordance with 14 CCR Sections 17409.5.3, 17409.5.5, 17867 (Compost operations and facilities), and 17896.44.1 (In-vessel digestion operations and facilities).
- (b) Record Keeping and Reporting. For the evaluations described above, Grantee shall ensure that the Designated Facility maintain all records and submit reports to CalRecycle as described in 14 CCR Division 7, Chapter 3, Article 6.3, as applicable. Grantee shall report this information to the County within thirty (30 days) of completion.
- (c) Observance of Study by County and/or CalRecycle. Grantee acknowledges that, upon request, a representative of the County and/or CalRecycle may oversee its next scheduled quarterly sampling and evaluation of any of the evaluations described in Exhibit “J,” Section 17(a), conducted at the Designated Facility(ies).

Section 18. Dispute Resolution

In the event of dispute between the County and the Grantee regarding the interpretation of commercially reasonable efforts, Section 18 of Exhibit “J” shall apply. All other disputes shall be resolved in accordance with Section 13.3 of this Franchise Agreement.

- (a) Meet and Confer. In the event of disputes regarding whether commercially reasonable efforts have been exhausted by the Grantee, the County and Grantee agree that they will promptly meet and confer to attempt to resolve the matter between themselves.
- (b) Mediation. If disputes which arise under this Agreement related to commercially reasonable efforts cannot be resolved satisfactorily between the Parties, in accordance with Exhibit “J” Section 18, the County and Grantee ~~Contractor~~ agree that such disputes shall be submitted to mandatory, non-binding mediation by a mutually agreed upon independent third party. The parties shall share the mediator’s fees equally. Each party shall bear its attorney fees, expert fees, expenses, and costs.
- (c) Litigation. Litigation may commence only after all efforts to resolve the dispute(s) pursuant to Exhibit “J” Sections 18(a) and 18(b) have failed and any necessary claim(s) have been denied.

EXHIBIT K

ORGANIC WASTE PRODUCT PROCUREMENT REQUIREMENTS

- (a) **Procurement of Organic Waste Products.** Grantee shall procure Compost, Mulch, and/or Renewable Natural Gas annually to assist the County's per capita requirement contained in SB 1383. Grantee may meet this obligation by one (1) or a combination of the following activities:
- (1) Bulk Compost and/or Mulch, derived from Organic Waste generated in the State, reserved for County use. Grantee shall make available a proportionate amount of Compost or Mulch based upon the Grantee's percentage of customer accounts compared to the whole of the County's Unincorporated Franchise Areas and the County's annual SB 1383 procurement requirement. The Grantee's proportional amount shall be recalculated each year based on Grantee's previous year customer accounts and County's procurement target for the corresponding time period. Grantee shall provide to County upon request for use in County parks and facilities at no cost to the County.
 - (2) Compost Giveaway as described in Section (e)(5) of Exhibit "A"; and/or
 - (3) Use of Renewable Natural Gas in Collection vehicles.

EXHIBIT L REPORTING REQUIREMENTS

Section 1. General

- (a) Grantee shall keep, maintain, and furnish copies of such operating records and reports as may be requested by the County to ascertain compliance with this Franchise Agreement, and support requests for a rate adjustment. Such records may include, but are not limited to, Grantee's records containing the underlying financial and operational data relating to its basis for, and computation of all costs associated with, providing the services required of it under this Franchise Agreement. Subscriber account and service level listing shall be provided to the County upon request. The records required to be kept are not limited to the information necessary to provide the required reports. The Division reserves the right to request that additional information be provided to it, as necessary to ascertain compliance with this Franchise Agreement or as necessary to facilitate its review of a requested rate adjustment, including but not limited to any State law reporting requirements.
- (b) All information required to be kept, maintained, or furnished to the County shall be maintained a minimum of seven (7) years after the entry of the most recent item therein.
- (c) To the extent relevant to any report, all information included in the reports shall be provided according to the source of generation. Waste Generator types are defined as follows:
 - (1) Residential - Solid Waste, Recyclables, and Organic Waste originating from a Single-Family Residential Dwelling Unit or a Multi-Family Residential Dwelling Unit utilizing barrel or Cart service and a Single-Family Residential Dwelling Unit utilizing Bins of one (1) cubic yard or more.
 - (2) Commercial Business/Industrial – Solid Waste, Recyclables, and Organic Waste from Multi-Family Residential Dwellings, mobile home parks with common Bins, Commercial Business, and industrial sources.
 - (3) Construction/Temporary Bin/Roll-Off – All Discarded Materials, Solid Waste, or other materials placed in debris boxes.
 - (4) Cleanup – Discarded Materials, Solid Waste, and other materials Collected through the cleanups specified in Exhibit “A” or as otherwise requested by County.
- (d) The Grantee's financial and accounting records required to be maintained under the provisions of this Franchise Agreement shall be maintained on an accrual basis in accordance with the most current edition of Generally Accepted Accounting Principles published by the American Institute of Certified Public Accountants. Unless inconsistent with Generally Accepted Accounting Principles, Gross Receipts must be recorded as revenues.
- (e) Except with respect to Grantee's confidential information, proprietary information, trade secrets, and Intellectual Property, Data and information pertaining to services performed under this Franchise Agreement become the property of the County upon submittal to the Division.

Section 2. Reporting Requirements

During the Term of this Franchise Agreement, Grantee shall submit to the County monthly and quarterly, and more often if required, information reasonably required by County to meet its reporting obligations imposed by State laws, as amended, and the regulations implementing State laws, in a manner approved by the County. Grantee agrees to submit such reports and information in a format and method specified by the Director. Grantee agrees to render all reasonable cooperation and assistance to the County in meeting the requirements of the County's source reduction and Recycling element and non-Disposal facility element including, but not limited to, the following:

- (a) Each month the Grantee shall complete the Multi-Jurisdiction Load/Detail Report forms provided electronically by the Division.
- (b) Correct inaccurate source information collected from the driver of the Discarded Materials truck at each landfill within ten (10) days or such other time as the parties may agree.
- (c) Amend split source and tonnage information for Discarded Materials loads from more than one (1) community within ten (10) days or such other time as the parties may agree.

Section 3. Monthly Reports

Except as otherwise directed in writing by the Director, the Grantee shall submit monthly reports. A monthly report is required to be submitted no later than twenty (20) days following the completion of the month to which it relates. The first report is due by and shall cover the period from the Effective Date of this Franchise Agreement through the end of the month in which the Franchise Agreement first became operative. The monthly reports shall include the information collected and summarized on a monthly basis. Specifically, Grantee shall provide the following monthly reports in a format reasonably approved by the County (with the exception of Section 3(b) which shall be provided annually within thirty (30) days of the Route Review or Waste Evaluation):

- (a) **Waiver verifications.** The number of Commercial Business waiver verifications and reverifications performed by the Grantee pursuant to this Franchise Agreement in the month, if any, including a copy of documentation for each verification and reverification, which shall include, at a minimum: the Generator's name, address, and Generator type; the type of waiver being verified; any photographic or other evidence collected during the inspection, if any; and, the resulting recommended conclusion by the Grantee regarding the validity of the waiver. The Grantee shall provide a summary of recommendations to the County of all waivers that the Grantee concludes to no longer be warranted.
- (b) **Contamination Monitoring Report.** Grantee shall provide a contamination monitoring report as follows. If Grantee is conducting contamination monitoring through Hauler Route Reviews, Grantee shall provide the information included under Option 1: Hauler Route Reviews. If conducting contamination monitoring through waste evaluations, Grantee shall provide the information included below under Option 2: Waste Evaluation Studies.

(1) Option 1: Hauler Route Reviews

The Grantee shall submit the following information regarding contamination monitoring hauler route reviews conducted pursuant to Exhibit "A" of this Franchise Agreement:

- (A) The number of hauler route reviews conducted pursuant to Exhibit "A" of this Franchise Agreement;
 - (B) Description of the Grantee's process for determining the level of contamination;
 - (C) Summary report of non-Collection notices and/or extra pick-up fee assessment, which for each notice shall include the date of issuance, Subscriber name, and service address;
 - (D) A record of each inspection and contamination incident, which shall include, at a minimum:
 - (i) Name of the Subscriber;
 - (ii) Address of the Subscriber;
 - (iii) The date the contaminated Container was observed;
 - (iv) The total number of violations found and a description of what action was taken for each;
 - (v) Copies of all notices given to the Subscriber with Prohibited Container Contaminants; and,
 - (vi) Any photographic documentation or supporting evidence.
 - (E) Documentation of the total number of Containers Disposed of due to observation of Prohibited Container Contaminants;
 - (F) Any other information reasonably requested by the County or specified in contamination monitoring provisions of this Franchise Agreement or necessary for County to comply with 14 CCR Section 18984.6.
- (2) **Option 2: Waste Evaluation Studies.** The Grantee shall submit the following information regarding waste evaluation studies conducted pursuant to Exhibit "A" of this Franchise Agreement:
- (A) A description of the Grantee's process for conducting waste evaluations;
 - (B) Documentation of the results of the waste evaluation studies and the number of resulting targeted hauler route reviews. The documentation shall at a minimum include: dates of the studies; the location of the facility where the study was performed; hauler routes from which samples were collected, and number of Generators on those hauler routes; the source sector (Subscriber type) of the material (Single-Family, Multi-Family, or Commercial Business); number of samples collected; total sample size (in pounds); weight of Prohibited Container Contaminants (in pounds); ratio of Prohibited Container Contaminants to total sample size; and, any photographic documentation taken or other physical evidence gathered during the process;
 - (C) Copies of all notices given to Generators that have Prohibited Container Contaminants;
 - (D) Documentation of the number of loads or Containers Disposed of due to observation of Prohibited Container Contaminants, including the total weight of

material Disposed, and proof of consent from the County to Dispose of such material if given in a form other than this Franchise Agreement; and,

- (E) Any other information reasonably requested by the County, or specified in contamination monitoring provisions of this Franchise Agreement.
- (c) **Complaint Documentation.** Grantee shall maintain a record of all SB 1383 non-compliance complaints and responses pursuant to Exhibit "A" section (k) of this Franchise Agreement and submit the following information:
- (1) Total number of complaints received and total number of complaints reviewed.
 - (2) Copies of documentation recorded for each complaint received, which shall at a minimum include the following information:
 - (A) The complaint as received;
 - (B) The name and contact information of the complainant, if the complaint is not submitted anonymously;
 - (C) The identity of the alleged violator, if known;
 - (D) A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
 - (E) Any relevant photographic or documentary evidence submitted to support the allegations in the complaint; and,
 - (F) The identity of any witnesses, if known.
 - (3) Copies of all complaint reports submitted to the County, pursuant to Exhibit "A" of this Franchise Agreement;
 - (4) Copies of all compliance review reports submitted to the County pursuant to Exhibit "A" section (k) of this Franchise Agreement, which shall include at a minimum:
 - (A) The complaint as received;
 - (B) The date the Grantee reviewed the complaint;
 - (C) Documentation of the findings of the review; and,
 - (D) Any photographic or other evidence collected during the review, if any.
 - (5) Grantee's recommendation to the County on whether or not the entity reviewed is in violation of SB 1383 based on the Grantee's review.

Section 4. Quarterly Reports

Except as otherwise directed in writing by the Director, the Grantee shall submit quarterly reports. A quarterly report is required to be submitted no later than forty-five (45) days following the completion of the quarter to which it relates. The first report shall cover the period from the Effective Date of this Franchise Agreement through the end of the quarter in which the Franchise Agreement first became operative. The quarterly reports shall include the information collected and summarized on a monthly basis. Specifically, Grantee shall provide the following quarterly reports in a format reasonably approved by the County:

- (a) **Collection Information Report.** The Grantee shall provide a report that lists the quantity of Discarded Materials Collected by month and the number of accounts serviced monthly. The

quantities of Solid Waste, Recyclables, and Organic Waste Collected shall be reported in terms of tonnage (or cubic yards if tonnage information is not available). The Division may, at its discretion, also require reporting by volume. The Grantee shall clearly specify any assumptions, such as density factors, made in reporting the tonnage or cubic yard information.

- (b) **Service Performance Report.** The Grantee shall provide a report summarizing the entries made in the service log including all commendations, complaints, and notifications of missed pickups, and the Grantee responses thereto. The summary report shall identify the total number of all written or oral Subscriber comments and shall provide the number of comments received in the following categories: commendations, litter or property damage complaints, misplacement of Containers, stolen Containers, personnel complaints, missed pickups, and other.
- (c) **Program Implementation.** The Grantee shall submit a report summarizing the problems or barriers to implementation of services for the quarter. The report shall address how the problems and barriers were overcome or the proposed resolutions and schedule for correcting the problem.
- (d) **Gross Receipts.** The Grantee shall submit a report summarizing the information relating to Gross Receipts, Gross Receipts Less Disposal Charges, and service charge collections, where applicable. To the extent permitted by Applicable Law and subject to Section 12.4, financial information submitted to the County by the Grantee pursuant to this subsection will be kept confidential and will be available to County personnel only on a need-to-know basis.

Section 5. Annual Reports

The Grantee shall submit reports to the Director, covering operations for each calendar year. Except as provided below, each such report shall be submitted to the Director no later than March 1 of the following year. The Grantee will be responsible for providing the following reports in a format reasonably approved by the County:

- (a) **Summary Reports.** The Grantee shall provide a summary of information contained in the monthly and quarterly reports required to be provided pursuant to Sections 3 and 4 of this Exhibit "L." The summary reports shall clearly indicate the Diversion rate for each Discarded Material waste generation type. The Diversion information provided shall include quantities of materials Collected and, if Processed by other than County Solid Waste Disposal System facilities, the quantities Recycled and Composted in tons (or cubic yards if tonnage information is not available) for each waste Generator type. In the summary report, the Grantee shall note unusual changes in Disposal quantities and indicate potential reason(s) for this change. The summary report shall include a discussion of noteworthy experiences, and any problems in program operation and how they were resolved.
- (b) **Equipment Inventory Report.** The Grantee shall provide a complete inventory of Collection equipment and other major equipment that is or may be used in its operations.
- (c) **Future Programs Report.** The Grantee shall prepare a report that identifies all future programs and facilities that may be needed but have not been planned for.
- (d) **Litigation Information Report.** The Grantee shall submit declarations of the current status of all pending criminal or civil litigation against the Grantee and its parent company, if any,

and all other subsidiaries of such parent company that may have an effect on the Grantee's ability to meet the obligations of the Franchise Agreement or provide a satisfactory level of service.

- (e) **Gross Receipts.** Within one hundred and twenty (120) days following the close of Grantee's fiscal year, Grantee shall furnish a summary of the reports required to be provided quarterly pursuant to Section 4(d) of this Exhibit "L". The summary must be reviewed by the Grantee's independent Certified Public Accountant, in accordance with the standards of the accounting industry, and include the appropriate statement from said Accountant relative to their review.
- (f) **Financial Reports.** Within one hundred and twenty (120) days following the close of Grantee's fiscal year, Grantee shall organize, summarize, and make available for review full and complete financial information consistent with the preparation of the Grantee's financial statements, with respect to the operations necessary to provide the services required under this Franchise Agreement, including revenues, costs, and expenses. Such information is not required to be prepared by an independent Certified Public Accountant. The Grantee shall make the financial information available for the review by the Director at the local office of the Grantee.
- (g) **Electronic Annual Report.** Additional information that may be requested by the County to assist with completing CalRecycle's Electronic Annual Report. The County shall bear the burden of establishing, to the reasonable satisfaction of Grantee, that all or any element of the additional information requested is necessary, or will assist, in completing the report. If the parties are unable to agree on the need for some or all of the additional information, the matter will be referred to the Director for resolution. Wherever possible, any additional information delivered in response to such a request shall be aggregated in the report with similar information submitted to the County by other Grantees, and without attribution to any single Grantee.
- (h) **Other Reports.** Other information or reports that County may reasonably request or require related to Grantee's performance under this Agreement. The County shall bear the burden of establishing, to the reasonable satisfaction of Grantee, that all or any element of the additional information requested is necessary. If the parties are unable to agree on the need for some or all of the additional information, the matter will be referred to the Director for resolution.

EXHIBIT M

LIQUIDATED DAMAGES

- (a) In its quarterly report submitted to the Division in accordance with Exhibit "L" of this Agreement, Grantee shall certify to Division that it has met its service obligations during such quarter. If Grantee cannot so certify, if its complaint record evidences, or if the Division notifies Grantee that it has failed to meet any of its service obligations in violation/breach of this Agreement, then Grantee shall pay the indicated liquidated damages for each of the following violations/breaches which have been verified to the satisfaction of the Division:
- (1) Failure to Correct Missed Service; failure to correct a missed collection in accordance with Section 6(g); Escalated Damages;
 - (2) Failure to Timely Commence Services; failure to commence service within seven (7) working (waste collection) days of Subscriber's request therefore in accordance with Section 6(f); Escalated Damages;
 - (3) Damage to Subscriber's Property; demonstrated damage reported by or complained of by Subscriber to Grantee in accordance with Section 6(m), not fixed within a reasonable amount of time, as determined by the Director based upon all the circumstances, upon such report or complaint; \$250;
 - (4) Collection Outside Permitted Hours; providing service outside hours authorized in accordance with Section 6(c); Escalated Damages;
 - (5) Failure to Timely Respond to Complaint; failure to timely respond to any complaint and correct related violations/breach in services in accordance with Section 6(l); \$100;
 - (6) Failure to Record Complaint; failure to record a complaint in accordance with Section 6(l); \$100;
 - (7) Failure to Make Records of Complaints Available to Division; failure to provide Division immediate access to records of complaints in accordance with Section 6(l); \$1000;
 - (8) Failure to Submit Reports to Division; failure to submit complete records to the Division within thirty (30) days of the due date in accordance with Section 6(e), Section 12, and Exhibit "L" of the Agreement; \$1000.

- (b) At any time following the time when any of the forgoing violations/breaches have been verified to the satisfaction of the Division, the Division may remove an amount equal to the indicated liquidated damages from the \$2,500 bank deposit for liquidated damages which is required to be maintained by Grantee pursuant to Section 9.7. The Division shall provide written notice to the Grantee that it is satisfied that a violation/breach has occurred and that it has imposed and removed, or will remove the indicated liquidated damages from the \$2,500 bank account of Grantee. Within ten (10) days of receiving such notice from the Division, Grantee may contest imposition of such liquidated damages by notice to the Division, indicating the basis for disagreement. Any dispute relating thereto shall be resolved under the Notice of Appeal provisions of Section 10.1. In the event Grantee owes the County any liquidated damages upon the termination of this Franchise Agreement, Grantee's liability shall survive the termination hereof