

FIRST AMENDED, CONSOLIDATED AND RESTATED  
EXCLUSIVE FRANCHISE AGREEMENT

BETWEEN

THE CITY OF VICTORVILLE, CALIFORNIA  
AND  
VICTORVILLE DISPOSAL, INC.

FOR

SOLID WASTE REFUSE AND WASTE DIVERSION (RECYCLING) SERVICES

ADOPTED BY THE VICTORVILLE CITY COUNCIL ON OCTOBER 20, 2009



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THIS FIRST AMENDED, CONSOLIDATED AND RESTATED EXCLUSIVE FRANCHISE AGREEMENT FOR SOLID WASTE REFUSE AND WASTE DIVERSION (RECYCLING) SERVICES ("Agreement") is entered into by and between the CITY OF VICTORVILLE, a charter city and municipal corporation organized under the laws of the State of California ("City") and VICTORVILLE DISPOSAL, INC., a California corporation ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties".

### RECITALS

WHEREAS, California Public Resources Code Section 40059 *et seq.*, authorizes the City to determine and arrange for all aspects of solid waste handling; and

WHEREAS, California Public Resources Code section 41780 requires that each jurisdiction divert 50% of its waste from landfill disposal; and

WHEREAS, California Public Resources Code section 41780.05 revised the method of calculating waste Diversion using population statistics and will base a determination of each jurisdiction's compliance on per-capita disposal and program implementation; and

WHEREAS, on May 23, 1995, the City entered into separate exclusive franchise agreements with Contractor for Solid Waste Refuse Services and Solid Waste Recycling Services (the "Existing Agreements") which run conterminously and are currently in effect; and

WHEREAS, the City Council of the City of Victorville (the "City Council") finds that Contractor has demonstrated through its good and workmanlike performance of the Existing Agreements and in its negotiations with City that Contractor is qualified and competent to perform the solid waste services desired by City; and

WHEREAS, the City Council finds that the City is in compliance with the waste diversion goals mandated by the State of California; and

WHEREAS, the City Council desires to increase its waste diversion rate by adding the exclusive hauling of construction and demolition waste to the scope of the Existing Agreements with Contractor; and

WHEREAS, the City Council also desires to add additional services, consolidate the Existing Agreements into a single agreement and extend the term of the Existing Agreements by entering into this Agreement with Contractor; and

WHEREAS, the City Council finds that this Agreement will contribute to providing the best and most cost-effective Solid Waste Handling Services to its citizens.

NOW, THEREFORE, in consideration of the respective and mutual covenants and promises contained and made in this Agreement, and subject to all of the terms and conditions of this Agreement, the Parties agree as follows:

## **ARTICLE 1. DEFINITIONS**

### **1.01 DEFINITIONS**

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth in the definitions contained in Attachment A, Definitions.

### **1.02 STATUTORY DEFINITIONS**

Unless a term is otherwise defined in this Agreement, capitalized terms used in this Agreement shall have the same meaning as the definitions of those terms contained in the California Integrated Waste Management Act, California Public Resources Code section 40000 *et seq.* (the "Act"). In the event of a conflict between the definition of a term in the Act and in this Agreement, the definition in this Agreement shall prevail.

## **ARTICLE 2. REPRESENTATIONS AND WARRANTIES**

### **2.01 CONTRACTOR**

- a. **Status.** Contractor is a corporation duly organized, validly existing and in good standing under the laws of the State of California (the "State") and is qualified to do business in the State.
- b. **Authority and Authorization.** Contractor has full legal right, power and authority to execute and deliver this Agreement and perform its obligations hereunder. This Agreement has been duly executed and delivered by Contractor and constitutes a legal, valid and binding obligation of the Contractor enforceable against the Contractor in accordance with its terms.
- c. **Accuracy of Representations.** Contractor's representations and warranties made throughout this Agreement are accurate, true and correct on and as of the Effective Date (defined in Section 4.01, below) of this Agreement.
- d. **No Conflicts.** Neither the execution or delivery by Contractor of this Agreement, the performance by Contractor of its performance obligations, nor the fulfillment by Contractor of the terms and conditions hereof: (i) conflicts with, violates or results in a breach of applicable law; (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other government authority, or any agreement or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are

bound, or constitutes a default thereunder; or (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of Contractor.

- e. **No Approvals Required.** No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by Contractor, except such as have been duly obtained from its board of directors.
- f. **No Litigation.** There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of Contractor's knowledge, threatened, against Contractor wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by Contractor of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by Contractor in connection with the transactions contemplated hereby.
- g. **Due Diligence.** Contractor has made an independent investigation satisfactory to it of the conditions and circumstances surrounding the Agreement and services it is required to perform.
- h. **Duty.** Contractor shall be at all times during the Term (as defined in Section 4.02, below) of this Agreement, ready, willing and able to collect and transport all Solid Waste generated within City in accordance with the provision of this Agreement and all applicable laws, rules and regulations.
- i. **Insurance and Bonds.** Contractor will furnish evidence of the insurance and bonds required under this Agreement prior to the Effective Date of this Agreement.
- j. **Criminal Activity.** Contractor has represented that none of its officials or directors have a criminal conviction from a court of competent jurisdiction with respect to conviction for any crime, including racketeering, which indicates a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contractor or its officers or directors; nor has Contractor or any of its respective officers or directors made an admission of guilt or pled no contest to the conduct as described above.

## **2.02 CITY**

- a. **Status.** City is a charter city and a California municipal corporation of the State of California, duly organized and validly existing under the Constitution and laws of the State.

- b. **Authority and Authorization.** City has full legal right, power and authority to execute, deliver, and perform its obligations hereunder. This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City enforceable against City in accordance with its terms.
- c. **No Conflicts.** Neither the execution or delivery by City of this Agreement, the performance by City of its performance obligations, nor the fulfillment by City of the terms and conditions hereof: (i) conflicts with, violates or results in a breach of applicable law; or (ii) conflicts with, violates or results in a breach of any term or condition of any judgment, order or decree of any court, administrative agency or other government authority, or any agreement or instrument to which City is a party or by which City or any of its properties or assets are bound, or constitutes a default thereunder.
- d. **No Approvals Required.** No approval, authorization, license, permit, order or consent of, or declaration, registration or filing with any governmental or administrative authority, commission, board, agency or instrumentality is required for the valid execution and delivery of this Agreement by City, except such as have been duly obtained from its City Council.
- e. **No Litigation.** There is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental authority, commission, board, agency or instrumentality pending or, to the best of City's knowledge, threatened, against City wherein an unfavorable decision, ruling or finding, in any single case or in the aggregate, would materially adversely affect the performance by City of its obligations hereunder or in connection with the transactions contemplated hereby, or which, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument entered into by City in connection with the transactions contemplated hereby.
- f. **No Warrant Regarding Waste Characterization.** City makes no warranties with respect to the characterization of Solid Waste within City. City expressly disclaims any warranties, either express or implied, as to the merchantability or fitness for any particular purpose of Solid Waste or Recyclable Materials collected by Contractor.

## **ARTICLE 3. EXCLUSIVE FRANCHISE AGREEMENT**

### **3.01 GRANT OF FRANCHISE**

Upon the Effective Date of this Agreement and continuing for the Term of this Agreement or any extension or renewal thereof, City hereby grants Contractor the exclusive right and duty to collect, transfer, transport, recycle, compost, process and dispose of Solid Waste, Green Waste, Organic Materials, Construction and

Demolition Waste including concrete wash-out waste and Recyclable Material generated or accumulated within City by any Residential, Commercial or Industrial Premises. This grant of franchise shall be exclusive except as provided in Section 3.02 below, and shall be subject to all of the terms and conditions of this Agreement.

### **3.02 LIMITATIONS ON EXCLUSIVE FRANCHISE**

The Franchise granted to Contractor shall be exclusive except as to the categories of Solid Waste listed in this Section. The granting of this Franchise shall not preclude the categories of Solid Waste listed below from being delivered to and collected and transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining authorization from the City which is otherwise required by law:

- a. The sale or donation of Recyclable Material by the Waste Generator to any person or entity other than Contractor; provided however, that the Waste Generator is paid monetarily for the material, or the material is picked up and disposed of at no cost to the Waste Generator. Waste Generator may not contract with another hauler to pay for removal of materials which have no intrinsic value;
- b. Solid Waste, Green Waste, Organic Materials, Construction and Demolition Waste and Recyclable Materials which is removed from any premises by the Waste Generator, and which is transported personally by such generator (or his or her full-time employees) to a Processing or Disposal Facility in a manner consistent with all applicable laws and regulations, utilizing equipment owned and or leased by the Waste Generator;
- c. Containers delivered for Recycling under the California Beverage Container Recycling Litter Reduction Act (California Public Resources Code, section 14500, *et seq.*);
- d. Green Waste removed from premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor rather than as a hauling service;
- e. The collection, transfer, transport, Recycling, processing, and disposal of animal remains from slaughterhouse or butcher shops for use as tallow;
- f. The collection, transfer, transport, Recycling, processing, and disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- g. The collection, transfer, transport, Recycling, processing, and disposal of Hazardous Substances, Hazardous Waste, and radioactive waste regardless of its source;

- h. The collection, transfer, transport, Recycling, processing, and disposal of Solid Waste by the City through City officers or employees in the normal course of their employment;
- i. Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste; and
- j. Solid Waste Handling Services provided by any Person having a legal right to continue doing so, pursuant to California Public Resources Code section 49520, *et seq.*, or otherwise, as long as and to the extent such legal right continues to exist.
- k. In addition to the foregoing, in the event that future interpretations of current law, future enactments or developing legal trends limit the ability of City to lawfully grant Contractor the Scope of Services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof.

### **3.03 FRANCHISE AREA DEFINED**

The Franchise Area granted by this Agreement shall include all Residential, Commercial, and Industrial Generators within the City limits except as limited by this Agreement. As provided for below, the Franchise Area may be changed by annexation.

### **3.04 ANNEXATION COVERED BY EXISTING AGREEMENT**

Territory annexed into the City that is covered by an existing Solid Waste permit, license, agreement or franchise granted by another public entity to another contractor may continue to be served by the same contractor for the balance of the term of such contractor's permit, license, agreement or franchise, subject to the applicable provisions of the Victorville Municipal Code and the provisions of this Agreement.

## **ARTICLE 4. TERM OF AGREEMENT**

### **4.01 EFFECTIVE DATE**

This Agreement shall become effective November 23, 2009 (the "Effective Date").

### **4.02 TERM**

The initial term of this Agreement shall be five (5) years (the "Initial Term") commencing on the Effective Date and continuing in full force and effect until

midnight, November 22, 2014 (the "Initial Expiration Date"). The word "Term" as used hereinafter may include references to the Initial Term or any subsequent extension thereof as provided for in this Article.

#### **4.03 AUTOMATIC EXTENSION OF TERM**

On the date which is thirty six (36) months prior to the Initial Expiration Date, this Agreement shall automatically be extended for an additional five (5) year period. Thereafter, on each date which is thirty six (36) months prior to the expiration date of the then-current Term (the "Renewal Date"), this Agreement shall automatically be extended for an additional five (5) year period. The Parties may, by mutual written consent, further extend the Term of this Agreement or modify the extension provisions set forth herein.

#### **4.04 AVOIDANCE OF AUTOMATIC EXTENSION; OTHER CHANGES TO TERM**

Either Party shall have the right at any time to avoid the automatic extension provision set forth in the preceding Section. In order to exercise such right, the City or Contractor shall provide written notice thereof to the other Party in accordance with the notice provisions of Section 14.06 below (the "Notice of Nonrenewal"), prior to the Renewal Date. Upon the giving of such Notice of Nonrenewal there shall be no further extension of this Agreement, and the Term of this Agreement shall expire on the next applicable expiration date. Should a Notice of Nonrenewal be given by either Party prior to November 22, 2016, the Initial Term of the Agreement shall be extended and continue in full force and effect through November 22, 2019. The foregoing notwithstanding, if either Party gives a Notice of Nonrenewal to the other Party prior to November 22, 2016, the automatic extension of term provision may be subsequently reinstated by the mutual written agreement of the Parties.

### **ARTICLE 5. CONTRACTOR SERVICES**

#### **5.01 PERFORMANCE STANDARDS**

- a. General. The work to be performed by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. All services performed and Solid Waste generated are subject to the exclusive rights to operate and collect, provided under the terms of this Agreement.
- b. The work to be performed by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the residents and businesses within City are provided reliable, courteous, and high-quality service at all times.

- c. **Scope of Services.** The services to be performed by Contractor are generally described in Attachment B, Scope of Services, but may also be specified and described in detail in other Sections of this Agreement, including without limitation this Section 5.01.
- d. **City Facility Collection Services.** Contractor shall provide, at no charge to City, containers for, and Collection and Disposal of, all Solid Waste generated at Premises owned and/or operated by the City as designated in Attachment C, City Facility Collection Services. Contractor shall provide necessary bins for disposal of Solid Waste generated from weed abatement and street sweeping. City Facilities not operated for a public purpose or operated as a City enterprise shall pay for service at the rates and charges in effect at the time service is rendered and under the same terms and conditions as any other Commercial/Industrial Premises Customer.

Contractor shall provide each City Facility with the appropriate number of Carts or Bins for the collection of Solid Waste and commingled Recyclable Materials appropriate for the type and amount of materials on a facility-by-facility basis. Contractor shall also provide Debris Boxes at City's corporation yard of the appropriate size and quantity for Solid Waste, source-separated Green Waste and source-separated Construction and Demolition Waste (concrete and asphalt, woody waste, metals and sand, soil and sod) for the amount of materials generated.

Contractor shall provide and operate a public drop-off site for residential Solid Waste Materials including; Recyclables, Bulky Waste items, Green Waste, E-Waste, Batteries, Paint and Oil at 15121 Palmdale Road for the term of the City's current lease for that location, and at any other mutually agreed upon locations. Contractor shall be responsible for all required City approvals, permits and fees at 15121 Palmdale Road and any other future locations.

- e. **Frequency and Location.** Contractor shall collect Solid Waste and Recyclables from Residential Premises receiving individual collection one time per week from Contractor-provided containers. Contractor shall collect Solid Waste and Recyclables from Commercial Premises, including Residential Premises utilizing Bin Service, and Industrial Premises a minimum of one time per week from Contractor-provided Bins or Debris Boxes or from stationary Compactors provided by Contractor or Customer. The City may approach Contractor at any time during the Term of this Agreement to discuss adding an organics material composting program as an addendum to this Agreement.
- f. **Commercial Recycling Program.** Contractor will implement a comprehensive Commercial Recycling Program, including Source Separated and Select Commercial Recycling collection. Multi-family bin service customers will be included in the Commercial Recycling Program. It is the intent that the Commercial Recycling Program include all customers receiving service of 4 cubic yards or more per week.

- g. Contractor's equipment and staff will be available to assist with City-declared emergencies.

## **5.02 COLLECTION DAYS AND TIMES**

- a. Residential Premises. Collections from Residential Premises shall be made Monday through Friday between the hours of 6:00 a.m. and 8:00 p.m. Collections of Solid Waste and Recyclable Materials shall be made on the same day.
- b. Non-Residential Premises. Collections from Non-Residential Premises shall be made Monday through Saturday between the hours of 5:00 a.m. and 8:00 p.m. Collections shall be scheduled at a day and time mutually agreed upon by Contractor and Customer. Collections of Solid Waste and Recyclable Materials may be made on different days.
- c. Holiday Schedule. Contractor's collection operations shall observe the same holiday schedule as the Disposal Facility set forth in Section 9.02 of this Agreement. When a holiday falls on a regular collection day, scheduled collections shall occur on the next regularly scheduled Collection the remainder of that week. Contractor shall advise Customers of upcoming holidays and the holiday collection schedule in advance of the holiday.

## **5.03 SERVICE STANDARDS**

- a. Service Mandatory. It is understood and agreed that trash Collection Service from Contractor is a mandatory service of all premises within City.
- b. Overfilled Carts or Bins. All materials placed in carts or bins by Customers must be fully contained in the carts or bins with the lid closed and Contractor shall not be required to collect carts or bins that are overfilled. Contractor shall attach a notice on Carts or Bins not Collected citing the reason for non-Collection ("Notice of Non-Collection"). The form and content of the Notice of Non-Collection shall be approved by the City.
- c. Clean out of Enclosures. Contractor shall clean out any overflowing bins or enclosures within twenty-four (24) hours of notification by City, the cost of which shall be borne by the Customer. Contractor shall work with the City Manager or City Manager's designee in identifying and resolving continual problems of overages or misuse in Customer bins or enclosures.
- d. Uncontained Materials. Contractor shall only collect uncontained Solid Waste and Recyclable Materials when such Collection has been arranged in advance by Customer and for which Customer has agreed to pay the appropriate Rate.

- e. Bins Required For Apartment Complexes. Multi-Family Premises or apartment complexes with more than four (4) individual dwelling units shall use Bins for Solid Waste Collection.
- f. Bin Placement. When delivering Bins to new Customers at Residential Premises and Commercial Premises, including Multi-Family Premises, Contractor shall advise Customer to consult the City's adopted standards and requirements for enclosures and bin placement.

## **ARTICLE 6. OTHER SERVICES**

### **6.01 CUSTOMER SERVICE**

- a. General. The Customer service function shall consist of providing Customer service representatives for telephone, electronic mail and in-person contacts by Residential and Non-Residential Customers regarding: (i) starting or stopping service, (ii) ordering extra Containers, (iii) ordering exchanges of damaged Containers, (iv) inquiring or expressing concerns about service, (v) inquiring about sanitation bills, and (vi) processing payments.
- b. Role of City. City shall perform the Customer service functions that include inquiries about sanitation bills, starting and stopping service, and processing payments for routine service for all Residential and Non-Residential Customers, Monday through Thursday during normal City business hours.
- c. Role of Contractor. Except for responding to inquiries about sanitation bills, starting or stopping service, and processing payments for routine service, Contractor shall perform the Customer service function described in Section 6.01, above, for Collection Service on City's behalf for Residential and Non-Residential Customers Monday through Friday. Contractor shall also work with City staff to address and resolve issues which include but are not limited to Solid Waste code enforcement and pick-up and delivery of Solid Waste and recycling containers. City shall receive real time notification of all Residential and Non-Residential Customer requests, including disposition.

Contractor shall handle billing and process payments for services of a temporary nature. Contractor shall log all Friday Customer requests for such temporary services and provide same to City before 10:00 a.m. the following Monday.

- d. Office Hours. Contractor's office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m. Monday through Friday, and 8:00 a.m. to 12 noon Saturday. A representative of Contractor shall be available during office hours for communication with Customers at Contractor's principal office. In the event that normal business problems cannot be rectified over the telephone, a representative of Contractor shall agree to meet with

Customer at a location agreeable to Contractor and Customer. Normal office hours telephone numbers shall either be a local or toll free call. Contractor shall also maintain a local or toll free after-hours telephone number or answering service available at said after-hours telephone number during all hours other than normal office hours.

- e. Missed Collections. All missed Collections will be made up on the following Collection day.
- f. Service Complaints. All Customer Collection Service complaints shall be directed to Contractor. Contractor shall record all complaints received by mail, by email, by telephone, or in person (including date, name, address of complainant, and nature of complaint) and forwarded to City on a monthly basis. Contractor agrees to use its best efforts to resolve all complaints by close of business (waste collection) day following the date on which such complaint is received. Service complaints may be investigated by the City Manager or his/her designee. Unless a settlement satisfactory to complainant, Contractor, and City Manager's designee is reached, the complainant may refer the matter to the City Manager for review.
- g. Resolution of Disputes. Contractor shall notify Customers of this complaint resolution procedure at the time Customers apply for or are provided service.

A Customer dissatisfied with Contractor's decision regarding a complaint may ask the City Manager to review the complaint. To obtain this review, Customer must request City Manager review within thirty (30) days of receipt of Contractor's response to the complaint, or within forty-five (45) days of submitting the complaint to Contractor, if Contractor has failed to respond to the complaint. The City Manager may extend the time to request its review for good cause.

Before reviewing the complaint, the City Manager shall refer it to Contractor. If Contractor fails to cure the complaint within ten (10) days, City Manager shall review Customer's complaint and determine if further action is warranted. City Manager may request written statements from Contractor and Customer, and/or oral presentations.

City Manager shall determine if Customer's complaint is unresolved; and if so, what remedy, if any, shall be imposed. The remedy under this Section shall be limited to rebate of Customer charges related to the period of complaint.

City Manager may delegate these duties to a designee. The decision of City Manager or Manager's designee shall be final on any matter under One Thousand Dollars (\$1,000). In the event of a decision on a matter awarding One Thousand Dollars (\$1,000) or more, Contractor may seek review by the City Council.

## **6.02 PAYMENT FOR TEMPORARY BINS AND DEBRIS BOXES.**

Contractor may require payment in advance for temporary bin or temporary Debris Box services provided at Residential, Commercial or Industrial Premises.

## **ARTICLE 7. REQUIREMENTS FOR OPERATIONS**

### **7.01 COLLECTION STANDARDS**

- a. Servicing of Containers. Contractor shall Collect the contents and return each Container to the location where Occupant properly placed the Container for Collection. Following Collection, Contractor shall place the Containers upright. Contractor shall use due care when handling Containers.
- b. Bulky Item Collection. Each Single Family Residential Premises shall be entitled to two (2) Collections of up to five (5) Bulky Waste items which includes but is not limited to tires, televisions and computers, in each twelve (12) month period at no additional charge. Collections of additional Bulky Items or Bulky Items collected from Multi-Family Apartment Dwellings or Non Residential Customers shall be subject to the Rates included in the Customer Rate Schedule, Attachment D.
- c. Christmas Tree Collection. Curbside Collections of Christmas Trees from Single Family Residential Dwellings receiving individual Collection and set out by January 7 each year shall be performed free of charge.
- d. Missed Pick-Ups. When notified of a missed pick-up, Contractor shall Collect the Solid Waste, Recyclable Materials, or Green Waste on the day the notice is received, if possible, and in all cases shall Collect the missed pick-up by 6:00 p.m. of the next scheduled Collection day following receipt of the missed pick-up notification.
- e. New Customers. Contractor shall deliver containers and initiate Collection services for a new Customer within five (5) business days of the Customer's request for service.
- f. Change in Service. If an existing Customer requests a change in the number or size of their Solid Waste or Recyclable Materials Containers and/or frequency of collection, Contractor shall deliver and/or remove Containers and initiate changes in the Collection services within five (5) Business Days of the Customer's request for a change in service. Contractor shall immediately (within one working day) notify City of any change in service so as to maintain billing accuracy.
- g. Separate Collection. Contractor shall separately Collect Solid Waste and Recyclable Materials from each other and shall not commingle these materials at any time during the transportation or delivery of those materials to the Disposal Facility or Processing Facility. Solid Waste and

Recyclable Materials Collected in City may be combined with similar materials Collected from other jurisdictions with the prior written approval of City and shall be allocated by Contractor to the City's Collection program based upon tonnage, volume or Container counts.

- h. **Non-Collection Notices.** Contractor may choose to not Collect materials for the following reasons: (i) Recyclable Materials contain excessive contamination; (ii) materials contain Hazardous Waste; (iii) the loaded weight of a Container exceeds the maximum load limit specified by the Cart manufacturer; (iv) materials are not fully contained within Containers; and, (v) Container is not accessible due to vehicles or other obstacles. In such case, Contractor shall issue Non-Collection Notices stating the reason(s) the materials were not collected. The Notice of Non-Collection shall be affixed prominently on the Container to ensure that it is not inadvertently removed due to weather conditions. Contractor shall maintain a master record of Notices of Non-Collection issued for inspection by City.
- i. **Excess Materials.** Materials not contained within Customer's container shall be considered as excess materials and Contractor shall not be required to collect the excess amounts unless Customer has arranged and paid for such Collection.
- j. **Care of Private Property.** Contractor shall not damage private property and shall ensure that its employees: (i) close all gates opened in making collections, (ii) not cross landscaped areas, and (iii) do not climb or jump over hedges and fences.

City shall refer complaints about damage to private property to Contractor who shall repair, to its previous condition, all damage to private or public property caused by its employees or operations.

Contractor shall repair damage and/or resolve claims regarding damage to property within thirty (30) calendar days of receipt of the Complaint.
- k. **Spills and Cleanup.** Contractor shall instruct employees to cleanup any spills or scattered materials resulting from its Collection operation. Contractor shall not be required to cleanup spilled or scattered materials resulting from the actions of others including materials falling from overfilled containers or uncontained materials.
- l. **Warning Tags.** Contractor shall prepare Warning Tags approved by City for use to advise Customers of collection rule infractions and/or non-collection such as but not limited to: (i) uncontained materials, (ii) prohibited contents, (iii) excess weight, and (iv) blocked or inaccessible container. Warning Tags shall have an adhesive strip affixed to the back to adhere the tag to the Container. Warning Tags shall be of two-part construction so that Contractor's employee can submit copies of all Warning Tags to Contractor's field supervisor, dispatch office or customer

service representative. All collection rule infractions that warrant a Warning Tag shall be logged and the log shall be provided to City daily.

## **7.02 VEHICLES**

- a. **General.** Contractor shall provide a fleet of Collection vehicles sufficient in number and capacity to efficiently perform the work required by the Agreement in strict accordance with its terms. Contractor shall have available sufficient back-up vehicles to respond to mechanical breakdowns, complaints and emergencies.
- b. **Age.** Contractor shall not introduce a used vehicle into service in City as a frontline collection vehicle that is more than five (5) years of age when introduced. Contractor shall not operate a vehicle in City as a regular route collection vehicle that is more than seven (7) years of age unless said vehicle is exceptionally well-maintained and has been accepted by the City. Contractor shall not operate a vehicle in City more than ten (10) years of age as a regular route collection vehicle.

Contractor shall be permitted to use vehicles older than the above limitations for periods up to thirty (30) days as back-ups for regular route vehicles when such vehicles are out of service for repair or maintenance or to supplement the regular collection vehicles for special programs such as community clean-ups or emergency situations.

- c. **Vehicle Emissions.** Contractor shall comply with all applicable air quality rules and regulations in its vehicle deployment. During the Term of this Agreement or any extension thereof, all of Contractor's newly acquired collection vehicles shall be powered by Compressed Natural Gas ("CNG") or Liquefied Natural Gas ("LNG") or by such other fuel that meets or exceeds the pollution and mileage performance standards of CNG or LNG-powered vehicles for the model year that the acquisition is made. If CNG fueled equipment is purchased, Contractor agrees to purchase CNG exclusively from the CNG fueling stations located on D Street and McArt Blvd. (the "Exclusive Stations"). Fuel will be priced competitively at market rates. In the event these Exclusive Stations become inoperative for any amount of time or the Exclusive Stations cannot efficiently and or safely accommodate the Contractor's fleet, the Contractor may utilize other fueling facilities until conditions at the Exclusive Stations are corrected.

Contractor shall be permitted to operate non-Alternative Fuel Vehicles for periods up to thirty (30) days as back-ups for regular route vehicles when such vehicles are out of service for repair or maintenance or to supplement the regular Collection vehicles for special programs such as community clean-ups or emergency situations.

- d. **Specifications.** All vehicles operated in City by Contractor shall: (i) be registered with the California Department of Motor Vehicles; (ii) have leak proof bodies designed to prevent leakage, spillage, and/or overflow;

and (iii) comply with California Environmental Protection Agency noise emission and California Air Resources Board air quality regulations.

- e. Identification. Contractor's name, local telephone number and vehicle identification number designated by Contractor shall be prominently displayed on the sides and rear of each Collection vehicle.
- f. Condition and Maintenance. Contractor shall maintain all of its vehicles and equipment used in providing service under this Agreement in a good, safe, neat, clean, and operable condition at all times.
- g. Operation. Vehicles shall be operated in compliance with Federal, State and local laws and regulations.
- h. Vehicle Inventory and Replacement Plan. Annually, on or before October 1<sup>st</sup> of each year, Contractor shall provide City with an inventory of all collection vehicles currently operating in City listing (i) Contractor's vehicle identification number, (ii) year manufactured, (iii) make, (iv) body style, and (v) fuel type. Contractor shall include its collection vehicle replacement plan with the vehicle inventory.

### **7.03 CONTAINERS**

- a. General. Contractor shall provide all Carts, Bins, Debris Boxes, other Containers and Compactors, as appropriate, to all Customers as part of its obligations under the terms of this Agreement. All Containers shall be maintained in a safe, serviceable, and functional condition. Any Container impacted by graffiti shall be replaced by Contractor within forty-eight hours of being notified.

All Containers used in the performance of this Agreement shall remain the property of the Contractor.

- b. Carts. Contractor shall supply carts for individual collection to all Residential Premises and certain small business Commercial Premises. Each such Single Family Residential Customer shall receive one (1) cart each for Solid Waste and Recyclable Materials. Multi-Family Dwellings and Commercial establishments shall receive one (1) Cart each for Solid Waste and Recyclable Materials.

Carts provided by Contractor shall be offered uniformly in different colors for different materials: (i) 95-gallon Black carts with Black Lids for Solid Waste; and (ii) Blue 65-gallon carts for Recyclable Materials. All Carts shall be equipped with hinged lids and wheels and shall be labeled for "TRASH" and "RECYCLING". Recycling carts will be labeled with a lid decal listing and graphically displaying acceptable Recycling Materials.

- c. New Customer Carts. Contractor shall provide new Customers with Carts no later than the next business day following notification of subscription. New Customers shall receive Carts that are new, or alternatively, used Carts that have been pressure washed. All new Solid Waste carts shall be black.

- d. **Cart Replacement.** Contractor shall replace all damaged or missing Carts by the next service day following receipt of Customer's request. All replacement Solid Waste carts shall be black. Carts damaged by Contractor or from normal wear and tear shall be replaced at no charge to Customer. Contractor may charge customers to replace missing Carts or Carts damaged by Customer. Contractor shall notify Customer by the next service day following receipt of Customer's request if charges shall apply and shall additionally notify City of its findings. Should City determine that the need for cart replacement is the result of Contractor's actions and not the actions of Customer, City shall instruct Contractor to deliver a replacement cart at no charge to Customer. City's decision shall be final.
- e. **Bins.** Contractor shall provide metal Bins in 1.5 cubic yard, 2 cubic yard, 3 cubic yard and 4 cubic yard sizes to select Residential Premises, select Multi-Family Premises complexes and select Commercial and Industrial Premises. All bins shall meet applicable Federal, State and local regulations for Bin safety, and shall be covered with attached lids.
- f. **Recycling Bins.** Contractor shall distinguish Recycling Bins by color, and shall clearly label them with Recycling Arrows and "Recycling Only".
- g. **Multiple Bins.** Contractor is to identify and propose recycling collection options for locations with multiple bin site limitations.
- h. **Temporary Bins.** Contractor shall provide metal 3 cubic yard bins for temporary use by any premises in the City for removal of Solid Waste, Construction and Demolition Debris or Green Waste. Contractor shall cover temporary bins during transport to prevent the release of litter and debris.
- i. **Debris Boxes.** Contractor shall provide metal Debris Boxes (Roll-Off Boxes) of 10 cubic yard, 20 cubic yard, 30 cubic yard and 40 cubic yard sizes for regular use by select Commercial and Industrial Premises and for temporary use by any Premises in City. Contractor shall cover Debris Boxes during transport to prevent the release of litter and debris.
- j. **Compactors.** Contractor may provide, for a fee, stationary compactors for use by Customers or may service stationary compactors owned and provided by Customers provide that any stationary compactor provided by Customer shall meet the specifications of Contractor and be compatible with Contractor's collection vehicles.
- k. **Concrete Wash-Out Containers.** Contractor shall provide containers suitable for the purpose of retaining the liquids and solids generated from the wash out process of vehicles containing concrete. Service for these containers will include the removal and disposal of concrete wastewater by means of a pumping process and standard disposal of concrete sediment solids.

#### **7.04 PERSONNEL**

- a. **General.** Contractor shall furnish such qualified drivers, mechanical, supervisory, Customer service, sales, recycling, clerical and other personnel as may be necessary to provide the services required by this Agreement in a safe and efficient manner.
- b. Contractor will be responsible for the following services which include, but are not limited to:
  - 1) Develop Organic Material (food and green waste) collection pilot programs at Contractor's sole expense;
  - 2) Organize and provide quarterly document destruction events (Shred-Fest) at Contractor's sole expense;
  - 3) Development and management of school outreach recycling programs. This program shall include annual visits to all schools and classrooms within the City limits which receive Collection Services provided by Contractor under this Agreement, provided such schools and classrooms continue to receive such Collection Services;
  - 4) Implement a program to utilize Radio Frequency Identification Devices on all new residential carts and all existing and new non-residential and residential bins;
  - 5) Establish a periodic residential and non-residential route audit and service verification program, linked to customer billing;
  - 6) Provide a social marketing based program to reduce recycling contamination and increased recyclable material recovery for residential and non-residential customers, including a comprehensive container inspection and compliance element; and
  - 7) Development and management of commercial recycling outreach program.

Within 90 days of the Effective Date of this Agreement, Contractor shall develop a plan for City approval for each of the services to be provided in paragraphs 1) through 7), above. The plan shall include verifiable performance measurement factors and quarterly program reports presenting performance results.

- c. **No Gratuities.** Contractor shall not permit its employees to demand, solicit or accept any additional compensation or gratuity in exchange for Collection Service.
- d. **Conduct and Courtesy.** Contractor shall employ only competent and qualified personnel who serve the public in a courteous, helpful, and impartial manner. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement,

Contractor shall take appropriate measures. The City may require Contractor to reassign an employee, if the employee has conducted himself or herself inconsistently with the terms of this Agreement.

- e. Uniforms. While performing services under this Agreement, all Contractor's employees performing field service shall be dressed in clean uniforms.

#### **7.05 HAZARDOUS WASTE**

- a. To the extent practical, Contractor shall inspect containers for the presence of Hazardous Waste and take reasonable precautions to prevent the Collection of Hazardous Waste.
- b. If the presence of Hazardous Waste is detected in any container, Contractor's personnel shall not collect the contents of the container and shall leave a Notice of Non-Collection.
- c. If Hazardous Waste is later detected in a load, Contractor shall attempt to contact the offending Customer who shall be responsible for its removal and cost of removal.

### **ARTICLE 8. FRANCHISE AND ADMINISTRATIVE FEES**

#### **8.01 GENERAL**

In consideration for the rights and privileges provided in this Agreement, and the costs associated in providing services thereunder, the City will retain Franchise Fees and Administrative Fees from the sums collected from its Customers for such services. The Franchise Fee is four percent (4%) of the City's gross monthly billings for Solid Waste and Recycling. The Administrative Fee shall be collected as fifteen (15%) of the City's gross monthly billings for Solid Waste and Recycling, less the Franchise Fee. Beginning July 1, 2010, and continuing through the Term of this Agreement, and any extensions thereof, the Administrative Fee will be collected as fifteen percent (15%) of the City's gross monthly billings for Solid Waste and Recycling. Contractor will pay a Franchise Fee and Administrative Fee, in the same amounts provided in this paragraph, from all sums collected directly from its Customers under this Agreement.

### **ARTICLE 9. DISPOSAL AND PROCESSING FACILITIES**

#### **9.01 GENERAL**

City shall approve the use of all Disposal Facilities and Processing Facilities designated by Contractor. During the term of this Agreement the City shall be responsible for payment of Gate Fees charged by these facilities, except that

Contractor is responsible for Gate Fees incurred for all temporary services. In no event shall City be responsible for costs in excess of the Gate Fee charged by an approved facility.

**9.02 DISPOSAL FACILITIES**

Contractor hereby designates and City approves the use of the San Bernardino County Victorville Landfill, in Victorville, California as the Disposal Facility for Solid Waste Collected by Contractor under the terms of this Agreement. Contractor shall comply with City's obligations for delivering controllable waste under the San Bernardino County Waste Disposal Agreement.

**9.03 PROCESSING FACILITIES**

Contractor hereby designates and City approves the use of the Victor Valley Materials Recovery Facility, in Victorville, California as the Processing Facility for Recyclable Materials Collected by Contractor under the terms of this Agreement.

**ARTICLE 10. CONTRACTOR COMPENSATION AND RATES**

**10.01 GENERAL**

Contractor's compensation provided for in this Article 10 shall be the full, entire, and complete compensation due to Contractor pursuant to this Agreement for all labor, equipment, materials and supplies, fees charged at the designated Disposal Facilities and Processing Facilities, fees due to City, taxes, insurance, bonds, overhead, profit, and all other items necessary to perform all of the services in the manner required by the Agreement.

**10.02 STANDARD SERVICE.**

As compensation for the performance of Standard Service work in each calendar month, the Contractor shall be paid an amount equal to the applicable Service Unit Rate, as set forth in Attachment E, Contractor Service Unit Rates, multiplied by the total number of Service Units billed by the City for that calendar month. Contractor shall receive payment from City on or before the fifteenth day of the following calendar month.

The current Service Unit Rate shall be effective upon the Effective Date of this Agreement. Such current Service Unit Rates are set forth in Attachment E, Contractor Service Unit Rates.

### **10.03 BIN SERVICE**

As compensation for the performance of Bin Service work in each calendar month. Contractor shall be paid an amount equal to the Bin Service unit rate, set forth in Attachment E, multiplied by the total number of bin units billed by the City for that calendar month. Contractor shall receive payment from City on or before the fifteenth day of the following calendar month.

The current Bin Service unit rate shall be effective upon the Effective Date of this Agreement. The current Bin Service unit rate is set forth in Attachment E.

### **10.04 RESIDENTIAL PARTICIPATION**

City and Contractor hereby acknowledge that Contractor has based its rates in Attachment D, Customer Rate Schedule, and its expectation of meeting AB 939 goals, upon full participation of all Residents and Non-Residents in the Collection Services described herein. City and Contractor agree to consider reasonable modifications to this Agreement in the event less than adequate participation is achieved.

### **10.05 INITIAL RATES**

All Residential and Non-Residential Customers shall pay for Collection Service in accordance with those rates specified in Attachment D, Customer Rate Schedule. Contractor's services to City Facilities shall be provided at no charge when operated for public purpose and not as an enterprise. City Facilities not operated for a public purpose or operated as a City enterprise shall pay for service at the rates and charges in effect at the time service is rendered and under the same terms and conditions as any other Commercial Customer.

### **10.06 ANNUAL FORMULA-BASED COMPENSATION ADJUSTMENT**

The maximum rates set forth in Attachment D, Customer Rate Schedule, shall be adjusted annually effective each September 1<sup>st</sup> by an amount equal to the twelve (12) month mean average change in the Consumer Price Index for All Urban Consumers for Los Angeles-Riverside-Orange Counties as published by the United States Department of Labor, Bureau of Labor Statistics for the previous twelve (12) month period. The first such adjustment shall become effective July 1<sup>st</sup>, 2010 and shall apply ("CPI") to all rate components except the Disposal Fee component.

- a. Adjustment Request Procedure. Contractor shall submit its request for a CPI-based rate adjustment not later than May 5<sup>th</sup> of each year using the form specified in Attachment D, accompanied by a complete revised proposed Attachment D, Customer Rate Schedule, reflecting the CPI-based rate adjustment.

- b. Adjustment Approval Procedure. Contractor's request shall be reviewed and approved by the City Council. The City Council's decision shall be based solely upon verification of the change in CPI in accordance with the formula set forth in this Agreement and verification of Contractor's computations of the changes in Attachment D, Customer Rate Schedule. The City Council's approval shall be rendered not later than June 15<sup>th</sup> and shall not be unreasonably withheld.

#### **10.07 DISPOSAL AND PROCESSING FEE ADJUSTMENT**

The Disposal and Processing Fee components of the rates specified in Attachment D, Customer Rate Schedule are pass-through fees. These fees shall be adjusted concurrent with the effective date of any change in the Disposal and or Processing Fees charged by the County of San Bernardino and or any other approved Disposal or Processing Facility.

#### **10.08 CHANGES IN SCOPE OF SERVICES**

The rates and fees identified in Attachment D, Customer Rate Schedule, provided for in Section 10.03 hereof, shall be adjusted for Contractor's operating expense, overhead expense and profit to reflect any changes or additions to Attachment B, Scope of Services, which are mutually agreed-upon by the Parties in writing or ordered by City. Contractor's compensation for changes in Attachment B, Scope of Services, shall be established by the following procedure:

- a. City shall provide Contractor written notice describing the addition or change in the Scope of Services desired by City.
- b. Within thirty (30) days following receipt of City's written notice, Contractor shall submit its written proposal to provide the services requested by City. At a minimum, Contractor's proposal shall include (i) a description of how the service will be rendered; (ii) Contractor's schedule to provide the requested services; (iii) Contractor's cost to render the requested service; and (iv) a description of any options or alternatives Contractor deems appropriate.
- c. Within thirty (30) days following the submittal of Contractor's written proposal, City and Contractor shall meet and negotiate in good faith to agree on an amendment to this Agreement to provide the services described by City.
- d. Should City and Contractor be unable to reach a negotiated agreement on an amendment to this Agreement to provide the services requested by City, the City Council may order that Contractor provide the services for the compensation determined by the City Council which shall be reasonable compensation for Contractor's cost for providing the service. The decision of the City Council shall be final.

## **10.09 EXTRAORDINARY RATE ADJUSTMENTS**

Contractor may request an adjustment to its Rates at reasonable times other than that allowed in Sections 10.06 and 10.07 in the event of extraordinary changes in the cost of providing service under this Agreement.

- a. **Included Changes.** Changes in the cost of providing service considered extraordinary shall include but not be limited to:
  - 1) **Changes in Law.** Changes in law or regulations enacted after the Effective Date of this Agreement by Federal, State, or local regulatory agencies including amendments to City's Municipal Code.
  - 2) **Extraordinary Costs.** Changes in operating costs brought about by unforeseen circumstances beyond the control of the Contractor.
  - 3) **Change in Disposal Facility.** Temporary or permanent changes in the location of the Disposal Facility.
- b. **Request and Review.** For each request for an extraordinary Rate adjustment to Rates that Contractor may charge Customers brought pursuant to this Section 10.09, Contractor shall prepare a schedule documenting the extraordinary costs and request for Reasonable Compensation. Such request shall be prepared in a form acceptable to City with support for assumptions made by Contractor in preparing the estimate. City shall review the Contractor's request and, in City's sole judgment and absolute, unfettered discretion make the final determination as to whether an adjustment to the Rates will be made, and, if an adjustment is to be permitted, the appropriate amount of the adjustment. City's approval shall not be unreasonably withheld. Any approved extraordinary adjustments will be limited to one year from approval, and be subject to verification that the circumstances warranting the adjustment did not change during that year.

## **10.10 ADDITIONAL CUSTOMER RATE INCREASE PROCEDURES**

Contractor acknowledges that Proposition 218 procedures may be applicable to any rate increases proposed to be passed on to customers, with the exception of the CPI increases set forth in Section 10.06, above. If such procedures are applicable, no increases to rates to be passed on to Customers shall become effective until the City has complied with any applicable Proposition 218 procedures. In the event such rate increases do not receive approval under applicable Proposition 218 procedures, the City shall not be liable to Contractor for the failure to implement any such increases, nor shall City be required to compensate Contractor for any requested rate increases or "pass through" rates. However, with respect to Scope of Services changes requested by the City pursuant to Section 10.08, the City Council may, at its sole discretion, determine

whether the City shall compensate Contractor for such additional services without increasing Customer rates.

## **ARTICLE 11. RECORDS AND REPORTS**

### **11.01 RECORDS**

- a. **General.** Contractor shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City.
- b. **Inspection.** Contractor's records shall be available for inspection by City during regular business hours and upon reasonable notice.
- c. **Records Retention.** Contractor shall maintain all records required in the performance of this Agreement for a period of five (5) years after its expiration or early termination.
- d. **Customer Records.** Contractor shall maintain Customer service information by service route including: (i) name and address of Customer; and, (ii) service level.
- e. **Service Records.** Contractor shall maintain records of Customer complaints and inquiries for three (3) years.
- f. **Materials Records.** Contractor shall maintain a monthly record by service route of the weight of Solid Waste, Recyclable Materials and Construction and Demolition Waste collected from all Premises in the City.
- g. **Disposal Records.** Contractor shall maintain a monthly record of all Solid Waste disposed of at the Disposal Facility.
- h. **Route Information.** Contractor shall maintain a record of its routes and collection days by service route for review by the City. Such record may be in the form of maps and route books.

### **11.02 REPORTS**

- a. **General.** Contractor shall submit reports according to the following schedule: (i) monthly reports within forty-five (45) days after the end of the reporting month; (ii) annual reports within forty-five (45) days after the end of the calendar year; and (iii) event-specific reports shall be submitted within thirty (30) Days following the occurrence. Monthly reports shall include all Commercial Refuse and Recycling customers including location and service levels.
- b. **AB 939 Reporting.** Contractor shall prepare and deliver to City all annual reports to California Department of Resources Recycling and Recovery (the "CDRR&R") required by AB939 and any other reports requested or required by the CDRR&R in a complete and timely fashion for City review prior to submittal to the CDRR&R.

- c. **Reporting Violations.** The failure or neglect of the Contractor to file any of the required reports, or the inclusion of any materially false or misleading statement or representation made knowingly by Contractor in such report shall be deemed a material breach of the Agreement, and shall subject Contractor to all remedies, legal or equitable, which are available to City under the Agreement or otherwise.
- d. **Commercial Recycling Report.** Contractor will provide a quarterly report:
  - 1) Showing all commercial recycling, select, and refuse Customers (including location and service level);
  - 2) Explaining why refuse only Customers are not receiving recycling or select service; and
  - 3) Identifying progress in reducing refuse only Customers and increasing recycling tonnage.

### **11.03 AUDIT**

- a. **Auditable Records.** Contractor shall maintain in auditable form all records relating to the services provided hereunder, including but not limited to, customer lists, maps, AB 939 compliance records, and Customer complaints, for the full Term of this Agreement, and an additional period of not less than three (3) years, or any longer period required by law or by City. The City shall have the right, upon giving thirty (30) days advance written notice to Contractor, to inspect maps, AB 939 compliance records, Customer complaints, and other like materials of Contractor which reasonably relate to Contractor's compliance with the provisions of this Agreement. Such records shall be made available to City at Contractor's regular place of business, but in no event outside the County of San Bernardino.

## **ARTICLE 12. INDEMNITY AND INSURANCE**

### **12.01 INDEMNIFICATION**

- a. **Indemnification of City.** Contractor shall indemnify, defend and hold harmless City, its officers, employees and agents (collectively, the "Indemnitees"), from and against (i) any and all liability, penalty, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature, (ii) any and all loss including, but not limited to, injury to and death of any person and damage to property, and (iii) contribution or indemnity demanded by third parties (collectively, the "Claims"), arising out of or occasioned in any way by, directly or indirectly, Contractor's performance of, or its failure to perform, its obligations under this Agreement. The foregoing indemnity shall not apply to the extent that a Claim is caused solely by active negligence or intentional misconduct of the Indemnitees. Contractor shall defend (with attorneys reasonably acceptable to City) the Indemnitees.

Contractor's duty to defend, indemnify and hold harmless Indemnitees shall survive the expiration or earlier termination of this Agreement.

- b. **Indemnification of Contractor.** City shall indemnify, defend and hold harmless Contractor, its officers, directors, shareholders, employees and agents (collectively, the "Indemnified Parties"), from and against (i) any and all liability, penalty, claim, demand, action, proceeding or suit, of any and every kind and description, whether judicial, quasi-judicial or administrative in nature, (ii) any and all loss including, but not limited to, injury to and death of any person and damage to property, and (iii) contribution or indemnity demanded by third parties (collectively, the "Claims"), arising out of or occasioned in any way by, directly or indirectly, City's performance of, or its failure to perform, its obligations under this Agreement. The foregoing indemnity shall not apply to the extent that a Claim is caused solely by active negligence or intentional misconduct of the Indemnified Parties. City shall defend (with attorneys reasonably acceptable to City) the Indemnified Parties. City's duty to defend, indemnify and hold harmless the Indemnified Parties shall survive the expiration or earlier termination of this Agreement.
- c. **AB 939 Indemnification.** Contractor agrees to indemnify and hold harmless the Indemnitees against all fines and/or penalties imposed by the CDRR&R based on Contractor's failure to comply with laws, regulations or permits issued or enforced by the CDRR&R or caused or contributed to by Contractor's failure to perform its obligations under this Agreement. This indemnity obligation is subject to the limitations and conditions in California Public Resources Code section 40059.1, but is enforceable to the maximum extent allowable by that Section. This indemnity shall survive the termination or expiration of this Agreement.
- d. **Hazardous Waste Indemnification.** Except with respect to Disposal of Solid Waste collected from the City Facilities designated in Attachment C, City Facility Collection Services, Contractor shall indemnify, defend with counsel approved by City, protect and hold harmless Indemnitees and any successor or successors to City's interest from and against all claims, actual damages (including but not limited to special and consequential damages); natural resources 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 attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, Indemnitees arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan hazardous substance or hazardous wastes at any place where Contractor stores or disposes of municipal solid waste or construction debris pursuant to this Agreement.

The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA", 42 U.S.C. section 9607 (e), and California Health and Safety Code section 25364, to insure, protect, hold harmless, and indemnify City from liability. This provision is in addition to all other provisions of this Agreement and is intended to apply to Contractor's actions during the term of this Agreement and survive the end of the Term of this Agreement.

## **12.02 INSURANCE**

Without limiting Contractor's indemnification of Indemnitees pursuant to Section 12.01 above, and at its sole expense, Contractor shall procure from an insurance company or companies admitted to do business in the State, and shall maintain in force at all times during the Term of this Agreement, the following types and amounts of insurance:

- a. **Workers' Compensation and Employer's Liability.** Contractor shall maintain workers' compensation insurance covering its employees in statutory amounts and otherwise in compliance with the laws of the State. Contractor shall maintain employer's liability insurance in an amount not less than one million dollars (\$1,000,000) per accident or disease. Contractor shall not be obligated to carry workers' compensation insurance if: (i) Contractor qualifies under California law and continually complies with all statutory obligations to self-insure against such risks; (ii) furnishes a certificate of Permission to Self-Insure issued by the Department of Industrial Relations; and (iii) furnishes updated certificates of Permission to Self-Insure periodically to evidence continuous self insurance.
- b. **General Liability Insurance and Commercial Vehicle Liability Insurance.** The limits of such insurance coverage, and companies, if any, shall be subject to review and approval by the City's Risk Manager. Contractor shall obtain and maintain in full force and effect throughout the entire Term of this Agreement a Broad Form Comprehensive General Liability (occurrence) policy with a minimum limit of Four Million Dollars (\$4,000,000.00) aggregate and One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage. Said insurance shall protect Contractor and City from any claim for property damage which may arise from operations performed pursuant to this Agreement, whether such operations are by Contractor itself, or by its agents, employees, and/or sub-contractors. Contractor shall also obtain and maintain a Commercial Vehicle Liability Insurance policy, covering personal injury and property damage, of not less than One Million Dollars (\$1,000,000) combined single limit, covering any vehicle utilized by Contractor, its officers, employees, servants, volunteers, agents and independent contractors and/or subcontractors in performing the services required by this Agreement.

- c. Endorsements. Copies of the endorsements evidencing the above required insurance coverage shall be filed with the City Clerk. All of the following endorsements are required to be made a part of the insurance policies required by this Section:

“City, its employees, agents, contractors, and officers, are hereby added as additional insureds as respects liability arising out of activities performed by or on behalf of Contractor.”

“This policy shall be considered primary insurance as respects any other valid and collectible insurance the City may possess including any self-insured retention City may have, and any other insurance City does possess shall be considered excess insurance and shall not contribute with it.”

“This insurance shall act for each insured, as though a separate policy had been written for each. This, however, shall not act to increase the limit of liability of the insuring company.”

“Thirty (30) days prior written notice by certified mail, return receipt requested, shall be given to City in the event of suspension, cancellation, reduction in coverage or in limits, or non-renewal of this policy for whatever reason. In the case of cancellation for non-payment, ten (10) days advance written notice shall be given. Such notices shall be sent to the City Clerk.”

The limits of such insurance coverage, and companies, shall be subject to review and approval by the City’s Risk Manager every year and may be increased at that time to match the coverage provided by City’s own liability insurance policy. City shall be included as an additional insured on all policies and endorsements. The requirements of this Section may be satisfied in whole or in part by Contractor’s self-insurance program.

- d. Modification. The insurance requirements provided herein may be modified or waived in writings by the City Council upon request of Contractor, or in the sole discretion of City provided the City Council determines such modification or waiver is in the best interests of City considering all relevant factors, including acceptable coverage amounts.

## **ARTICLE 13. CONTRACTOR PERFORMANCE**

### **13.01 ANNUAL REVIEW**

- a. City Manager Review. Annually within sixty (60) days of the anniversary of the Effective Date of this Agreement, City Manager may, and, if a public hearing review before City Council is to be held, shall conduct a review of Contractor’s performance, quality of service, Collection systems and programs, feasibility of new services and new technologies, Customer complaints, rights of privacy, amendments to Agreement, developments in

law, new initiatives for meeting or exceeding AB 939 goals, regulatory constraints and other services, jointly with Contractor for the purpose of identifying problems, progress and opportunities. Within sixty (60) days of such City Manager review, City Manager shall issue a written report summarizing the findings and conclusions of the review. Within thirty (30) days following receipt of City Manager's written report, Contractor shall provide City Manager a written response.

- b. **Public Hearing.** At City's sole option, within sixty (60) days following City Manager's review, City may hold a public hearing at which Contractor shall be present and shall participate, to discuss City Manager's review and to accept written and oral public testimony regarding Contractor's performance, quality of service, Collection systems, programs and other services and these shall be considered.
- c. **City Report.** Within sixty (60) days after the conclusion of the public hearing, City shall issue a report with respect to: (i) the adequacy of Contractor's performance and quality of service; and (ii) a listing of any service changes desired and considered technically and economically feasible by City. City may require Contractor to provide such services within a reasonable time, for reasonable rates and compensation. If any noncompliance with Agreement is found, City may direct Contractor to correct the inadequacies by issuing a Notice of Noncompliance in accordance with this Section 13.01.
- d. **Contractor Response to Inadequacies.** Within sixty (60) days after receiving a notice of noncompliance from City, Contractor shall submit a report to City indicating: (i) inadequacy cited by City; (ii) cause of inadequacy; (iii) corrective measures taken by Contractor including dates action was taken; and (iv) measures taken by Contractor to prevent reoccurrence of the inadequacy.

## **13.02 BREACH**

Each of the following shall constitute a material breach of this Agreement by Contractor:

- a. Contractor fails to perform its obligations under this Agreement and its failure to perform is not cured within ten (10) business days after written notice from City;
- b. Contractor fails to perform its obligations under any Section of this Agreement and its failure to perform is not cured within ten (10) business days after written notice from City, provided that if the nature of the breach is such that it will reasonably require more than ten (10) business days to cure, Contractor shall not be in breach so long as it promptly advises City in writing of the reasonable additional time required to cure, subsequently commences the cure and diligently proceeds to completion

of the cure; and provided further that neither notice nor opportunity to cure applies to events described in Subsections c through h, below;

- c. Contractor ceases to provide Collection and transportation services for a period of two (2) business days for any reason within Contractor's control, including labor unrest such as strike, work stoppage or slowdown, sickout, picketing, or other concerted job action by Contractor's employees;
- d. Contractor files a voluntary petition for relief under any bankruptcy, insolvency or similar law;
- e. An involuntary petition brought against Contractor under any bankruptcy, insolvency or similar law which remains undismissed or unstayed for ninety (90) calendar days;
- f. Contractor fails to provide reasonable assurance of performance when required under any provision of this Agreement; and
- g. A representation or warranty contained in Section 2.01, above proves to be false or misleading in a material respect as of the date such representation or warranty was made.

### **13.03 ADMINISTRATIVE HEARING**

- a. **Hearing Required.** An administrative hearing shall be held: (i) if either Party alleges a breach of this Agreement by the other; and (ii) preceding a default hearing before the City Council. Should either Party contend a breach of this Agreement by the other Party, the offended Party shall give a written request with the other Party for an administrative hearing within fourteen (14) days of the alleged breach.
- b. **Hearing Officer Selection.** Within ten (10) days of receipt by either Party of a written notice requesting an administrative hearing, City Manager and Contractor shall meet to mutually agree on the selection of a hearing officer. If agreement is not reached within twenty (20) days after the notice requesting an administrative hearing is received, the offended Party shall select the hearing officer from a list of three potential hearing officers who are retired California Superior Court or appellate Court justices, none of whom are related to the Parties, prepared in advance by the City Manager and approved by the City Council.
- c. **Hearing Procedure and Venue.** The hearing shall be conducted according to California Code of Civil Procedure Section 1280, *et seq.* (the "California Arbitration Act"). The exclusive venue shall be in San Bernardino County, California. A hearing officer to whom a matter is referred shall have the authority to (i) order the City or Contractor to undertake remedial action to cure the breach and to prevent occurrence of similar breaches in the future; (ii) assess damages and/or levy a penalty upon the City or the Contractor consistent with the terms of this Agreement; or (iii) find there has been no breach. If the hearing officer

finds there has been no breach, such a decision precludes the City from conducting a default hearing.

- d. **Payment of Fees.** The Party losing the hearing shall be liable for the hearing officer's fees.
- e. **Failure to Comply.** Any failure of Contractor to comply with the hearing officer's order shall be deemed a material breach of the Agreement, and may be grounds for termination of the Agreement.
- f. **Hearing Commencement; Discovery.** The hearing officer shall commence the hearing within thirty (30) days of selection unless the Parties and the hearing officer otherwise agree. Any Party to the hearing may issue a request to compel reasonable document production from the other Party. Disputes concerning the scope of document production and enforcement of document requests shall be subject to agreement by the Parties, or if agreement is not reached within twenty (20) days of that document request, then by disposition by order of the hearing officer. Any such document request shall be subject to the proprietary rights and rights of privilege of the Parties, and the hearing officer shall adopt procedures to protect such rights. Except as may be otherwise specifically agreed by the Parties, no other form of pretrial discovery shall be available to the Parties; provided that if either Party notifies the hearing officer that a material violation of the Franchise or rights in connection therewith is claimed by either Party, the provisions of Code of Civil Procedure section 1283.05 shall apply.
- g. **Communications.** Neither Party may communicate separately with the hearing officer after the hearing officer has been selected. All subsequent communications between a Party and a hearing officer shall be simultaneously delivered to the other Party. This provision shall not apply to communications made to schedule a hearing or request a continuance.
- h. **Effective Date; Findings.** Until a final decision is entered by the hearing officer proceeding under the foregoing provisions and the time for appeal or other post judgment petition has expired, the imposition or enforcement of any penalties or sanctions provided in this Agreement and related to the subject matter of the hearing shall be stayed. The hearing officer may modify or cancel any proposed penalties or sanctions upon finding that the Party subject thereto acted with substantial justification or if the interest of justice so requires.
- i. **Appeal.** Any Party to an administrative hearing as set forth in this Section may petition the Superior Court in San Bernardino County, California to confirm, correct, or vacate the decision on the grounds stated in the California Arbitration Act. Any proceedings on appeal shall be in accordance with California Code of Civil Procedure sections 1294 and 1294.2.

- j. Award/Decision Non-Binding. To the extent that the administrative hearing procedure set forth herein is interpreted as a requirement for arbitration, any decision by a hearing officer arising out of such administrative hearing shall be **NON-BINDING**, and nothing in this Article or elsewhere in this Agreement, shall prevent the Parties from seeking judicial review or a trial de novo with respect to any decision rendered by a hearing officer as set forth herein.

#### **13.04 LIQUIDATED DAMAGES**

- a. Material Breach. City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a material breach by Contractor of its obligations under this Agreement. The factors relating to the impracticality of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable services; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that services might be available at substantially lower costs than alternative services, and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.
- b. Amount. After providing Contractor notice and an opportunity to cure set forth herein, the City Council may, in its discretion, assess liquidated damages in an amount not to exceed Eight Hundred Dollars (\$800.00) per day, for each calendar day that service is not provided by Contractor in accordance with this Agreement. The amount of the liquidated damages shall be adjusted annually each September 1 by the amount of change in the Consumer Price Index according to the procedure specified in Section 10.06 above, for Contractor compensation.
- c. Payment. City finds, and Contractor acknowledges and agrees, that the above described liquidated damage provisions represent a reasonable sum in light of all the circumstances. Said liquidated damages sums shall be applicable to each business day of delay during which Contractor has been found by the City Council to be in material breach pursuant to this Section. The Contractor shall pay any liquidated damages assessed by the City Council within ten (10) days after they are assessed.

### **13.05 CITY'S ADDITIONAL REMEDIES**

In addition to the remedies set forth in this Section, City shall have the following rights and remedies:

- a. **Rental of Equipment and Facilities.** To rent or lease equipment from Contractor at its fair and reasonable rental value for the purpose of performing the services which Contractor is obligated to perform pursuant to this Agreement, for a period not to exceed six (6) months. In the case of equipment not owned by Contractor, Contractor shall assign to City, to the extent Contractor is permitted to do so under the instruments pursuant to which Contractor possesses such equipment, the right to possess the equipment. If City exercises its rights under this Section, City shall pay Contractor the reasonable rental value of the equipment so taken for the period of City's possession thereof.
- b. **Performance by Others.** The right to license others to perform the services otherwise to be performed by Contractor hereunder or to perform such services itself.
- c. **Damages.** The right to obtain damages and/or injunctive relief. Both Parties recognize and agree that in the event of a breach of the terms of this Agreement by Contractor, City may suffer irreparable injury and incalculable damages sufficient to support injunctive relief, to enforce the provisions of this Agreement and to enjoin the breach thereof.

### **13.06 RIGHTS OF CITY TO PERFORM DURING EMERGENCY**

- a. **Temporary Possession.** Should Contractor, for any reason whatsoever, except the occurrence or existence of any of the events or conditions set forth in Section 13.07, "Force Majeure", refuse or be unable to collect, transport, recycle, compost, and dispose, and provide temporary bin/roll-off services for any or all of the Refuse, Compostables, and Recyclables which it is obligated under this Agreement for a period of more than seventy-two (72) hours, and if as a result thereof, debris, Refuse, Compostables, Recyclables and construction debris should accumulate in City to such an extent, in such a manner, or for such a time that the City Manager should find that such accumulation endangers or menaces the public health, safety, or welfare, then in such event City shall have the right, upon twenty-four (24) hour prior written notice to Contractor, during the period of such emergency, to temporarily take possession of any or all equipment and facilities of Contractor previously used in the collection, transportation, Recycling, Composting, and Disposal of Solid Waste and construction debris and provide temporary bin/roll-off services under this Agreement, and to use such equipment and facilities to collect, Recycle, Compost, and transport any or all debris, Refuse, Compostables, Recyclables, and construction debris and provide temporary bin/roll-off services which Contractor would otherwise be obligated to collect, Recycle, Compost, transport, and Dispose of Solid Waste and construction

debris and provide temporary bin/roll-off services pursuant to this Agreement. Contractor agrees that in such event it shall fully cooperate with City to effect such a transfer of possession for City's use.

- b. **No Payment; Relinquishment.** Contractor agrees that, in such emergency as described in Subsection a above, City may take temporary possession of and use all of said equipment and facilities without paying Contractor any rental or other charge, provided that City agrees that, in such event, it assumes complete responsibility for the proper and normal use of such equipment and facilities. City agrees that it shall immediately relinquish possession of all of the above mentioned property to Contractor upon receipt of written notice from Contractor to the effect that it is able to resume its normal responsibilities under this Agreement.

### **13.06 FORCE MAJEURE**

Contractor shall not be in breach under this Agreement in the event that the services to be provided by Contractor are temporarily interrupted or discontinued for any of the following events which are beyond the reasonable control of and not caused by the actions of Contractor: (i) riots, wars, sabotage, severe civil disturbances, insurrections, and explosions; (ii) natural disasters such as floods, earthquakes, landslides, and fires; (iii) strikes, lockouts, and other labor disturbances; or (iv) other catastrophic events. Other catastrophic events do not include the financial inability of Contractor to perform or failure of Contractor 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 Contractor.

### **13.08 PERFORMANCE BOND**

Contractor shall, prior to the Effective Date of this Agreement, execute and file with the City Clerk a surety bond in the penal sum of Five Hundred Thousand Dollars (\$500,000.00) conditioned upon the faithful performance of this Agreement by Contractor, and its subcontractors, if any. Said bond may be written for a term of one (1) year, and may thereafter be renewed by certificate, proved however, that Contractor agrees to and shall maintain such bond in force for the complete Term of this Agreement (including any extensions thereof).

## **ARTICLE 14. OTHER AGREEMENTS OF THE PARTIES**

### **14.01 RELATIONSHIP OF PARTIES; INDEPENDENT CONTRACTOR**

The Parties intend that Contractor shall perform the services required by this Agreement as an independent contractor engaged by City, and not as an officer or employee of City, nor as a partner of or joint venturer with City. No employee of Contractor shall be deemed to be an employee or agent of City. Except as

expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the services performed under this Agreement, and over all persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, subcontractors and agents. Neither Contractor, nor its officers, employees, subcontractors or agents shall obtain any rights to retirement benefit, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with City.

#### **14.02 COMPLIANCE WITH LAWS**

In providing the services required under this Agreement, Contractor shall at all times comply with all applicable laws of the United States, the State and City, with all applicable regulations promulgated by Federal, State, regional or local administrative and regulatory agencies, and by City, now in force and as they may be enacted, issued or amended during the Term, and with all permits affecting the services to be provided.

#### **14.03 ASSIGNMENT; TRANSFER; CHANGE IN CONTROL**

- a. **City Consent Required.** It is the expressed intent of the Parties to this Agreement that the rights and privileges granted by this Agreement shall not be transferred, sold, hypothecated, leased, assigned, nor shall any of the rights or privileges herein be hypothecated, leased, assigned, sold, or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest, or property therein, pass to or vest in any person, except Contractor, either by act of Contractor or by operation of law, nor shall any Change in Control (as defined in Subsection c, below) occur, without the prior written consent of City, expressed by resolution adopted by the City Council.

It is further understood and agreed that the City's consent to any of the above actions or transactions may be withheld for any reason, with or without cause, and that upon the occurrence of any of the above events, without consent of City, City shall have the absolute right to terminate the Agreement without notice.

- b. **Penalty for Unauthorized Transfer.** In addition to the rights provided City with respect to terminating this, Agreement should Contractor take any of the actions set forth in Subsection 14.03.a above, prior to obtaining written consent of City, twenty-five percent (25%) of the gross monthly billings for Solid Waste and Recycling, from the date of the unauthorized action until the date City receives notice of the unauthorized action, shall be returned to City.
- c. **Change In Control Defined.** City consent is required for any change in control of Contractor. "Change in Control" shall mean any sale, transfer, or acquisition of Contractor. Contractor is a corporation, and any acquisition of more than twenty-five percent (25%) of Contractor's voting

stock by any person, or groups of persons acting in concert, who already own less than fifty percent (50%) of the voting stock, shall be deemed a change in control. Provided, however, that the transfer of stock of Contractor to another solid waste company shall be deemed a transfer and not a change in control.

- d. **Application Fee.** Any application for a Franchise transfer, assignment of this Agreement or Change in Control, as described in this Section 14.03, shall be made in the manner prescribed by the City Manager. The application shall include the payment and reimbursement to City of: (i) up to Ten Thousand Dollars (\$10,000) to cover the cost of all direct or indirect administrative expenses including consultants and attorneys, necessary to adequately analyze the application (the "Transfer Application Fee"); and (ii) all additional associated costs not covered by the Transfer Application Fee. Bills evidencing the costs and expenses associated with a Franchise transfer, assignment or Change of Control shall be supported with evidence of the expense or cost incurred. The applicant shall pay such bills within thirty (30) days of receipt. The Transfer Application Fee and cost reimbursements set forth in this Subsection are in addition to any other fees specified in this Agreement.
- e. **Assignment to Family Member.** Notwithstanding the fact it would otherwise fall within the provisions of this Section 14.03, any transfer of interests to an immediate family member of any existing shareholder may occur with the written approval of the City Manager, and without any of the other provisions of this Section 14.03 applying if Contractor certifies and the City Manager verifies that the transfer is in fact to an immediate family member or members; and, the City Manager finds both of the following: (i) that the transfer of interest will have no adverse impact on Contractor's operations in City, and (ii) that the transfer of interest will not result in any interest in Contractor being vested in any person who is not an immediate family member of an existing shareholder of Contractor. In the event the City Manager is unable to make these findings, or has any concern regarding his ability to do so, he may refer the matter in whole or part to the City Council for its consideration, approval, or other action, and the City Council shall have the discretion to consider the matter as if it were a transfer as described in this Section 14.03. Any assignment to a family member shall not incur a Transfer Application Fee.

#### **14.04 SUBCONTRACTING**

Contractor shall not engage any subcontractors to perform any of the services required of it by this Agreement without the prior written consent of City. Contractor shall notify City no later than thirty (30) days prior to the date on which it proposes to enter into a subcontract. City may approve or deny any such request in its sole discretion and its approval shall not be unreasonably withheld. Contractor retains the right to enter into an arrangement with an affiliated entity to perform any of the services, activities or administration of services or activities

which Contractor is required or allowed to perform under this Agreement. Any arrangement by Contractor with an affiliated entity shall neither be considered as a subcontracting nor as an assignment.

#### **14.05 CONTRACTOR'S INVESTIGATION**

Contractor has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding the Agreement and the work to be performed by it. Contractor has taken those matters into consideration in agreeing to provide the service required under this Agreement for the compensation to be provided herein.

#### **14.06 NOTICE**

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

- a. If to City:  
City Manager  
City of Victorville  
14343 Civic Drive  
PO Box 5001  
Victorville, CA. 92393-5001
- b. If to Contractor:  
Victorville Disposal, Inc.  
9890 Cherry Avenue  
Fontana, California 92335
- c. The address to which communications may be delivered may be changed from time to time by a notice given in accordance with this Section.
- d. All notices shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

#### **14.07 REPRESENTATIVES**

- a. Representatives of City. References in this Agreement to actions to be taken by the City shall mean action taken by the City Council, except as provided below or elsewhere in this Agreement. The City Manager shall be deemed to be the administrator of this Agreement and may in turn delegate authority to other City officials in writing. Contractor may rely upon actions taken by the delegates of the City Manager if such actions are within the scope of the authority delegated to them.
- b. Representative of Contractor. Contractor shall designate a responsible representative to serve as its "government liaison" and act in its behalf in

all matters related to the Agreement and shall inform City in writing of such designation and of any limitations upon his or her authority to bind Contractor. City may rely upon action taken by such designated representative as actions of Contractor unless they are outside the scope of the authority delegated to him/her by Contractor as communicated to City. Contractor shall provide City prior written notification of a change in its government liaison. City reserves the right to require a change of Contractor's government liaison.

#### **14.08 DUTY OF CONTRACTOR NOT TO DISCRIMINATE**

In the performance of this Agreement Contractor shall not discriminate, nor permit any subcontractor to discriminate, against any employee, applicant, for employment, or Customer an account of race, color, national origin, ancestry, religion, sex, age, physical disability, medical condition, sexual orientation, marital status, or other characteristic, in violation of any applicable law.

#### **14.09 TRANSITION TO NEXT SERVICE PROVIDER**

At the expiration of the Term or the earlier termination of this Agreement, or upon City's approval of a proposed assignment, Contractor shall cooperate fully with City to ensure an orderly transition to any and all new service providers. Contractor shall further cooperate with City by providing route and account data for the development of a request for proposals should City decide to seek proposals for the services provided under this Agreement.

#### **14.10 PAVEMENT DAMAGE**

City has determined, and Contractor acknowledges, that Contractor's operation of collection vehicles places a burden on streets and is a cause of pavement damage. City has further determined that it may levy on Contractor a collection vehicle impact fee and from time to time adjust said fee to partially offset a portion of pavement maintenance and repair costs resulting from Contractor's collection vehicles. The parties further agree that any such collection vehicle impact fee levied by City shall be a pass through expense and rates shall be adjusted contemporaneously with the levy or adjustment of such a fee.

#### **14.11 OWNERSHIP OF SOLID WASTE**

- a. Once Solid Waste, Recyclable Materials, Green Waste, Organic Materials, and Construction and Demolition Waste is placed in Commercial containers for Collection, or Residential containers for curbside, collection, ownership shall transfer to Contractor. Contractor is hereby granted the right to retain, Recycle, Compost, dispose of, and otherwise use such Solid Waste, Recyclable Materials, Green Waste, Organic Materials, and Construction and Demolition Waste, or any part thereof, in

any lawful fashion or for any lawful purpose as agreed to by City and Contractor in order to meet AB 939 requirements.

- b. **Transfer of Ownership.** When disposed of at a Disposal Site or Processing Facility (whether landfill, transformation facility, transfer station, or material recovery facility) Solid Waste, Recyclable Materials, Green Waste, Organic Materials and Construction and Demolition Waste shall become the property of the owner or operator of the Disposal Facility or Processing Facility once deposited there by Contractor. At no time does City obtain any right of ownership or possession of Solid Waste placed for Collection as described herein, and nothing in this Agreement shall be construed as giving rise to any inference that City has such rights.

## **ARTICLE 15. MISCELLANEOUS PROVISIONS**

### **15.01 GOVERNING LAW**

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

### **15.02 JURISDICTION**

Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State, which shall have jurisdiction over such lawsuits. With respect to venue, the Parties agree that this Agreement is made and will be performed in San Bernardino County.

### **15.03 BINDING ON SUCCESSORS**

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

### **15.04 PARTIES IN INTEREST**

Nothing in this Agreement is intended to confer any rights on any Persons other than the Parties to it and their permitted successors and assigns.

### **15.05 WAIVER**

The waiver of either Party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision.

## **15.06 ATTACHMENTS**

Each of the Attachments to this Agreement, identified as Attachments "A" through "E", is attached hereto and incorporated herein and made a part of this Agreement by this reference.

## **15.07 ENTIRE AGREEMENT**

This Agreement, including the Attachments, represents the full and entire agreement between the Parties with respect to the matters covered herein and supersedes all prior negotiations and agreements, either written or oral.

## **15.08 SECTION HEADINGS**

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

## **15.09 INTERPRETATION**

This Agreement shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

## **15.10 AMENDMENT**

This Agreement may not be modified or amended in any respect except by a writing signed by the authorized representatives of the Parties.

## **15.11 SEVERABILITY**

If a court of competent jurisdiction holds any provision of this Agreement to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

## **15.12 COSTS AND ATTORNEYS' FEES**

The prevailing Party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other Party.

**15.13 NO DAMAGES FOR INVALIDATION OF AGREEMENT**

Except as otherwise set forth in Section 15.15 below, if a final judgment of a court of competent jurisdiction determines that this Agreement is illegal or was unlawfully entered into by City, neither Party shall have any claim against the other for damages of any kind (including but not limited to loss of profits) on any theory.

**15.14 REFERENCE TO LAWS**

All references in this Agreement to laws and regulations shall be understood to include such laws and regulations as they may be subsequently amended or recodified, unless otherwise specifically provided. In addition, references to specific government agencies shall be understood to include agencies that succeed to or assume the functions they are currently performing.

**15.15 INDEMNITY AGAINST CHALLENGES TO AGREEMENT**

For the Term of this Agreement, Contractor shall indemnify, defend and hold harmless Indemnitees from and against any and all liability, claim, demand, action, proceeding or suit of any and every kind and description brought by a third person challenging the process by which this Agreement was negotiated or awarded.

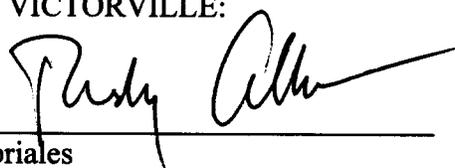
(Signature page follows)

LAST PAGE OF AGREEMENT

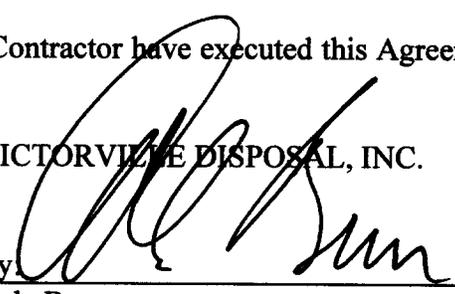
In WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first written above.

CITY OF VICTORVILLE:

VICTORVILLE DISPOSAL, INC.

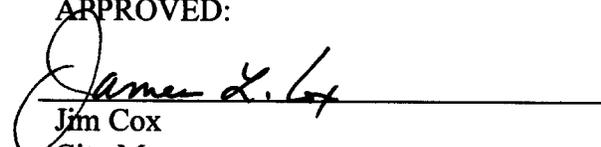
By: 

Rudy Cabriales  
Mayor

By: 

Cole Burr  
President

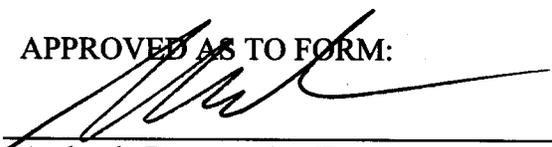
APPROVED:

  
Jim Cox  
City Manager

ATTEST:

  
Carolee Bates  
City Clerk

APPROVED AS TO FORM:

  
Andre de Bortnowsky, Esq.  
City Attorney

CITY OF VICTORVILLE RISK  
MANAGEMENT

BY: 

Chuck Buquet, Risk Manager

## ATTACHMENT A

### DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Agreement shall have the meanings set forth below.

- a. Agreement – The term “Agreement” shall mean this contract, entered into between City and Contractor
- b. Bin Service – The term “Bin Service” shall mean collection service pursuant to an agreement between the Contractor and his customers by which bin containers (dumpsters) are rented to the customers.
- c. Bulky Waste – The term “Bulky Waste” shall mean large items of Solid Waste such as appliances, furniture, large auto parts, trees, branches greater than 4 inches in diameter and 36 inches in length, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.
- d. City – The term “City” shall mean the City of Victorville.
- e. City Council – The term “City Council” shall mean the City Council of the City of Victorville.
- f. City Manager – The term “City Manager” shall mean the City Manager of the City of Victorville.
- g. Code – The term “Code” shall mean the Municipal Code of the City of Victorville, both codified and miscellaneous ordinances.
- h. Collection Service – The term “Collection Service” shall mean all or any part of the activities involved in collecting and transporting solid waste, recyclable materials or green waste to an appropriate disposal or recycling facility.
- i. Commercial/Industrial Premises – The term “Commercial/Industrial Premises” shall mean stores, offices, including manufacturing and industrial offices and facilities, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities.
- j. Commercial Recycling Program – The term “Commercial Recycling Program” shall mean Source Separated Commercial Recycling and Select Commercial Recycling
- k. Compost – The term “Compost” shall mean controlled biological decomposition of organic material, producing a stable soil amendment.
- l. Construction and Demolition Waste – The term “Construction and Demolition Waste” shall mean used or discarded construction materials removed from a premise during construction, demolition or renovation of a structure where a City permit has been issued.

- m. **Customer** – The term “Customer” shall mean those generators of solid waste, recyclable materials or green waste to whom a franchisee provides collection service.
- n. **Disposal Facility** – The term “Disposal Facility” shall mean any dump site, transfer station or other place specifically designed for the receipt and disposition of refuse collected by Contractor pursuant to this agreement.
- o. **Exclusive Solid Waste Handling Services** – The term “Exclusive Solid Waste Handling Services” means any action by the City, whether by franchise, contract, license, permit, or otherwise, whereby the City itself or one or more other local agencies or solid waste enterprises has the exclusive right to provide solid waste handling services of any class or type within all or any part of the territory of the local agency.
- p. **Franchise** – The term “Franchise” shall mean a certificate, contract, or license issued by the City authorizing a person to provide solid waste and recycling collection service and to use City streets.
- q. **Franchisee** – The term “Franchisee” shall mean the person granted the exclusive franchise by this Agreement.
- r. **Gate Fee** – The term “Gate Fee” shall mean the fee charged for the disposal of solid waste at any public or private landfill, transfer station and/or resource recovery or recycling facilities.
- s. **Green Waste** – The term “Green Waste” shall mean compostable materials including grass clippings, leaves, pruning and similar vegetative materials; but does not include sod, stumps, or similar bulky materials, rocks or dirt.
- t. **Multi-Family Premises** – The term “Multi-Family Premises” shall mean any building or group of buildings that contain 5 or more dwellings.
- u. **Organic Material** – The term “Organic Material” shall mean materials that can be biologically synthesized by plants or animals from simpler substances, are no longer suited for their intended purpose, and are readily broken down by biological processes into soil constituents. Examples include, but are not limited to, food waste, green waste, paper, and putrescible material which are generally a source of food for bacteria.
- v. **Non-Residential Premises** – The term “Non-Residential Premises” shall mean Commercial/Industrial and Multi-Family Premises.
- w. **Processing Facility** – The term “Processing Facility” shall mean a facility designated by the City to accept recycling material for the purpose of reduction, separation, recovery and conversion.
- x. **Recyclable Materials** – The term “Recyclable Materials” shall mean Solid Waste that is source separated, has some potential economic value, and is set aside, handled, packaged, or offered for collection in a manner different from Refuse in order to allow it to be processed for recycling. Recycling Materials must be acceptable to the Processing Facility, and include paper, cardboard, glass, metal, and rigid plastic containers.

- y. Refuse – The term “Refuse” shall mean Solid Waste, as defined herein. However, the term “Refuse”, for purposes of this Agreement, shall not be deemed to refer to or include dead animals, manure, sewage waste or waste water, explosive substances, radioactive materials, materials which have been exposed to highly infectious or contagious diseases, or other hazardous materials.
- z. Residential Premises – The term “Residential Premises” shall mean a single family dwelling or a multi-family dwelling with up to and including 4 dwelling units on a single tax lot.
- aa. Select Commercial Recycling – The term “Select Commercial Recycling” shall mean the collection of non-residential bins that include high concentrations of Recyclable Materials, as evidenced by the Customers’ typical generation, but that are not otherwise collected as Commercial Recycling.
- bb. Service Unit – The term “Service Unit” shall mean each of the following which receives standard service: each single-family dwelling, each dwelling unit within a duplex, triplex or multi-family residential building, each apartment or condominium unit within an apartment or condominium building, and each business, professional, industrial or other non-residential use unit.
- cc. Solid Waste – The term “Solid Waste” shall mean all putrescible and nonputrescible solid and semisolid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. “Solid Waste” does not include hazardous waste as defined by the State of California, or low-level radioactive waste. “Solid Waste” does not include medical waste which has not been treated for disposal at a solid waste facility.
- dd. Solid Waste Handling Services – The term “Solid Waste Handling Services” shall mean the collection, transportation, storage, and transfer of solid wastes for residential, commercial, institutional, or industrial users or customers.
- ee. Source Separated Commercial Recycling – The term “Source Separated Commercial Recycling” shall mean the collection of bins that have high concentrations of source separated Recyclable Materials.
- ff. Standard Service – The term “Standard Service” shall mean curbside collection service required for all service units not arranging with the Contractor for bin service nor required by the City to obtain bin service from the Contractor.
- gg. Waste Generator – The term “Waste Generator” shall mean any Person, including any contractors or subcontractors acting on such Person’s behalf, whose act or process produced Solid Waste, or whose act first causes Solid Waste to become subject to City’s regulatory authority. A contractor or subcontractor engaged for the purpose of collecting, hauling, and transporting waste is not a waste generator.

## ATTACHMENT B

### SCOPE OF SERVICES

The services to be performed by Contractor are as follows and are subject to change as described in Section 10.08 of this Agreement.

- a. Provide carts for automated collection of residential Solid Waste and Recyclable Materials in accordance with Section 7.03.
- b. Provide fully automated, once a week collection of residential Solid Waste and Recyclable Materials.
- c. Provide each single family residential dwelling up to two Bulky Item collections each twelve month period.
- d. Provide annual residential curbside Christmas Tree Collection.
- e. Provide containers for collection of commercial Solid Waste and Recyclable Materials in accordance with Section 7.03.
- f. Provide for collection of commercial Solid Waste and Recyclable Materials up to seven days per week.
- g. Provide for collection of Solid Waste and Recyclable Materials from selected City Facilities in accordance with Subsection 5.01d.
- h. Provide Customer Services in accordance with Section 6.01.
- i. Provide Records and Reports in accordance with Article 11.
- j. Provide a pilot program for Organic Material (Food and Green Waste) residential and commercial Collection and Composting, at Contractor's sole cost.
- k. Provide a quarterly event for document destruction (Shred-Fest), at Contractor's sole cost.
- l. Development and management of commercial recycling outreach program.
- m. Implement a program to utilize Radio Frequency Identification Devices on all new residential carts and all existing and new non-residential and residential bins;
- n. Establish a periodic residential and non-residential route audit and service verification program, linked to Customer billing;
- o. Provide a social marketing based program to reduce recycling contamination and increased recyclable material recovery for residential and non-residential customers, including a comprehensive container inspection and compliance element;

- p. Provide labor and equipment needed to organize two annual community clean-up events, at Contractor's sole cost.
- q. Provide for the development and management of school outreach recycling programs including annual site visits to all schools and classrooms within the City limits which receive Collection Services provided by Contractor under this Agreement, provided such schools and classrooms continue to receive such Collection Services.

## ATTACHMENT C

### **CITY FACILITY COLLECTION SERVICES**

Contractor will provide at no charge to City, containers for, and collection and disposal of all Solid Waste generated at the following premises owned and/or operated by the City (collectively "City Facilities" and individually "City Facility").

- a. City Hall at 14343 Civic Drive
- b. City Public Works Yard at 14177 Mc Art Rd
- c. City Public Works Yard at 14154 Palmdale Rd
- d. City leased building at 15121 Palmdale Rd
- e. Other City Facilities as needed.

## ATTACHMENT D

### CUSTOMER RATE SCHEDULE

#### Residential Services

Automated refuse and recycling service including (plus HHW): 1 - 95 gallon refuse cart 1 - 65 gallon recycling cart	\$20.17
Small Cart refuse and recycling service including (plus HHW): 1 - 35 gallon refuse cart 1 - 65 gallon recycling cart	\$17.42
Low Income/Senior/Disabled Discount (applied to service fee) (plus HHW)	15%
Extra Cart – 95 gallon refuse	\$11.02
Extra Cart – 65 gallon recycling (1 <sup>st</sup> extra container)	No Charge
Extra Cart – 65 gallon recycling (2 <sup>nd</sup> and subsequent containers)	\$1.34 ea/mo
Household Hazardous Waste Management Fee	\$0.32/mo

#### Commercial Services

Automated refuse and recycling service including: 1 - 95 gallon refuse cart 1 - 65 gallon recycling cart	\$29.20
Extra Cart – 95 gallon refuse	\$11.02
Extra Cart – 65 gallon recycling	\$1.34
Refuse – 1.5 cubic yard bin service:	
1.5 cubic yard bin x 1 pick up per week	\$47.00
1.5 cubic yard bin x 2 pick ups per week	\$88.82
1.5 cubic yard bin x 3 pick ups per week	\$130.60
1.5 cubic yard bin x 4 pick ups per week	\$172.38
1.5 cubic yard bin x 5 pick ups per week	\$214.16
1.5 cubic yard bin x 6 pick ups per week	\$255.94
1.5 cubic yard bin x 7 pick ups per week	\$297.72
Refuse – 2 cubic yard bin service:	
2 cubic yard bin x 1 pick up per week	\$62.14
2 cubic yard bin x 2 pick ups per week	\$117.78
2 cubic yard bin x 3 pick ups per week	\$173.42
2 cubic yard bin x 4 pick ups per week	\$229.06
2 cubic yard bin x 5 pick ups per week	\$284.70
2 cubic yard bin x 6 pick ups per week	\$340.34
2 cubic yard bin x 7 pick ups per week	\$395.98

<b>Refuse – 3 cubic yard bin service:</b>	
3 cubic yard bin x 1 pick up per week	\$91.91
3 cubic yard bin x 2 pick ups per week	\$175.37
3 cubic yard bin x 3 pick ups per week	\$258.83
3 cubic yard bin x 4 pick ups per week	\$342.29
3 cubic yard bin x 5 pick ups per week	\$425.75
3 cubic yard bin x 6 pick ups per week	\$509.21
3 cubic yard bin x 7 pick ups per week	\$592.67
<b>Refuse – 4 cubic yard bin service:</b>	
4 cubic yard bin x 1 pick up per week	\$124.28
4 cubic yard bin x 2 pick ups per week	\$235.56
4 cubic yard bin x 3 pick ups per week	\$346.84
4 cubic yard bin x 4 pick ups per week	\$458.12
4 cubic yard bin x 5 pick ups per week	\$569.40
4 cubic yard bin x 6 pick ups per week	\$680.68
4 cubic yard bin x 7 pick ups per week	\$791.96
<b>Recycling – 1.5 cubic yard bin service:</b>	
1.5 cubic yard bin x 1 pick up per week	\$27.56
1.5 cubic yard bin x 2 pick ups per week	\$49.90
1.5 cubic yard bin x 3 pick ups per week	\$72.22
1.5 cubic yard bin x 4 pick ups per week	\$94.54
1.5 cubic yard bin x 5 pick ups per week	\$116.86
1.5 cubic yard bin x 6 pick ups per week	\$139.18
1.5 cubic yard bin x 7 pick ups per week	\$161.50
<b>Recycling – 2 cubic yard bin service:</b>	
2 cubic yard bin x 1 pick up per week	\$36.23
2 cubic yard bin x 2 pick ups per week	\$65.96
2 cubic yard bin x 3 pick ups per week	\$95.69
2 cubic yard bin x 4 pick ups per week	\$125.42
2 cubic yard bin x 5 pick ups per week	\$155.15
2 cubic yard bin x 6 pick ups per week	\$184.88
2 cubic yard bin x 7 pick ups per week	\$214.61
<b>Recycling – 3 cubic yard bin service:</b>	
3 cubic yard bin x 1 pick up per week	\$53.04
3 cubic yard bin x 2 pick ups per week	\$97.63
3 cubic yard bin x 3 pick ups per week	\$142.22
3 cubic yard bin x 4 pick ups per week	\$186.81
3 cubic yard bin x 5 pick ups per week	\$231.40

3 cubic yard bin x 6 pick ups/week	\$275.99
3 cubic yard bin x 7 pick ups/week	\$320.58
<b>Recycling – 4 cubic yard bin service:</b>	
4 cubic yard bin x 2 pick ups per week	\$72.45
4 cubic yard bin x 2 pick ups per week	\$131.90
4 cubic yard bin x 2 pick ups per week	\$191.35
4 cubic yard bin x 2 pick ups per week	\$250.80
4 cubic yard bin x 2 pick ups per week	\$310.25
4 cubic yard bin x 2 pick ups per week	\$369.70
4 cubic yard bin x 2 pick ups per week	\$429.15

### **Industrial Services**

<b>Roll-Off Refuse Container Service:</b>	
10 cubic yard box (plus disposal and AB939 fee)	\$148.18
20 cubic yard box (plus disposal and AB939 fee)	\$148.18
40 cubic yard box (plus disposal and AB939 fee)	\$148.18
Compactor box (plus disposal and AB939 fee)	\$207.45
<b>Roll-Off Recycling Containers Service:</b>	
10 cubic yard box	\$148.18
20 cubic yard box	\$148.18
40 cubic yard box	\$148.18
Compactor box	\$207.45
AB939 Recycle Fee (roll-off services for refuse)	\$0.54/cy

### **Temporary Services**

<b>Roll-Off Refuse Container Service:</b>	
10 cubic yard box (includes 10 tons)	\$507.48
20 cubic yard box (includes 10 tons)	\$512.88
40 cubic yard box (includes 6 tons)	\$382.12
<b>Commercial/Residential Bin Service:</b>	
3 cubic yard bin	\$95.00

### **Special Services**

<b>Extra pick-up rate (refuse bin)</b>	
1.5 cubic yard bin	\$10.69
2 cubic yard bin	\$14.34
3 cubic yard bin	\$21.21
4 cubic yard bin	\$28.08
<b>Extra pick-up rate (recycling bin)</b>	

1.5 cubic yard bin	\$6.36
2 cubic yard bin	\$8.36
3 cubic yard bin	\$12.24
4 cubic yard bin	\$16.72
Contaminated Recycling Containers – Residential	\$15.00
Overweight Containers – Residential (return trip)	\$15.00
Late Set Out – Residential (return trip)	\$15.00
Changing Service Levels – Residential (in excess of 1 time per year)	\$25.00

## ATTACHMENT E

### CONTRACTOR SERVICE UNIT RATES

#### Residential Services

Automated refuse and recycling service including: 1 - 95 gallon refuse cart 1 - 65 gallon recycling cart	\$13.22
Small Cart refuse and recycling service including : 1 - 35 gallon refuse cart 1 - 65 gallon recycling cart	13.22
Low Income/Senior/Disabled Discount (applied to service fee)	15%
Extra Cart – 95 gallon refuse	\$6.73
Extra Cart – 65 gallon recycling (1 <sup>st</sup> extra container)	No Charge
Extra Cart – 65 gallon recycling (2 <sup>nd</sup> and subsequent containers)	\$1.34 ea/mo

#### Commercial Services

Automated refuse and recycling service including: 1 - 95 gallon refuse cart 1 - 65 gallon recycling cart	\$18.04
Extra Cart – 95 gallon refuse	\$5.45
Extra Cart – 65 gallon recycling	\$1.09
Refuse – 1.5 cubic yard bin service:	
1.5 cubic yard bin x 1 pick up per week	\$22.32
1.5 cubic yard bin x 2 pick ups per week	\$40.42
1.5 cubic yard bin x 3 pick ups per week	\$58.50
1.5 cubic yard bin x 4 pick ups per week	\$76.58
1.5 cubic yard bin x 5 pick ups per week	\$94.66
1.5 cubic yard bin x 6 pick ups per week	\$112.74
1.5 cubic yard bin x 7 pick ups per week	\$130.82
Refuse – 2 cubic yard bin service:	
2 cubic yard bin x 1 pick up per week	\$29.35
2 cubic yard bin x 2 pick ups per week	\$53.43
2 cubic yard bin x 3 pick ups per week	\$77.51
2 cubic yard bin x 4 pick ups per week	\$101.59
2 cubic yard bin x 5 pick ups per week	\$125.67
2 cubic yard bin x 6 pick ups per week	\$149.75
2 cubic yard bin x 7 pick ups per week	\$173.83

<b>Refuse – 3 cubic yard bin service:</b>	
3 cubic yard bin x 1 pick up per week	\$42.96
3 cubic yard bin x 2 pick ups per week	\$79.08
3 cubic yard bin x 3 pick ups per week	\$115.20
3 cubic yard bin x 4 pick ups per week	\$151.32
3 cubic yard bin x 5 pick ups per week	\$187.43
3 cubic yard bin x 6 pick ups per week	\$223.55
3 cubic yard bin x 7 pick ups per week	\$259.67
<b>Refuse – 4 cubic yard bin service:</b>	
4 cubic yard bin x 1 pick up per week	\$58.68
4 cubic yard bin x 2 pick ups per week	\$106.84
4 cubic yard bin x 3 pick ups per week	\$154.99
4 cubic yard bin x 4 pick ups per week	\$203.15
4 cubic yard bin x 5 pick ups per week	\$251.30
4 cubic yard bin x 6 pick ups per week	\$299.46
4 cubic yard bin x 7 pick ups per week	\$347.61
<b>Recycling – 1.5 cubic yard bin service:</b>	
1.5 cubic yard bin x 1 pick up per week	\$22.32
1.5 cubic yard bin x 2 pick ups per week	\$40.42
1.5 cubic yard bin x 3 pick ups per week	\$58.50
1.5 cubic yard bin x 4 pick ups per week	\$76.58
1.5 cubic yard bin x 5 pick ups per week	\$94.66
1.5 cubic yard bin x 6 pick ups per week	\$112.74
1.5 cubic yard bin x 7 pick ups per week	\$130.82
<b>Recycling – 2 cubic yard bin service:</b>	
2 cubic yard bin x 1 pick up per week	\$29.25
2 cubic yard bin x 2 pick ups per week	\$53.43
2 cubic yard bin x 3 pick ups per week	\$77.51
2 cubic yard bin x 4 pick ups per week	\$101.59
2 cubic yard bin x 5 pick ups per week	\$125.67
2 cubic yard bin x 6 pick ups per week	\$149.75
2 cubic yard bin x 7 pick ups per week	\$173.83
<b>Recycling – 3 cubic yard bin service:</b>	
3 cubic yard bin x 1 pick up per week	\$42.96
3 cubic yard bin x 2 pick ups per week	\$79.08
3 cubic yard bin x 3 pick ups per week	\$115.20
3 cubic yard bin x 4 pick ups per week	\$151.32
3 cubic yard bin x 5 pick ups per week	\$187.43

3 cubic yard bin x 6 pick ups per week	\$223.55
3 cubic yard bin x 7 pick ups per week	\$259.67
<b>Recycling – 4 cubic yard bin service:</b>	
4 cubic yard bin x 1 pick up per week	\$58.68
4 cubic yard bin x 2 pick ups per week	\$106.84
4 cubic yard bin x 3 pick ups per week	\$154.99
4 cubic yard bin x 4 pick ups per week	\$203.15
4 cubic yard bin x 5 pick ups per week	\$251.30
4 cubic yard bin x 6 pick ups per week	\$299.46
4 cubic yard bin x 7 pick ups per week	\$347.61

### **Industrial Services**

<b>Roll-Off Refuse Container Service:</b>	
10 cubic yard box (plus disposal)	\$120.03
20 cubic yard box (plus disposal)	\$120.03
40 cubic yard box (plus disposal)	\$120.03
Compactor box (plus disposal)	\$168.03
<b>Roll-Off Recycling Containers Service:</b>	
10 cubic yard box	\$120.03
20 cubic yard box	\$120.03
40 cubic yard box	\$120.03
Compactor box	\$168.03

### **Temporary Services**

<b>Roll-Off Refuse Container Service:</b>	
10 cubic yard box (includes 10 tons)	\$120.03
20 cubic yard box (includes 10 tons)	\$120.03
40 cubic yard box (includes 6 tons)	\$120.03

### **Special Services**

<b>Extra pick-up rate (refuse bins)</b>	
1.5 cubic yard bin	\$5.15
2 cubic yard bin	\$6.77
3 cubic yard bin	\$9.91
4 cubic yard bin	\$13.54
<b>Extra pick-up rate (recycling bin)</b>	
1.5 cubic yard bin	\$5.15
2 cubic yard bin	\$6.77
3 cubic yard bin	\$9.91

4 cubic yard bin	\$13.54
Overweight Containers – Residential (return trip)	TBD
Late Set Out – Residential (return trip)	\$12.15