

**AMENDED AND RESTATED AGREEMENT**

**BETWEEN**

**THE CITY OF SIGNAL HILL**

**AND**

**EDCO DISPOSAL CORP., D.B.A SIGNAL HILL DISPOSAL**

**FOR THE**

**PROVISION OF WASTE HAULING SERVICES**

**2021**

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## **EXTENDED AND RESTATED AGREEMENT FOR PROVISION OF WASTE HAULING SERVICES**

THIS EXTENDED AND RESTATED AGREEMENT FOR PROVISION OF WASTE HAULING SERVICES ("Agreement") is made and entered into this 15<sup>th</sup> day of September 2021 by and between EDCO DISPOSAL CORP, a California corporation, d.b.a SIGNAL HILL DISPOSAL ("Franchisee") and THE CITY OF SIGNAL HILL, a municipal corporation of the State of California ("City"). City and Franchisee are occasionally herein referred to each as a "Party" and collectively as the "Parties".

### **RECITALS**

A. On or about February 4, 1997, City and Franchisee entered into a Solid Waste Management Agreement (the "Agreement") for the provision by Franchisee to City of certain services for, among other things, the collection, transportation and disposal of residential, industrial and commercial waste, which services were specifically set forth in the 1997 Haul Agreement.

B. The 1997 Haul Agreement also provided that it was effective for seven (7) years, or until February 4, 2004.

C. On May 22, 2002, the Parties extended the effective date of the Agreement for six (6) additional years, or until February 1, 2010 (the "2002 Amendment"). As part of the 2002 Amendment, the Parties also converted the "roll-off" method then used for determining rates to a "haul plus tip fee" rate method.

D. On September 1, 2009, the Parties extended the effective date of the Agreement until February 1, 2025 (the "2009 Extended and Restated Agreement for Provision of Waste Hauling Services").

E. On November 12, 2019, the Parties extended the effective date of the Agreement until February 1, 2035. The Parties acknowledge that Franchisee has developed a Materials Recovery Facility and Transfer Station ("MRF/TS") within the City. The MRF/TS was developed by Franchisee pursuant to the terms of several separate agreements (the "MRF/TS Agreements") between Franchisee and the City or the Signal Hill Redevelopment Agency (the "Agency"). The MRF/TS Agreement includes: (i) a Development Agreement approved by the City Council on February 17, 2009 vesting and defining Franchisee's rights and obligations to develop the MRF/TS (the "DA"); (ii) a Disposition and Development Agreement (the "DDA") between the Agency and Franchisee including a lease with an option to buy certain Agency-owned property upon which the MRF/TS will be partially located (the "Lease") and for conveyance of the Agency's parcel to Franchisee for the development of the MRF/TS; (iii) a "Reimbursement Agreement" between City and Franchisee under which Franchisee is obligated to reimburse or advance funds to City for all development costs associated with the MRF/TS project, including but not limited to conducting environmental reviews under CEQA, processing and negotiating permits, entitlements and conditions, and legal costs; (iv) a "Franchise Agreement" and its authorizing franchise ordinance granting Franchisee an exclusive fifteen (15) year franchise to operate its large-scale MRF/TS in the City; (v) an "Operations Agreement" to permit and regulate operation of the MRF/TS, which

Operations Agreement was approved by the City Council on July 21, 2009; and (vi) a set of Covenants, Conditions and Restrictions (“CC&Rs”) devoting the site of the MRF/TS to the uses specified therefor in the DDA and applicable redevelopment plans for the area. The Parties acknowledge that the MRF/TS project and operational obligations established by the MRF/TS Agreements are separate and distinct from the hauling services defined by this Agreement.

NOW THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

## **ARTICLE 1 DEFINITIONS; DELEGATION OF AUTHORITY.**

**1.1 General.** Whenever any term used in this Agreement has been defined by the provisions of Chapter 8.08 of the Signal Hill Municipal Code (“SHMC”), by Division 30, Part 1 of the California Public Resources Code, or by Division 7 of Title 14 the California Code of Regulations (“SB 1383 Regulations”), the definitions in the SHMC, the Public Resources Code, or the SB 1383 Regulations. In the event of a conflict relating to the definitions, the order of precedence shall be as follows: this Agreement, SHMC, SB 1383 Regulations, and California Public Resources Code.

**1.2 Definitions.** Except as provided in Section 1.1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following respective meanings:

1.2.1 Act or AB 939. “Act” or “AB 939” means the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 et seq. and regulations promulgated thereunder, as amended from time to time, including but not limited to AB 341, AB 1826, AB 827, AB 1594, SB 1383, and the regulations promulgated by CalRecycle.

1.2.2 AB 939 Fee. “AB 939 Fee” shall mean that fee established by the City and collected by the Franchisee to fund the administrative and related costs of the City for compliance with the Waste Diversion mandates of the State.

1.2.3 Agreed Upon Procedure. “Agreed Upon Procedure” shall mean the procedures and methodology approved by the City’s Finance Department for review and audit of Franchisee’s financial records in connection with this Agreement. ,

1.2.4 Agreement or Haul Agreement. “Agreement” or “Haul Agreement” means this Amended and Restated Agreement between the City of Signal Hill and EDCO Disposal Corp., D.B.A. Signal Hill Disposal for the Provision of Waste Hauling Services.

1.2.5 Bin. “Bin” means any Solid Waste container of a capacity exceeding 90 gallons and generally immovable by just one individual (i.e., a “dumpster”) and provided to customers by Franchisee.

1.2.6 Bulky Waste. “Bulky Waste” means any large or small household appliance, furniture, tires, carpet, mattress or similar large item discarded as Municipal Solid Waste from a Single-Family Residential Unit or Multi-Family Residential Unit.

1.2.7 CalRecycle. “CalRecycle” means the California Department of Resources Recycling and Recovery.

1.2.8 Cart. “Cart” means any molded Container provided by Franchisee of a size not to exceed 96 gallons with two or more wheels for easy carting by an individual.

1.2.9 CCR. “CCR” means the California Code of Regulations.

1.2.10 City. “City” means the City of Signal Hill, a municipal corporation organized under the laws of the State of California, and all of the territory lying within the municipal boundaries of the City as presently existing and, subject to the provisions of Section 3.1.3, all geographic areas which may be added or annexed thereto during the Term of this Agreement.

1.2.11 City Facility. “City Facility” means any building, park or other site owned, leased or used by the City.

1.2.12 City Manager. “City Manager” means the Manager of the City or his or her designee(s).

1.2.13 Commercial and Industrial Units. “Commercial and Industrial Units” shall mean the Premises of a business that is not a City Facility, Single-Family Residential Unit or Multi-Family Residential Unit.

1.2.14 Compensation Schedule. “Compensation Schedule” shall mean that set of prices established by the City to compensate the Franchisee for the full costs of the collection, processing, recycling, composting, and/or transformation or landfill disposal of solid wastes.

1.2.15 Container. “Container” means an approved container used for disposal and storage until collection of Solid Waste, Recyclable Materials, or Organic Waste. It includes a cart, bin, dumpsters and roll-off boxes.

1.2.16 Construction and Demolition Debris. “Construction and Demolition Material” or “C&D Material,” means any combination of building materials resulting from construction, remodeling, repair, cleanup, or demolition operations. This term includes, but is not limited to, asphalt, cement, concrete, brick, lumber, gypsum wallboard, cardboard, and other associated packaging, roofing material, ceramic tile, carpeting; plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

1.2.17 County. “County” means the County of Los Angeles.

1.2.18 Day. “Day” means calendar day, unless otherwise stated in this Agreement.

1.2.19 Disposal Fee. “Disposal Fee” means those costs imposed at the Facility Site for the handling or dumping of Solid Waste collected by Franchisee.

1.2.20 Facility Site. “Facility Site” means a permitted Solid Waste facility, transfer station, Material Recovery Facility or pre-processing facility, inclusive of the MRF/TS owned or operated by Franchisee. Franchisee currently uses the Facility Sites set forth on Exhibit “B” attached hereto.

1.2.21 Effective Date. Generally, the term “Effective Date” means the date that (i) this Agreement has been fully executed, and (ii) thirty (30) days following adoption of any authorizing ordinance approving this Agreement.

1.2.22 Food Waste. “Food Waste” means food scraps separated from Solid Waste and offered for collection by Franchisee, that will decompose and/or putrefy including (i) all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs, and (ii) paper waste contaminated with food waste.

1.2.23 Franchisee. “Franchisee” means EDCO Disposal Corp., d.b.a. Signal Hill Disposal.

1.2.24 Franchisee Provided Container or Container. “Franchisee Provided Container” or “Container” refers to either a Bin or a Cart or Container provided by Franchisee to customers receiving Franchisee’s automated curbside service. Such containers shall be constructed of a minimum of twenty percent (20%) post-consumer recycled content.

New Containers put into service after October 18, 2021 will have lids that gray for garbage, blue for recycling, and green for Organics, and bodies that are gray for garbage, blue for recycling, and green for Organics. New Containers put into service after October 18, 2021 shall have labels (subject to City pre-approval) specifying what materials are allowed to be placed in each Container and items that are prohibited Container contaminants for each Container meeting SB 1383 Regulations.

1.2.25 Green Waste. “Green Waste” means any and all forms of biodegradable plant material which can be placed in a covered Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste. Tree stumps and limbs greater than three (3) inches in diameter are excluded unless they are reduced to a chipped form; otherwise, such large portions of Green Waste shall be considered Bulky Waste.

1.2.26 Gross Receipts. “Gross Receipts” means all monies, consideration and revenue received by Franchisee in connection with the services carried out under this Agreement, and shall include all Tipping Fees or other fees and/or taxes charged to and

collected by Franchisee and thereafter passed-on to Franchisee's customers under this Agreement, subject to any requirements of Proposition 218.

1.2.27 Hazardous Waste. "Hazardous Waste" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iv) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501(n) of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (v) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (vi) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (ix) defined as waste or a hazardous substance pursuant to the Porter-Cologne Water Quality Control Act, Section 13050 of the California Water Code; (x) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. Section 1317; (xi) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. § 6903); (xii) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq. (42 U.S.C. § 9601); (xiii) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq. (49 U.S.C. Section 5102); or (xiv) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

1.2.28 Holiday. "Holiday" means any holiday of the City of Signal Hill.

1.2.29 Household Hazardous Waste or HHW. "Household Hazardous Waste" or "HHW" shall mean that waste resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed.

1.2.30 Household Waste. "Household Waste" shall mean that waste normally generated by a Single-Family Residential Unit or a Multi-Family Residential Unit.

1.2.31 Infectious Waste. "Infectious Waste" means waste capable of producing an infection or pertaining to or characterized by the presence of pathogens including, but not limited to, certain wastes generated by medical practitioners, hospitals, nursing homes, medical testing labs, mortuaries, taxidermists, veterinarians, veterinary hospitals and medical testing labs and any waste that includes animal wastes.

1.2.32 Materials Recovery Facility. "Material Recovery Facility" or "MRF" shall mean a transfer station which is designed to, and as a condition of its permit, shall, recover for reuse or recycling, at least fifteen percent (15%) of the total volume of material recovered by the facility as set forth in Public Resources Code Section 50000(a)(4). With the exception of Franchisee's own MRF/TS, the use of non-Franchisee Material Recovery Facilities shall be bid in accordance with Section 7.

1.2.33 MRF/TS. "MRF/TS" means that Materials Recovery Facility and Transfer Station owned and operated by Franchisee and located at the northwest corner of California Avenue and Patterson Street in the City.

1.2.34 MRF/TS Agreements. "MRF/TS Agreements" means those contracts governing the development and operation of Franchisee's MRF/TS, including the DA, the DDA/Lease/CC&Rs, the Reimbursement Agreement, Franchise Agreement and the Operations Agreement (but not including this Haul Agreement).

1.2.35 Multi-Family. "Multi-Family" means a development of five (5) or more Residential Units, including a condominium project, townhouse project, apartment house, or mobile home park, irrespective of whether residence therein is transient, temporary or permanent, such that all Residential Units dispose of Solid Waste and/or Recyclable Materials in a communal Bin(s) at centralized locations.

1.2.36 NPDES. "NPDES," is an abbreviation for "National Pollution Discharge Elimination System" and means the program established pursuant to the federal Clean Water Act of 1987 to reduce pollution caused by storm water runoff.

1.2.37 NPDES Fee. "NPDES Fee" means the fee established by the City and collected by the Franchisee to fund the administrative and related costs of the City for compliance with rules, regulations or other mandates promulgated by the Los Angeles Regional Water Quality Control Board or any other governmental entity to comply with federal Clean Water Act or other similar federal or state law.

1.2.38 Oil Waste. "Oil Waste" means used motor oil and used oil filters.

1.2.39 Organic Waste. "Organic Waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, non-hazardous wood waste, and food-soiled paper.

1.2.40 Owner. "Owner" means the person, organization or corporation holding the legal title to the real property constituting the Premises to which solid waste management services are provided or required to be provided. For the purposes of provisions in this Agreement pertaining to the sending of notices, billings or other communications by

Franchisee to an Owner, Franchisee may regard as the Owner the person, organization, corporation or other entity shown in the records of the Assessor of the County or as may be indicated by documents recorded in the Office of the Recorder of the County.

1.2.41 Premises. “Premises” means any parcel of land, building(s) and/or structure(s), or portion thereof, in the City where Municipal Solid Waste is produced, generated or accumulated and which is billed as one customer or one Multi-Family complex.

1.2.42 Proposition 218. “Proposition 218” means Articles XIII C and XIII D of the California Constitution and any implementing legislation promulgated thereunder, as may be amended from time to time.

1.2.43 Recyclable Container. “Recyclable Container” shall mean a container provided by the Franchisee for the collection of Recyclable Materials.

1.2.44 Recyclable Materials. “Recyclable Materials” means any product salvaged or collected for the purpose of reprocessing or remanufacturing including, but not limited to, glass, paper, newsprint, aluminum, cardboard, untreated wood, metal, and any other waste materials that are capable of being recycled. Recyclable Materials exclude any materials treated as Organic Waste under the SB 1383 Regulations.

1.2.45 Residential Unit. “Residential Unit” shall mean any individual dwelling unit used as either (i) a Single Family Unit or (ii) a single unit in a Multi-Family Unit.

1.2.46 SB 1383. “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016.

1.2.47 SB 1383 Regulations. “SB 1383 Regulations” means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

1.2.48 SERRF “SERRF” shall mean the Southeast Resource Recovery Facility.

1.2.49 SHMC. “SHMC” means Signal Hill Municipal Code.

1.2.50 Solid Waste. “Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. Solid waste does not include hazardous, radioactive waste or medical waste.

1.2.51 Single-Family. “Single-Family” means Premises used or designated for residential use and consisting of four (4) or fewer Residential Units, such that

each Residential Unit receives its own set of Carts and individual curbside collection services therefor.

1.2.52 **Source Reduction.** “Source Reduction” means the process of reducing the amount of waste produced by the person or organization generating such waste. Source Reduction occurs through the use of alternative goods and products and/or the reuse of goods and products.

1.2.53 **Source Separated.** “Source Separated” describes the segregation, by the waste generator, of materials designated for separate collection for some form of materials recovery, disposal or special handling.

1.2.54 **Term.** “Term” means the effective period of this Agreement as defined in Section 4.1.

1.2.55 **Tipping Fee.** “Tipping Fee” has the same meaning as Disposal Fee.

1.2.56 **Waste Diversion or Diversion.** “Waste Diversion” or “Diversion” means to divert from Facility Sites or transformation facilities (including incineration, pyrolysis, distillation, gasification or biological conversion) through source reduction, Recycling and composting, as provided in Section 41780 of the Act and the SB 1383 Regulations.

**1.3 Delegation of Authority.** The administration of this Agreement by the City shall be under the supervision and direction of the City Manager and the actions specified in this Agreement shall be taken by the Director of Public Works/City Engineer.

## **ARTICLE 2 FRANCHISE**

**2.1 Referendum.** Franchisee understands and acknowledges that the award of this Agreement may be subject to review and repeal by the City’s residents through a referendum or similar petition (collectively, “Referendums”). In the event of any Referendum challenge, City shall meet and confer with Franchisee to determine if the City will hold an election on the Referendum. If City decides to conduct an election, Franchisee shall reimburse City for its reasonable costs of doing so.

**2.2 Compliance with SHMC.** The Franchisee shall comply with Chapter 8.08 of the SHMC, and the City shall give Franchisee ten (10) days, notice prior to considering any amendment to Chapter 8.08, if such amendment would affect costs of revenue under this Agreement; provided, however, failure to give such notice shall not invalidate the amendment.

## **ARTICLE 3 GRANT OF FRANCHISE; SCOPE OF FRANCHISE; EXCLUSIONS**

**3.1 Grant of Franchise.**

3.1.1 **General Grant.** The City grants to Franchisee and Franchisee shall have during the Franchise Term, the exclusive franchise, right, license and privilege (except as provided in Section 3.2 below) to engage in, the business of collecting and transporting all Solid Waste, Recyclable Materials, and Organic Waste generated within the City. It is expressly understood that the Solid Waste management business is conducted by Franchisee and not City, and while City grants the right to conduct the business within the terms of this Agreement, the Franchisee must determine what personnel to employ, terms and conditions of employment, what equipment to utilize and at what cost, rates and charges to establish for customers and all methods subject to review and approval by the City and pursuant to Proposition 218 proceedings, costs, and mechanisms to fulfill its obligations under the Agreement.

3.1.2 **Duty.** To the extent that the franchise granted hereby is exclusive, it shall be so only if Franchisee is and shall be at all times ready, willing and able to perform its obligations under this Agreement, including but not limited to, collecting, transporting processing and/or disposing of all Solid Waste, Recyclable Materials, and Organic Waste generated within the City in accordance with the provisions of this Agreement and all applicable laws, rules and regulations.

3.1.3 **Annexations.** This Agreement shall extend to any territory annexed to the City during the Term that is not covered by an existing Solid Waste permit, license, agreement or franchise granted by another public entity shall be added hereto, except to the extent that collection by Franchisee within that annexed territory would violate the provisions of Public Resources Code Section 49520. In such event, this Agreement shall apply to such area at the earliest possible date permitted by law, and City agrees that it shall cooperate with Franchisee to allow Franchisee to serve the annexed area consistent with this Section 3.1.3.

**3.2 Scope of Franchise; Mandatory Service And Exclusions.** The franchise granted to Franchisee shall be exclusive within City limits such that Franchisee shall be the sole provider of general Solid Waste, Recyclable Materials, and Organic Waste hauling services to City residents and businesses. To this end, at all times during the Term of this Agreement, the City shall require the Owner of each Single-Family Residential Unit, Multi-Family Residential Unit, Commercial Unit and Industrial Unit where Solid Waste is produced to subscribe to the collection service provided for in this Agreement and in Chapter 8.08 of the SHMC. Franchisee shall be responsible for outreach and subscription of customers who are currently not subscribed to Organic Waste collection services, including notification to customers about the requirement to subscribe. Franchisee shall be responsible for the distribution, collection and evaluation of waiver applications as appropriate and provide the City a recommendation to accept or reject the waiver requests. Franchisee shall provide collection services for customers not subject to waiver. The hauling services franchise herein granted shall be subject to the following exclusions:

3.2.1 **Intergovernmental Immunity.** All (i) universities, (ii) school districts, (iii) other state agencies, (iv) any other governmental entity that is not subject to the City's police powers, and (v) any entity excluded by a City ordinance;

3.2.2 Certain Bulky Waste. Bulky Waste which is personally collected and removed, in a manner consistent with the SHMC and other applicable governing laws, by a Bulky Waste producer or the Owner of Premises upon which Bulky Waste has accumulated;

3.2.3 Certain Green Waste. Green Waste and other compostables removed from a Premises by an Owner or resident of Premises or by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service;

3.2.4 Self-Hauling. Self-hauling by City residents and contractors within the City;

3.2.5 Hazardous Waste;

3.2.6 Recyclable Materials. Recyclable Materials not “discarded” by an Owner of Premises;

3.2.7 Emergency Collections. The casual or emergency collection, removal, disposal or Diversion of Solid Waste, Recyclable Materials, or Organic Waste by the City through City officers or employees in the normal course of their employment.

3.2.8 Legally-Required Exemptions. Other collection, removal or disposal activities required to be exempt from mandatory franchise services pursuant to law, or entities exempt from such franchise pursuant to State or Federal law, including but not limited to Non-City governmental entities located within City boundaries.

3.2.9 Unoccupied Units. Premises which have been unoccupied by any human habitation and upon which no solid waste has been produced or accumulated for three (3) consecutive months may be exempted from this Agreement by the City until such Premises become occupied. The granting of an exemption shall be conditioned upon completion of an application for exemption and its approval by the City. Exemptions shall expire on December 31 of each calendar year. An exemption may be renewed, provided that during three (3) consecutive months prior to the application for renewal, the Premises have been unoccupied by any human habitation and no solid waste has been produced or accumulated. Notwithstanding anything in this Section 5.3.1 to the contrary, all exemptions in existence on the Effective Date of this Agreement shall remain valid.

**3.3 AB 939 Fee.** Franchisee shall continue to pay to City an AB 939 Fee in the amount equal to five and sixth/tenths percent (5.6%) of Franchisee’s Gross Receipts and shall be a pass through cost to customers. The City has performed extensive investigations and calculations of actual costs incurred as a result of Solid Waste disposal and determined that the amount of 5.6% of Franchisee’s Gross Receipts is sufficient to adequately offset the City’s costs incurred in accordance with Public Resources Code Section 41901. The City’s study is on file with the City Financial Director.

**3.4 NPDES Fee.** In addition to the AB 939 Fee required to be paid by Franchisee as provided in Section 3.3, Franchisee shall pay to City a NPDES Fee equal to five and six/tenths

percent (5.6%) of Franchisee's Gross Receipts (of applicable charges as designated by the Signal Hill City Council) and shall be a pass-through cost to customers. Regulations promulgated by the Los Angeles Regional Water Quality Control Board under the federal Clean Water Act mandate that cities and their residents must take additional steps to prevent contaminated water runoff. Prior to local environmental undertakings pursuant to the Clean Water Act, nearly all trash, debris and other substances left to accumulate on public streets and on private property are washed into storm drains when it rains. Because the storm drains empty into the Pacific Ocean and may come in contact with water intended for human use, contamination of storm drain runoff water is a great source of concern to the City. Consistent with the City's current NPDES Fee arrangement with Franchisees, funds collected by this NPDES Fee will continue to be applied toward efforts to prevent and/or reduce the contamination of storm drain runoff water. Examples of efforts by the City may include, but are not limited to, education of customers, additional street cleaning, promotional activities, recycling and other Waste Diversion efforts, and waste water treatment. The City has performed extensive investigations of the costs to comply with the new regulations promulgated by the Los Angeles Regional Water Quality Control Board. After, reviewing the actual anticipated compliance costs, the City determined that a NPDES Fee equal to five and six/tenths percent (5.6%) is the minimum amount reasonably necessary to cover the City's costs.

**3.5 Effective Date of AB 939 Fee and NPDES Fee.** The AB 939 Fee specified in Section 3.3 and the NPDES Fee specified in Section 3.4 shall continue to be effective as such fees were established by Agreement.

**3.6 Time of Payment.** Franchisee shall pay the AB 939 Fee prescribed in Section 3.3 and the NPDES Fee prescribed in Section 3.4 not more than thirty (30) days following the end of each calendar month accompanied by a certified statement of Gross Receipts covering the preceding calendar month in accordance with Section 3.7.

**3.7 Accompanying Information.** Each payment of the AB 939 Fee and NPDES Fee shall be accompanied by a statement setting forth the Gross Receipts collected by Franchisee and the computation of the total of each fee due. Each statement shall include the following certification executed by an officer of the Franchisee: "I hereby certify that the foregoing statement of AB 939 Fee and NPDES Fee payments is made by me, that I am authorized to make such statement, and that, to the best of my knowledge and belief, it is true, correct and complete."

**3.8 Disposal or Processing of Collected Materials.** Franchisee shall provide collection of Organics materials on the same day as regular Solid Waste and Recyclable Materials collection performed by Franchisee. The Franchisee shall dispose of or deliver for processing all materials collected under this Agreement at a Materials Recovery Facility, Transfer Station, Landfill, or other appropriate state-licensed facility as designated by Franchisee. All materials may be transferred through a Transfer Station as designated by Franchisee, but Solid Waste shall not be commingled with Recyclable Materials or Organics, and Recyclable Materials and Organics shall not be commingled with each other. Recyclable Materials and Organics shall be processed in accordance with the Act such that these materials are considered diverted and not disposed as described in the Act. Solid Waste shall be disposed at a Landfill, and Organics and Recyclable Materials shall be delivered to an organics processing facility. Franchisee shall deliver on the same day as collection all collected Recyclable Materials and Organics to a fully permitted Processing Facility designated by Franchisee and approved by City.

## **ARTICLE 4 TERM OF AGREEMENT**

**4.1 Term And Franchise Term.** The Term of this Agreement shall continue until February 1, 2035. Franchisee may make a proposal to the City Council to extend, renew or enter into a new Agreement at least six (6) months prior to the end of the Term.

**4.2 Reserved.**

**4.3 Representations and Warranties of Franchisee.**

4.3.1 Corporate Status. Franchisee, doing business as Signal Hill Disposal, is a company duly organized, validly existing and in good standing under the laws of the State of California. Franchisee is qualified to transact business in the State of California and has the corporate power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

4.3.2 Corporate Authorization. Franchisee has the authority to enter into and perform its obligations under this Agreement. The Board of Directors of Franchisee (or the shareholders if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise, to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Franchisee have authority to do so. Entering into this Agreement does not violate any provision of any other Agreement to which Franchisee is bound.

4.3.3 Accuracy of Representations. The representations and warranties made by Franchisee in this Section 4.3 above are true and correct on and as of the Effective Date of this Agreement.

**4.4 Compliance with Law.** The Agreement contains a number of requirements and programs mandated by state law, and new programs are currently pending and it is anticipated during the Term that the need for other new programs concerning waste disposal and diversion, public health and safety, and recycling will continue. Franchisee agrees that during the Term, Franchisee will actively develop programs complying with law on the forefront of the industry, and priced at rates competitive with surrounding jurisdictions, and will be responsible for any legal penalties for noncompliance as provided in this Agreement (Sec. 6.1). Also, City may update performance bond and insurance requirements (see Article 13) in accordance with market conditions. In the event of disagreements between the parties over these requirements, the parties may use the meet and confer provisions of Section 6.6.2.

## **ARTICLE 5 SERVICES OF FRANCHISEE**

**5.1 General Standards.** The work to be performed pursuant to this Agreement shall include the furnishing of all supervision, labor, materials, equipment, tools, expertise and any other items necessary to perform the services described in this Agreement. All work shall be accomplished in a courteous, thorough and workmanlike manner and adhere to the highest standards consistent with the best practice in the industry.

## **5.2     Standards of Performance.**

5.2.1     Availability of Franchisee. Franchisee has established, and shall continue to maintain a local office for the purpose of receiving customer payments and handling customer inquiries, orders and complaints. The “local” office must remain in a location within fifteen (15) miles of the City boundary and having the same telephone area code as that existing in the City. The local office shall be open to the public between the hours of 8:00 a.m. to 5:00 p.m., five (5) days per week, Monday through Friday, Holidays excepted. A representative of Franchisee shall be available during office hours for communication with the public at such local office. Additionally, the Franchisee shall continue to employ the services of a telephone answering exchange for calls during non-business hours and provide a telephone system sufficient and adequate to handle calls during peak periods. The Franchisee shall provide the City Manager and the City’s Police and Fire Departments with any updated emergency telephone numbers. Franchisee shall have a representative or answering service available at said telephone number during all hours other than normal office hours.

5.2.2     Citizen Complaints. The Franchisee shall respond to all complaints within twenty-four (24) hours and shall exercise due diligence to resolve all complaints. The City may, but is not obligated to, respond to complaints that have not been resolved within twenty-four (24) hours and may charge the Franchisee for the actual costs incurred therefor. In connection herewith, Franchisee shall adequately staff its telephone system so that it is capable of handling all calls during peak business hours.

5.2.3     Record of Complaints. Franchisee shall maintain a record of all complaints received by mail, by telephone or in person (including date, name, address of complainant and nature of complaint) for a period of three (3) years. Franchisee will maintain records listing the date of consumer complaints, the customer, describing the nature of the complaint or request, and when and what action was taken by the Franchisee to resolve the complaint.

5.2.4     Record of Non-Collected Materials. The Franchisee shall notify customers in the event any item left for disposal is not picked up . Said notification shall be in writing, email, or telephone, state Franchisee’s telephone, address and shall give the reason for non-collection. Reasons for non-collection may include, but are not limited to the following: containers inaccessible to Franchisee (after Franchisee has made a reasonable effort to secure access); improper container or use of a non-Franchisee Provided Container; overfilled or overweight container; or, the container includes Hazardous Waste. The Franchisee shall maintain a record of all items not collected.

5.2.5     Property Damage Caused by Franchisee. The Franchisee shall be responsible for the cost of repairing any property damaged by the negligent or intentional conduct of its employees or agents.

5.2.6     Quality of Service Surveys. The City may, at its own expense, conduct periodic quality of service surveys of Franchisee’s customers. Prior to finalizing the survey form, the City shall review the survey with the Franchisee. Results of the quality of

service survey shall be reviewed with the Franchisee and used to discuss improvements in service delivery.

**5.2.7      Annual Route Audit.** At least once annually, Franchisee shall conduct an audit of its collection routes. The annual route audit shall include the truck identity servicing each route, number of accounts serviced per route (residential, commercial, industrial and municipal), frequency of pick-ups, size of container for each account on the route, frequency of service for each account on the route, as well as the weight of the truck and solid waste delivered to the applicable Facility Site. Results of the annual route audit shall be available for review by the City.

Beginning January 1, 2022, Franchisee shall annually conduct a route review for prohibited container contaminants on randomly selected collection routes in accordance with 14 CCR § 18984.5(b). Containers may be randomly selected along a hauler route. Franchisee shall report to the City any instances of contamination and actions taken, as well as the methodology utilized for the route review in such form and format as required by City for reporting to CalRecycle. Every Container on a hauler route does not need to be sampled annually. Franchisee shall document contamination with still pictures or video, and will notify the customer of the contamination. Franchisee shall distribute contamination notices complying with education and notification requirements of 14 CCR § 18995.1(a)(4) subject to City approval. Franchisee shall document non-compliant customers and waste generators determined through Franchisee's compliance reviews, and shall report all customers and waste generators with SB 1383 violations to the City. Franchisee shall maintain a computer database of all oral and written SB 1383-related non-compliance incidents reported to Franchisee from customers or other persons, and the inspections and/or actions or communications taken within 30 days of the complaint or incident.

**5.2.8      "On-Call" Equipment and Personnel.** During normal business hours, the Franchisee shall have "on-call" at least one (1) truck to handle called-in pick-ups or missed collections. After normal business hours, the Franchisee shall have "on-call" the necessary manpower and equipment to respond to customer emergencies that are an immediate threat to life or property. Franchisee's on-call equipment and personnel shall also be available to assist the City with debris collection and removal within a reasonable time resulting from emergencies and natural disasters, excepting that nothing in this Section shall require Franchisee to collect, haul or dispose of waste that Franchisee is not permitted to handle.

### **5.3      Hours of Operation.**

**5.3.1      Residential Hours.** Collection services at each Single-Family Residential Unit and Multi-Family Residential Unit shall not start before 7:00 a.m. nor continue after 8:00 p.m. of any day.

**5.3.2      Commercial Hours.** Collection services at Commercial and Industrial Units shall not start before 6:00 a.m. nor continue after 8:00 p.m. of any day.

5.3.3 Revisions to Hours. City may, from time to time, revise the collection hours specified in Sections 5.3.1 and 5.3.2 of this Agreement by providing written notice to Franchisee.

**5.4 Residential Collections.**

5.4.1 Residential Service. Collection service for Single-Family Residential Units and Multi-Family Residential Units shall occur at least once per week on a schedule approved by the City Manager. If prohibited contaminants are placed in the Containers for Recyclable Materials or Organic Waste, the Franchisee, at its discretion, may collect the Container as Solid Waste, or collect the Container and separate the prohibited contaminants from the Recyclable Materials or Organic Waste. The Franchisee shall leave a notice complying with education and notification requirements of 14 CCR § 18995.1(a)(4) subject to City approval.

5.4.2 Collection Quantities. The minimum basic service shall include the collection of one Container for Solid Waste, one Container for Recyclable Materials, and one Container for Organic Waste. Collection charges shall be subject to the requirements of any applicable laws, including but not limited to Proposition 218.

5.4.3 Containers.

(a) *Multi-Family Containers & Collections.* Multi-Family complexes shall receive a Container(s) for Solid Waste, Recyclable Materials, and Organic Waste located at a central on-site location and shared by multiple Residential Units. The location of Containers and the location for automated collection therefrom in Multi-Family complexes shall be mutually-agreed as between the Multi-Family site management and Franchisee, excepting that any storage or placement of Multi-Family Containers in public streets or rights-of-way shall be subject to the prior written approval of the City. The Franchisee shall provide any Multi-Family complex with at least one on-site Recyclable Container or Bin for Recyclable Materials and Organic Waste free-of-charge upon request of the complex management.

(b) *Single Family Containers & Collections.* Automated collections for Single Family units (i.e., stand-alone Residential Units or Residential Units in a complex of four or fewer dwellings) shall be made from the curbside or from alleyways adjacent to the Residential Unit. Residents may elect to place Containers at an alternate collection location, if approved by Franchisee, provided that the placement and retrieval of containers complies with the requirements of the SHMC. Each Single Family unit shall receive from Franchisee, at a minimum, one Solid Waste Cart, one Recyclable Materials Cart, and one Organics Waste Cart.

(c) *Charges for Franchisee-Provided Containers.* The cost to customers for each Franchisee Provided Container shall be built-in to the Maximum Services Rates attached hereto at Exhibit "A" subject to approval by the City Council.

5.4.4 Public Outreach Programs. Franchisee shall, in coordination with the City, implement a City-approved public outreach program that complies with SB 1383 Regulations. Franchisee shall establish and maintain the following public educational programs and efforts:

(a) *Multi-Family Recycling and Organic Waste Recycling Program.* Franchisee shall develop an educational program targeting waste generators with the intent of encouraging and facilitating Recycling and Organic Waste Recycling . Franchisee's education program shall include, without limitation: (i) the creation and distribution of a brochure describing and encouraging Recycling and Organic Waste Recycling; and (ii) the designation of a field representative of Franchise who shall regularly visit Multi-Family Dwellings and Businesses to conduct waste stream audits, make presentations to residents, businesses, and to any management entities or associations thereof, and to determine and facilitate efficient Recycling and Organic Waste Reduction and source reduction methods and procedures for customers.

(b) *City-Wide Newsletter.* Franchisee shall prepare a regular newsletter to be distributed to all residents in the City subscribing to Franchisee's hauling services. The City-wide newsletter shall be mailed to Franchisee's customers every annual quarter and shall be subject the review and approval by the City prior to each distribution. The newsletter shall discuss various important topics in waste management, including but not limited to local Recycling, Organic Waste Recycling, programs, source reduction opportunities, and important developments in waste management practices that are pertinent to City residents.

(c) *Franchisee Website.* Franchisee shall develop and maintain an up-to-date website about Franchisee, its services, the parameters of any Recycling, Organic Waste Recycling or source reduction programs administered by Franchisee, and a description of any methods by which residents can contribute to higher levels of Recycling, Organic Waste Recycling and source reduction.

(d) *Bulky Waste Program.* Franchisee shall implement that Bulky Waste outreach programs described in Section 5.7 hereof.

(e) *Waste Diversion Outreach.* Franchisee shall implement those educational efforts regarding Waste Diversion and strategies therefore as described in Section 6.6 hereof.

(f) *Billing.* Franchisee will implement a billing services as described in Section 9.4 hereof. Franchisee shall give all customers at least two (2) written notifications over a sixty (60) day period prior to commencing multi-year rate adjustments. The notices shall be reviewed and approved by the City.

(g) *Oil Waste.* Franchisee shall implement those public outreach efforts regarding Oil Waste described in Section 5.10 hereof

#### 5.4.5 Collection Schedule.

(a) *Notice of Residential Collection Schedule.* Twice annually (in April and October), Franchisee shall provide written route schedules and maps of the routes to the City and to each customer. The route schedules and maps shall also be posted on any public website Franchisee maintains for purposes of its hauling services and/or other waste management operations in the City.

(b) *Changes in Residential Collection Schedule.* Any changes in the route schedule shall require the prior written approval of the City. City may require changes in the route schedule for among other things, to improve service or resolve complaints. Prior to the change of a route schedule, Franchisee shall provide written notice of the change to affected customers thirty (30) days in advance and shall post the changes on any public website Franchisee maintains for purposes of its hauling services and/or other waste management operations in the City.

## **5.5 Commercial and Industrial Collections.**

5.5.1 Frequency of Commercial and Industrial Service. Commercial and Industrial Units shall be provided with a minimum one-time weekly collection. Commercial and Industrial Units may share containers with neighboring business establishments provided that all sharing units share the same Premises.

5.5.2 Commercial and Industrial Collection Locations. Unless expressly instructed by the City, Franchisee shall provide Franchisee Provided Containers only to those Commercial or Industrial Units that provide an appropriate location for such container in accordance with the SHMC.

5.6 Temporary Services. Temporary Bin service and temporary Cart services (i.e., a Container delivered to a residential, commercial, or industrial site for the collection and removal of Solid Waste or debris, including Construction & Demolition debris) shall be provided at the frequency and location desired by the customer in accordance with the requirements of the SHMC.

## **5.7 Collection of Bulky Waste.**

5.7.1 Collection During Cleanup Campaign Week. At least twice annually, Franchisee shall conduct a cleanup campaign for the collection of Bulky Waste and Green Waste at curbside for all residents. The cleanup program shall be conducted free of charge for residents and shall be conducted for one (1) full week. Franchisee shall bear the cost of publicizing the program. In addition, Franchisee shall participate in any Los Angeles County organized “cleanup days” free of charge to customers.

5.7.2 Special Collections. In addition to the cleanup campaign described in Section 5.7.1, Franchisee shall conduct up to two (2) special Bulky Waste collections per Single-Family Residential Unit and Multi-Family Residential Unit per calendar year. The special Bulky Waste collection shall be on an “On Call” basis at the request of the occupant of the Residential Unit, except that Franchisee may require forty-eight (48) hours’ notice and may schedule special Bulky Waste collections with regularly-scheduled collection days, but shall deliver to the occupant in writing forty-eight (48) hours’ notice of the actual time of collection. Special Bulk Waste collections shall be conducted free of charge for up to four (4) Bulky Waste items. Franchisee shall implement, at its expense, a City-approved public outreach program to inform residents of the special Bulky Waste collections, which may include printed information incorporated into monthly bills and notices mailed twice-annually by Franchisee.

## **5.8 Christmas Related Extra Trash Service.**

5.8.1 Christmas Tree Pickup. Franchisee agrees to collect Christmas trees at no additional charge to residents for a two (2) week period or more following December 25 of the applicable calendar year. In addition, Franchisee shall participate in the Los Angeles County Department of Public Works Christmas Tree Recycling Program.

5.8.2 Extra Trash Service. For the week immediately following Christmas, from Dec. 26-31, Franchisee will pick up extra holiday trash in standard-size bags and bundled boxes on the scheduled service day at no additional charge when placed in designated collection area. Residents should continue to use carts as much as possible.

5.9 Collection of Oil Waste. In addition to any other collection, Franchisee shall collect Oil Waste at Single-Family and Multi-Family Residential Units at no charge to the customer. Upon request, Franchisee shall deliver to any occupant of a Single-Family or Multi-Family Residential Unit a pre-packaged Oil Waste container kit, which kit shall be paid for by the City. Collection of Oil Waste shall be on an "On Call" basis at the request of the occupant of the Single-Family or Multi-Family Residential Unit, except that Franchisee may require up to forty-eight (48) hours' notice. Collection of Oil Waste shall be on the same day as the regularly scheduled collection days as provided in Section 5.4, but shall deliver to the occupant in writing forty-eight (48) hours' notice of the actual time of collection. Franchisee shall implement, at its expense, a City-approved public outreach program to inform residents of the collection of Oil Waste within 60 days of the effective date of this Agreement.

5.10 Free Service to City Facilities and Special Events. The Franchisee shall collect not less than once per week, at no cost to the City, all Solid Waste, Recyclable Materials, Organic Waste and Construction and Demolition Debris from all City Facilities and special events. In addition, Franchisee shall, within 24 hours of a request by the City or a City resident or business, collect all abandoned Bulky Waste within a City right-of-way or easement without any additional cost to the City.

5.11 Solid Waste & Recyclables to be Initially Processed at Franchisee's MRF/TS. As of the Effective Date of this Agreement, Franchisee has developed a MRF/TS facility located in the City and that will be owned and operated by Franchisee. To the extent permitted under law, and/or the reasonable scope of Franchisee's MRF/TS processing capabilities or as directed by the MRF/TS facility, or Franchisee's regulatory permits and the MRF/TS Agreements, Franchisee shall bring all Solid Waste, Recyclable Materials, and Organic Waste collected pursuant to this Agreement to Franchisee's own MRF/TS for initial processing before they are discarded or sold at a final destination Facility Site. The parties have entered into the Franchise Agreement for Franchisee's exclusive operation of its MRF/TS within the City. If the City does not use MRF/TS, the Parties shall meet and confer regarding alternative Facility Sites.

## **ARTICLE 6 WASTE DIVERSION.**

6.1 State Mandate. AB 939 currently sets the directive of Diverting fifty percent (50%) of the City's Solid Waste. If the City fails to implement its required plans to achieve the aforementioned directive under AB 939, CalRecycle may impose administrative civil penalties of up to TEN THOUSAND DOLLARS (\$10,000.00) per day until the City implements its plans. The

City has achieved the goal of Diverting fifty percent (50%) and is now required to maintain that level of Diversion. Furthermore, City anticipates that the State Legislature will adopt new legislation that will increase the minimum Diversion requirement. Upon the effective date of any new legislation that affects the Diversion requirements currently imposed by AB 939, Franchisee agrees to implement a revised or new Diversion program meeting such amended legislative requirements. Franchisee agrees to comply with the program goals under SB 1383 and the SB 1383 Regulations. Failure to implement an amended Diversion program based upon new State legislation mandating Waste Diversion levels shall constitute a default of this Agreement.

**6.2 Voluntary Diversion Goals.** In addition to meeting the continued State mandated Waste Diversion requirements, City wishes to implement voluntary Waste Diversion goals.

**6.3 Joint Responsibilities; Development of Diversion Program.** The City and Franchisee shall jointly develop Solid Waste Diversion strategies and develop a program adequate to meet the requirements established by the State. The City and Franchisee have in past years utilized a meet and confer process to develop a Solid Waste Diversion program; the Parties shall continue such meet and confer process for the further development of the Solid Waste Diversion program. In the event of any change to State or regional laws, regulations or mandates setting new Diversion requirements applicable to the City, the Parties shall promptly meet and confer to negotiate in good faith the implementation of such amendments to law through the City's Solid Waste Diversion program. If the City and Franchisee cannot agree on a program within thirty (30) days after initially commencing any meet and confer process, City shall be entitled to specify the program to be implemented.

**6.4 Backyard Composting Program.** Franchisee's initial Green Waste program shall consist of a backyard composting program which is subject to revision in accordance with the meet and confer process described in Section 6.3.

**6.5 City Waste Diversion Responsibilities.** The City shall cooperate with the Waste Diversion efforts of neighboring cities and shall coordinate activities and programs to the extent possible. The City shall designate a regular full-time employee to act as a "Recycling Coordinator" to carry out the responsibilities of the City enumerated in this Agreement, the Source Reduction and Recycling Element of the City's General Plan, AB 939 and State Law. The City shall enact, administer and enforce appropriate regulations, incentives and sanctions necessary to encourage the participation of all waste generators in Waste Diversion programs. The City shall develop reporting procedures for all Premises that generate and accumulate Solid Waste and all parties that collect or transport Solid Waste, and shall enforce and monitor reporting in order to comply with the requirements of the State. The City shall consult with Franchisee to develop any changes in its Waste Diversion strategies.

**6.6 Franchisee Waste Diversion Responsibilities.**

**6.6.1 Cooperation and Education.** The Franchisee shall cooperate with the Waste Diversion activities of neighboring cities and shall coordinate activities and programs to the extent possible. The Franchisee shall cooperate with the City's efforts to develop and implement public education and information programs designed to promote Source Reduction, Recycling and composting in general as well as specific Waste Diversion

strategies. Franchisee shall have a public education program in place where it will distribute flyers and leaflets to residences and commercial businesses within the City free of charge and the Franchisee will visit schools and commercial businesses make presentations on the proper disposal of waste and the importance of Recycling Recyclable Materials and Organic Waste. Franchisee shall participate in the Household Hazardous Waste collection programs, or assist the Los Angeles County Department of Public Works in organizing and implementing its programs on Household Hazardous Waste safety. If Franchisee is requested to sponsor an event by the City, Franchisee shall act as a sponsor, provided that the costs of all fees incurred by Franchisee in such sponsorship shall be passed through to service customers, subject to any applicable limitations or requirements of Proposition 218.

Franchisee shall make best efforts, including those measures specifically identified in this Agreement as well as effective industry practices that may be identified during the Term of this Agreement, to reduce prohibited container contaminants. Franchisee shall use information resulting from the prohibited container contaminant monitoring program and any material characterization studies performed on city discarded materials to propose education and outreach campaigns.

**6.6.2 Implementation of Strategies and Penalties.** The Franchisee shall implement the strategies jointly developed and agreed to by the Parties. If Franchisee's failure to perform its obligations under this Section 6.6 results in the imposition of penalties against the City pursuant to the provisions of AB 939 or SB 1383 Regulations, Franchisee shall reimburse the City for such fine within thirty (30) days of imposition of such fine or penalty. City acknowledges that to meet the mandates of AB 939, additional and significant legislation affecting the disposal of Solid Waste not covered by this Agreement may be required.

**6.6.3 Waste Diversion Reporting Requirements.** The Franchisee shall comply with the Waste Diversion reporting requirements established by the City. Franchisee shall provide City with annual written reports in a form acceptable to the City and adequate to meet City's reporting requirements to the Board on compliance with AB 939 and subsequent legislation and regulations, including a breakdown of the type and quantity of waste hauled by Franchisee, the type and quantity of Recyclable Materials, Organic Waste and Bulky Waste, including a discussion of the quarterly Waste Diversion percentages achieved during the year. During the term of this Franchise Agreement, Franchisee shall conduct data collection, information and record keeping, and reporting information needed by the City or its consultant for reporting to CalRecycle, including all required reporting under the Act, SB 1383 Regulations, or other state law as may be required by the City, County, or CalRecycle. Franchisee will make the information electronically available to the City in real-time through a portal or hyperlink. Franchisee shall retain, and make available to City, all data and records related to this Agreement, through the Term plus three years.

**6.6.4 Meet and Confer Process.** If Franchisee fails to Divert the required amount of the City's Solid Waste, as described in this Agreement, Franchisee and City shall meet and confer to develop a revised or new Diversion program. If the City and Franchisee fail to agree on a revised or new Diversion program within one hundred twenty (120) days of commencing the meet and confer process (which date may be extended by mutual written

agreement), notwithstanding anything to the contrary contained herein, City may elect, in its sole discretion, to terminate this Agreement on ninety (90) days written notice. Franchisee agrees to continue performance under this Agreement until City hires a new contractor.

## **6.7 Recycling Program.**

6.7.1 **Recycling Containers.** Franchisee shall conduct a single stream commingled collection of Recyclable Materials. One Franchisee Provided Container shall be used at each Residential Unit receiving curbside service for collection of Recyclable Materials ("Recyclable Container"). Every Recyclable Container shall be blue in color and clearly labeled as to what materials should be placed therein in accordance with SB 1383 Regulations. Residential Units shall place all Recyclable Materials within such Recyclable Containers as directed by the Franchisee; to this end, concurrent with Franchisee's delivery of a Recyclable Container to any Residential Unit, Franchisee shall provide instructions on the use of the Recyclable Container. Franchisee shall, at no charge, replace any Franchisee Provided Containers which become unusable by reason of normal conditions of wear and tear.

6.7.2 **Ownership of Solid Waste and Recyclable Materials.** Except as otherwise provided by law, once Solid Waste, Recyclable Materials and/or Organic Waste have been collected by Franchisee, ownership transfers to Franchisee. Franchisee is hereby granted the right to retain, recycle, compost, dispose of and otherwise use such waste, or any part thereof, in any lawful fashion or for any lawful purpose desired by Franchisee. Subject to the provisions of this Agreement, and excepting any material which is not a waste material and which was inadvertently discarded, Franchisee shall have the right to retain any benefit or profit resulting from its right to retain, recycle, compost, dispose of or use the refuse which it collects. Solid Waste and any other material which is disposed of at a Facility Site or sites (whether landfill, transformation facility, transfer station or material recovery facility) shall, as between the City and Franchisee, remain the responsibility of the Franchisee, and Franchisee shall retain ownership of the same.

6.7.3 **Recycling Frequency.** Franchisee shall collect Recyclable Materials from Residential Units once each week from Franchisee Provided Containers. Franchisee shall collect Recyclable Materials from Multi-Family Residential Units, Commercial and Industrial Units at a reasonable frequency to be determined by the Franchisee.

6.7.4 **Residential Recycling Location.** Franchisee shall collect Recyclable Materials set out in Recyclable Containers by Residential Units from the curb or other Franchisee-approved location. Recyclable Materials from Multi-Family Residential Units subscribing to Franchisee's services shall be collected at centralized locations determined by the Franchisee in accordance with any applicable provisions of the SHMC, or as otherwise established by the City. Franchisee shall determine the appropriate collection location for Recyclable Materials generated by Commercial and Industrial Units, in accordance with any applicable provisions of the SHMC, or as otherwise established by the City. Recycling Containers may be collected pursuant to a schedule that is separate and

independent from Solid Waste collections. Franchisee shall transport and deliver all Source Separated Recyclable Materials in the City to the approved Materials Recovery Facility.

6.7.5 Recycling Revenues. Franchisee shall be entitled to all revenue produced from the sale of Recyclable Materials collected, salvaged or purchased by Franchisee; provided, however that fifty percent (50%) of any Gross Receipts from sales of Recyclable Materials which exceed ELEVEN THOUSAND DOLLARS (\$11,000.00) annually, shall be paid by Franchisee to the City for deposit into a separate City account for use by the City to either establish (i) a Waste Diversion program or (ii) for other Waste Diversion educational purposes. Franchisee's revenues from Recycling shall not be subject to the payment of AB 939 Fees to City.

6.7.6 Franchisee As Authorized Recycling Agent. City hereby designates Franchisee as its authorized recycling agent for the purposes of conducting recycling activities within the City pursuant to the terms of Public Resources Code Section 40105. Notwithstanding the foregoing, Franchisee at all times shall be and remain independent from the City.

## **6.8 Organic Waste Diversion Program**

6.8.1 Organic Waste Containers. Franchisee shall collect Organic Waste in a Franchisee Provided Container at each Residential Unit receiving curbside service for collection of Organic Waste ("Organic Waste Container"). Every Organic Waste Container shall be green in color and clearly labeled as to what materials should be placed therein in accordance with SB 1383 Regulations. Residential Units shall place all Organic Waste Materials within such Organic Waste Containers as directed by the Franchisee; to this end, concurrent with Franchisee's delivery of an Organic Waste Container to any Residential Unit, Franchisee shall provide instructions on the use of the Recyclable Container. Franchisee shall, at no charge, replace any Franchisee Provided Containers which become unusable by reason of normal conditions of wear and tear.

6.8.2 Organic Waste Collection Frequency. Franchisee shall collect Organic Waste from Residential Units once each week from Franchisee Provided Containers. Franchisee shall collect Organic Waste from Multi-Family Residential Units, Commercial and Industrial Units at a reasonable frequency to be determined by the Franchisee.

6.8.3 Residential Organic Waste Collection Location. Franchisee shall collect Organic Waste set out in Organic Waste Containers by Residential Units from the curb or other Franchisee-approved location. Organic Waste from Multi-Family Residential Units subscribing to Franchisee's services shall be collected at centralized locations determined by the Franchisee in accordance with any applicable provisions of the SHMC, or as otherwise established by the City. Franchisee shall determine the appropriate collection location for Organic Waste generated by Commercial and Industrial Units, in accordance with any applicable provisions of the SHMC, or as otherwise established by the City. Organic Waste Containers may be collected pursuant to a schedule that is separate and independent from Solid Waste collections. Franchisee shall transport and deliver all Source Separated Organic Waste in the City to the approved Organic Materials Processing Facility.

## **ARTICLE 7 BIDDING & PURCHASE REQUIREMENTS.**

### **7.1 Materials Recovery Facilities for Recyclable Processing.**

7.1.1 General. Consistent with Section 5.11 hereof, Franchisee shall initially process all Solid Waste, Recyclable Materials, and Organic Waste collected pursuant to this Agreement at Franchisee's MRF/TS facility. Therefore, subject to Section 5.11 hereof, Franchisee may continue to utilize those Facility Site services and Materials Recovery Facilities services for the processing of all Recyclable Materials and Organic Waste currently being used by Franchisee as of the Effective Date of this Agreement without subjecting such services to a competitive bidding process. Moreover, Franchisee warrants and agrees that it has obtained sufficient capacity to ensure the appropriate processing, sorting, and disposal of all Solid Waste, Recyclable Materials, and Organic Waste collected pursuant to this Agreement. If the City does not use MRF/TS, the Parties shall meet and confer regarding alternative Facility Sites.

7.2 Franchisee Provided Containers. Franchisee shall provide Containers in the colors and with the labels specified in the SB 1383 Regulations. Franchisee may continue to obtain its Franchisee Provided Containers from the vendors currently being used by Franchisee as of the Effective Date of this Agreement without subjecting the purchase of Franchisee Provided Containers to a competitive bidding process. If, however, Franchisee changes Container vendors in any manner that increases the per-Container cost of providing Containers to customers, or if Franchisee materially changes the type, size or design of Containers to be used as Franchisee Provided Containers, then such changes shall be subject to the prior written approval of the City, which approval shall not be unreasonably withheld.

7.3 Procurement of Recovered Organic Waste. The Franchisee shall serve as a direct service provider for the purpose of the City meeting its annual recovered organic waste procurement target and procure the products and quantities necessary for the City to meet its under its annual recovered organic waste procurement target under 14 CCR §§ 18993.1-18993.2 at no cost to the City.

## **ARTICLE 8 VEHICLES, EQUIPMENT AND PERSONNEL.**

### **8.1 Vehicles.**

8.1.1 General. Franchisee shall continue to provide a fleet of collection vehicles sufficient in number and capacity to perform efficiently the work required by this Agreement in strict accordance with its terms. Franchisee agrees to maintain each piece of equipment used by it in good order and repair. All vehicles shall be uniformly painted. All vehicles shall be registered with the California Department of Motor Vehicles and shall meet or exceed all applicable State and local requirements.

8.1.2 Truck Bodies. All truck bodies used by Franchisee shall be constructed of metal, shall be watertight and leakproof and shall be so constructed as to prevent odors or the falling, leaking or spilling of Solid Waste, Recyclables, or other materials. Each vehicle shall carry at all times a broom and shovel to be used for the immediate removal of any spilled material. Each vehicle shall also carry a fire extinguisher and first aid kit.

8.1.3 Backup Alarm. Each vehicle used for collecting, hauling or disposing of Solid Waste, Recyclable Materials, or Organic Waste shall be equipped with an audible warning device that is activated when the vehicle is backing up.

8.1.4 Gross Vehicle-Weight Limit. No vehicle used for collecting, hauling or disposing of Solid Waste, Recyclable Materials, or Organic Waste shall be loaded in excess of the manufacturer's gross vehicle weight rating or in excess of the maximum weight specified by the California Vehicle Code, whichever is less. Evidence of the manufacturer's name and gross vehicle weight rating shall be maintained in, or upon, every vehicle.

8.1.5 Vehicle Identification. All vehicles used in the performance of this Agreement shall bear the Franchisee's name, phone number and vehicle number in minimum lettering of two (2) inches.

## **8.2 Vehicle Maintenance and Appearance.**

8.2.1 Vehicle Inventory and Replacement Plan. Within thirty (30) days of the Effective Date of this Agreement, if Franchisee has not already done so, Franchisee shall provide City with an inventory of vehicles used in the performance of this Agreement and a copy of Franchisee's "Vehicle Replacement and Acquisition Plan" for the Term of this Agreement. If Franchisee already provided the City with an inventory of vehicles and a copy of the "Vehicle Replacement and Acquisition Plan," then Franchisee shall, within thirty (30) days of the Effective Date of this Agreement, deliver to the City an updated inventory and/or plan. Franchisee shall give the City written notice of any revision to the Franchisee's "Vehicle Replacement and Acquisition Plan."

8.2.2 Preventive Maintenance and Repair Program. Within thirty (30) days of the Effective Date of this Agreement, Franchisee shall have implemented a complete and comprehensive preventive maintenance and repair program, or if such repair program has already been implemented, Franchisee shall continue its performance thereof. Franchisee shall provide a copy of its preventative maintenance program to City for its review and approval, or if such a program has already been approved by the City, Franchisee shall notify the City of any updates to the program for City approval. Franchisee shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule and shall inspect each vehicle daily to ensure that all equipment is in good working order. Franchisee shall keep accurate records of all vehicle maintenance and repairs, recorded according to date and mileage, nature of maintenance or repair and the signature of a maintenance supervisor or mechanic that the maintenance or repair has been properly performed. Franchisee shall make such maintenance records available to City on request.

8.2.3 Vehicle Cleaning. Each vehicle used within the City shall be cleaned thoroughly by washing with water after each day's use. Vehicles shall be washed completely at least once a week and steam-cleaned on a regular basis so as to present a clean appearance and minimize odors, but in no, event less than once a month. Vehicle Storage. No vehicle used by Franchisee in performance of this Agreement shall be stored on any public street or other public property in the City. All vehicles if kept within the boundaries of the City shall at all times when not in use be kept on property of the proper zone either within a building or fenced yard, or at Franchisee's own MRF/TS site.

8.2.4 Container Condition. Franchisee at its sole cost and expense shall maintain all Franchisee Bins in good condition and repair as needed and shall clean and paint each metal container annually. More frequent cleaning and painting shall be conducted by Franchisee if needed. Franchisee shall, at no charge, replace any Franchisee Provided Containers (Carts or Bins) which become unusable by reason of normal conditions of wear and tear. During all times that a Franchisee Provided Container is in the custody and control of Franchisee, Franchisee shall not store such Container in or on public streets or rights-of-way.

### **8.3 Vehicle Inspections.**

8.3.1 Initial City Inspection. Within the first thirty (30) days following the date Franchisee provides a copy of its Vehicle Replacement and Acquisition Plan to City or any update thereto, the City may inspect Franchisee's vehicles for the purpose of determining the adequacy of Franchisee's Vehicle Replacement and Acquisition Plan to provide vehicles that are safe, sanitary and of good appearance.

8.3.2 City Inspections. Franchisee shall give the City at least fifteen (15) days prior written notice of any vehicle inspection to be performed by the California Highway Patrol ("CHP") and the City may elect to observe the CHP inspection. Without limiting the City's right to observe the CHP inspections, City reserves the right to cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the provisions of the SHMC and the State Vehicle Code, including but not limited to California Vehicle Code Sections 27000(b), 23114, 23115, 42030, 42032, and all Vehicle Code Sections regarding smog equipment requirements. City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service shall be returned to service until it conforms with applicable codes and such conformance has been acknowledged by City. The City may elect in its sole discretion to hire an independent contractor to perform a comprehensive inspection of Franchisee's vehicles. If the City hires an independent contractor to perform the inspection on behalf of the City the Franchisee shall pay for the cost of such inspection. City shall act prudently in requesting any such inspection.

8.3.3 Brake Inspections. The brake system of each vehicle used in performance of this Agreement shall be inspected bi-annually by the CHP and shall comply with State law. Notice of certification shall be filed with the City within thirty (30) days after

each such certification. Failure to submit the required certification shall be grounds for terminating this Agreement.

8.3.4 Correction of Defects. Following any inspection, the City Manager shall have the right to require Franchisee to take out of service any vehicles and equipment not in good working order and cause Franchisee to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly within thirty (30) days of notification of defect in such vehicle or equipment. The City Manager's determination may be appealed to the City Council.

#### **8.4 Personnel.**

8.4.1 General. Franchisee shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the services required by this Agreement in a courteous, safe and efficient manner.

8.4.2 Driver Qualifications. All drivers shall be trained and qualified in the operation of collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

8.4.3 Uniforms and Identification Badges. Franchisee shall require its drivers and all other collection personnel to wear a suitable and appropriate uniform as a means of identifying the employee. All other employees of Franchisee who come into contact with the public shall carry suitable identification badges or cards upon their person.

8.4.4 Employee Appearance and Conduct. All employees, while engaged in the collection of Solid Waste, Recyclable Materials, or Organic Waste within the City or otherwise engaged in services described in this Agreement, shall be attired in uniform. At least one member of every collection truck crew shall be able to read and speak English. Franchisee shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Franchisee shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement, Franchisee shall take all appropriate corrective measures.

8.4.5 Background Check. The City reserves the right to perform a security and identification check through the City's Police Department upon Franchisee and all its present and future employees, in accordance with accepted procedures established by the City, or for probable cause.

8.4.6 Safety Training. Franchisee shall provide suitable operational and safety training for all its employees who use or operate vehicles or equipment for collection of Solid Waste or who are otherwise directly involved in such collection. Franchisee shall train its employees involved in Solid Waste, Recycling, and/or Organic Waste collection to identify, and not to collect, Hazardous Wastes. Franchisee and its employees shall comply with the terms of all contracts between the Los Angeles County Sanitation District and any

Facility Site that is used by Franchisee, including but not limited to any contracts between the Los Angeles County Sanitation District and Franchisee's MRF/TS.

8.4.7 Safety. All work performed pursuant to this Agreement shall be performed in a manner that provides safety to the public and meets or exceeds safety standards outlined by the California Construction Safety Orders under the State of California Code of Regulations ("CAL-OSHA"). City reserves the right to issue cease and desist orders to Franchisee when unsafe or harmful acts are observed or reported to City. Franchisee shall maintain its maintenance facility and yard, including the MRF/TS, free of hazards to persons and/or property. Franchisee shall instruct its employees to report immediately any hazardous conditions or Hazardous Wastes they observe within the City during the course of their work to the City.

8.4.8 No Gratuities. Franchisee shall not permit its employees to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for the work performed by those employees pursuant to this Agreement.

## **ARTICLE 9 FRANCHISEE'S COMPENSATION**

9.1 Maximum Rate Schedule. In the attached Exhibit "A", which is incorporated herein by this reference ("Maximum Rate Schedule"), the City has established the maximum service rates which may be charged by Franchisee to its customers in the City. The Maximum Rate Schedule shall take effect at the time of the Effective Date and subject to approval pursuant to a duly noticed public hearing in accordance with Proposition 218. Franchisee shall not receive any other fees or compensation for the services to be performed pursuant to this Agreement in excess of those provided in the Maximum Rate Schedule unless until such additional fees or compensation have been duly noticed and subjected to a public hearing process in accordance with Proposition 218.

### **9.2 Adjustments to Maximum Rate Schedule**

9.2.1 General. During the Term of this Agreement, the City and Franchisee may mutually agree to adjustments or increases to the Maximum Rates Schedule, subject to the provisions and requirements of Proposition 218. Any increases in the Maximum Rate Schedule are strictly subject to the assent of the City and compliance with Proposition 218 as provided in Section 9.3.

9.2.2 CPI Inflator. Subject to adoption in accordance with Proposition 218, the Maximum Rate Schedule may be adjusted to account for annual inflationary increases to all regular, weekly service rates for both Residential Units and Commercial customers in an amount equal to the previous calendar year's percentage equivalent changes in the Consumer Price Index for All Urban Consumers for the Los Angeles-Long Beach-Anaheim Metropolitan Area, as published by the U. S. Department of Labor Statistics, or, in the event said Bureau should cease to publish said Index, then any similar index published by any other branch or department of the U.S. Government ("CPI"), excepting that such

annual CPI increases in service rates shall be capped at a maximum percentage increase of three-and-one-half percent (3.5%). Moreover, such inflationary adjustments shall exclude the portion of the Maximum Rate Schedule attributable to Disposal Fees. Such annual CPI adjustments to the Maximum Rate Schedule shall be subject to the following requirements:

(a) Commencing from the date of adoption for any CPI adjustments, such adjustments shall continue automatically on a year-to-year basis for a period not to exceed five (5) years after the date such adjustments were adopted in accordance with Proposition 218.

(b) At the end of the five-year period, there shall be no further CPI escalations or other automatic adjustments to the Maximum Rate Schedule unless or until further automatic adjustments are adopted through a subsequent Proposition 218 process as required by Government Code § 53756. Franchisee shall provide for the notification required pursuant to Section 9.3.4.

9.2.3 Facility Site Pass-Throughs. Subject to adoption in accordance with Proposition 218, the Maximum Rate Schedule may be adjusted to account for increases in Disposal Fees such that the costs of actual Disposal Fees imposed upon Franchisee may be passed-through to customers. These Disposal Fee pass-throughs may be adopted through a Proposition 218 process any time after the Effective Date hereof. Disposal Fee pass-throughs may adjust automatically each year as needed solely to cover the actual Disposal Fee costs incurred by Franchisee; however, such annual automatic adjustments for Disposal Fee pass-throughs shall not continue for a period exceeding five (5) years unless, at the end of such five-year period, continued automatic adjustments are adopted through a subsequent Proposition 218 process as required by Government Code § 53756. Franchisee agrees to notify City in writing of any Disposal Fee increase and Franchisee shall use its best efforts to utilize any alternate Facility Site with lower Disposal Fees to the extent reasonably feasible to avoid passing on increased Facility Site fees to Franchisee customers. Facility Site Pass-Throughs shall not apply if any Facility Site is owned or operated by Franchisee except as agreed upon between the parties. In such event, Disposal Fees shall be adjusted in the same manner as the Maximum Service Rates for inflationary adjustments or as otherwise agreed between the parties. However, the cap on inflationary adjustment for service rates in Section 9.2.2 shall not apply to Disposal Fees.

### **9.3 Proposition 218 Process for Adjustments to Maximum Rate Schedule.**

9.3.1 Compliance with Proposition 218 Required. Further adjustments and/or increases to the Maximum Rate Schedule in addition to those identified in Section 9.2, above, are strictly subject to the assent of the City and compliance with Proposition 218. More generally, City intends to comply with all applicable laws, including without limitation Proposition 218, concerning the setting of adjustments to the Maximum Rate Schedule under this Agreement.

9.3.2 Indemnification. Franchisee shall indemnify, defend and hold harmless the City, their officers, employees, agents and volunteers, (collectively, "Indemnitees") from and against all claims, damages, injuries, losses, costs, including demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings,

interest fines, charges, penalties and expenses (including attorneys' and expert witness fees, expenditures for investigation, and administration) and costs or losses of any kind whatsoever paid, imposed upon, endured or suffered by or assessed against Franchisee or any of the indemnitees resulting in any form from the City's establishing maximum rates for service under this Agreement or in connection with the application of California Constitution Article XIII C and Article XIII D to the imposition, payment or collection of rates and fees for services provided by Franchisee under this Agreement. Notwithstanding the foregoing, this indemnity shall not extend to any portion of the rates that is not associated with Franchisee's costs in providing service, such as governmental fees, franchise fees or charges, nor shall it apply to any loss arising directly from the negligence of City, its officers and employees. Nothing herein is intended to imply that California Constitution Articles XIII C or XIII D, apply to the setting of rates for the services provided under this Agreement, rather this Section is provided merely to allocate risk of loss as between the Parties. This section shall be interpreted in accordance with Public Resources Code section 40059.2

9.3.3 Pass-Through of Proposition 218 Compliance Costs. Franchisee shall pay for all costs of Proposition 218 compliance, including but not limited to the costs of Proposition 218 notices and hearings. Franchisee may, if permitted by law, pass its actual costs of Proposition 218 compliance on to customers through service rates if, and only if, such pass-through is duly noticed and included as part of the service rates adopted through the Proposition 218 process.

9.3.4 Notice of Increases. Franchisee shall give thirty (30) days prior written notice of any duly-adopted rate increases to all customers of the increase before such increase may become effective, pursuant to Government Code § 53756.

9.3.5 City Not Obligated to Approve Increase. City has no legal obligation to accept Maximum Rate Schedule adjustments proposed by Franchisee. While Franchisees' failure to comply with the terms hereof could be a default leading to termination of this Agreement, in no case will City's failure to approve any specific Maximum Rate Schedule adjustment be a default hereunder, and City bears no liability to Franchisee for any damages suffered by Franchisee as a result of the failure to pass new Maximum Rate Schedules or adjustments thereto. Accordingly, the City Council is completely free within its police powers to exercise its discretion in considering such matters, and the City has not contracted away any of its police powers or duties to protect the public health, safety or general welfare of its citizens pursuant to State and Federal law.

9.4 Billing. Franchisee shall be responsible for all billing and collection except as provided in Section 9.5 concerning placement of delinquent accounts on the tax rolls. Notice of billing procedures shall be given to all customers pursuant to Section 5.4.4(f) and annually thereafter. Franchisee shall have procedures for online payment, payment by credit card, and similar customer services. Franchisee shall provide itemized bills, clearly showing charges for all classifications of services, including any charges for late payment. Multi-Family Residential Units, Commercial and Industrial Unit accounts receiving collection services from Franchisee shall be billed by the Franchisee at the end of the month in which service is provided. Single Family Residential Unit accounts receiving collection services from Franchisee may be billed by the Franchisee quarterly as follows: Franchisee shall bill thirty (30) days into the quarter, such that the

invoice will be sixty (60) days in advance of actual services, and the bill shall be due in sixty (60) days thereafter.

## **9.5 Delinquent Accounts.**

9.5.1 Residential Units. Franchisee shall provide at least three (3) monthly, written notices of delinquency/past-due account status to the occupants of any Residential Unit with a delinquent account and Franchisee shall otherwise make diligent efforts to resolve said account delinquencies, including but not limited to the reasonable use of a collection agency. Further, Franchisee shall be entitled to collect late charges at the rate of 1.5% per month and, in addition, to charge a reasonable rate for the redelivery of Franchisee Provided Containers. If, after Franchisee's exercise of diligent efforts to collect amounts owed on a delinquent account, and a Residential Unit remains delinquent, Franchisee shall have the right (without obligation) to request placement of the delinquent account onto City tax rolls. Said right to place delinquent accounts onto City tax rolls shall occur no more than once-per-year at a time, and in a manner, coordinated with the City's regular processing of tax liens.

9.5.2 Industrial and Multi-Family Residential Unit Accounts. City may permit Franchisee to discontinue service to Commercial, Industrial and Multi-Family Residential Units whose accounts are more than ninety (90) days past due. Franchisee shall be entitled to collect late charges at the rate of 1.5% per month and, in addition, to charge a reasonable rate for the redelivery of Franchisee Provided Containers. These delinquent accounts may also be placed on tax rolls with City's approval.

9.5.3 No Waiver of City Remedies to Address Public Nuisance. Should Franchisee terminate service to any customer in the City, nothing herein waives or supersedes the City's rights to initiate code enforcement action(s) in response to the build-up, long-term stagnation, or misplacement of Solid Waste as a result of said termination of Franchisee's service. In addition, the City and Franchisee shall, at the option of either party, meet and confer in good faith to resolve any matters of public nuisance or Solid Waste build-up resulting from a termination of service by Franchisee.

9.6 Recycling and Other Revenues Retained by Franchisee. Franchisee's compensation shall also include all revenues from the sale of Recyclable Materials and Disposal Fees saved as a result of Waste Diversion activities.

## **ARTICLE 10 ACCOUNTING AND RECORDS.**

10.1 Financial Statements. City's Finance Director may elect to review Franchisee's annual financial statements. Franchisee shall have financial statements annually prepared. Within ninety (90) days of a City request, Franchisee shall allow the City Manager, his/her designee or an independent certified public accountant to review copies of the financial statements at the Franchisee's local office (as defined in Section 5.2.1 hereof), or other such mutually-agreeable premises of Franchisee. The financial statements shall include, without limitation, comparative balance sheets, comparative operating statements, statements of changes in investments in property

and equipment, statements of source and application of funds, and a statement of any changes in Franchisee's equity, in which shall be set forth the names of principal officers and stockholders of the corporation, and any other documents that may reasonably be requested by a certified public accountant acting in accordance with generally-accepted accounting principles. City and Franchisee agree to use reasonable efforts to protect the confidential nature of the Franchisee's financial statements.

**10.2 Inspection of Franchisee's Accounts and Records.** Franchisee's records of customer complaints, AB 939 compliance records, maps, billing records, gross income, franchise fee payments and customer payment histories shall be available at the Franchisee's principal office as set forth in Section 5.2.1 at any time during regular business hours for inspection on twenty-four (24) hours' notice, and/or performance of financial review of Franchisee's records by the City or its duly authorized representative in accordance with the Agreed Upon Procedures (as such term is associated with standard audit procedures), for a period of three (3) years following the close of the Franchisee's fiscal year. Franchisee shall provide City with a copy of any requested record at no cost to City.

**10.3 Cost of Agreed Upon Procedures.** The City may annually perform an Agreed Upon Procedure of Franchisee's books and records, or otherwise upon Franchisee's request for an increase in rates under the Maximum Rate Schedule. Should the City's performance of Agreed Upon Procedures disclose that the AB 939 Fee payable by the Franchisee was underpaid by two percent (2%) or more, or that customers were overcharged by two percent (2%) or more, for the period under review, Franchisee shall pay for the cost of City's performing the Agreed Upon Procedures in addition to reimbursing the City for the underpayment and/or refunding the Customers for their overpayment.

**10.4 Payments and Refunds.** Should the performance of an Agreed Upon Procedure by the City disclose that the AB 939 Fee payable by the Franchisee was underpaid or that customers were overcharged for the period under review, Franchisee shall pay to City any underpayments of the AB 939 Fee and/or refund to Franchisee's customers any overcharges. Should the performance of an Agreed Upon Procedure by the City disclose that AB 939 Fees were overpaid, City shall promptly refund to Franchisee the amount of the overpayment.

## **ARTICLE 11 ENFORCEMENT OF AGREEMENT.**

**11.1 City Right to Terminate.** The City shall have the right to terminate Franchisee's franchise and this Agreement upon Franchisee's breach of any of its obligations under this Agreement. The City's right to terminate shall be in addition to any other remedy provided in this Agreement or provided by law and shall include, but not be limited to, any of the events of default set forth in this Article 11. In addition, specific events of default by Franchisee include, without limitation, the following:

(a) If Franchisee practices, or attempts to practice, any fraud or deceit upon the City.

(b) Should the Franchisee or any of its officers, directors, shareholders, subsidiaries, affiliates, employees or agents be or have been found guilty of felonious conduct, illegal transport or disposal of Hazardous Waste, or bribery of public officials, the City reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it shall deem proper. The term "found guilty" shall be deemed to include any judicial determination of guilt including, but not limited to, pleas of "guilty", "nolo contendere", "no contest" or "guilty to a lesser charge" entered as part of a plea bargain.

(c) If Franchisee fails to provide or maintain in full force and effect the workers' compensation or any other insurance coverage or performance bond required by this Agreement.

(d) If Franchisee willfully violates any orders or rulings of any regulatory body having jurisdiction over Franchisee, provided that Franchisee may reasonably contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.

(e) If Franchisee fails to make any payments or to pay any penalties required to be made or paid by Franchisee pursuant to this Agreement.

(f) If Franchisee for any reason ceases to provide Solid Waste management services as required under this Agreement over all or a substantial portion of its franchise area for a period of thirty (30) days.

(g) If Franchisee violates the terms, conditions or requirements of the SHMC, AB 939 or successor legislation, or SB 1383 Regulations as they may be amended from time to time, or violates any order, directive, rule or regulation issued pursuant to the foregoing legislation, where the violation is not remedied within the time set in the written notice of the violation.

(h) If Franchisee refuses to provide City with required information, reports or test results in a timely manner as required by this Agreement.

(i) If Franchisee becomes insolvent, unable or unwilling to pay its debts, or upon the appointment of a receiver to take possession of all or substantially all of the assets of Franchisee, or upon a general assignment by Franchisee for the benefit of creditors, or upon any action taken by or suffered by Franchisee under any insolvency or bankruptcy act.

(j) If Franchisee fails to meet the Waste Diversion requirements of this Agreement, AB 939, or SB 1383 Regulations.

**11.2 Rights of Non-defaulting Party after Default.** The Parties acknowledge that both Parties shall have hereunder all legal and equitable remedies as provided by law following the occurrence of a default or to enforce any covenant or agreement herein. Before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief for a default ("Non-defaulting Party") shall comply with the notice and cure provisions below.

**11.3 Notice of Default and Opportunity to Cure.** A Non-defaulting Party in its discretion may elect to declare a default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Defaulting Party") in its performance of a material duty or obligation of said Defaulting Party under the terms of this Agreement. However, the Non-defaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by Defaulting Party to cure such breach or failure ("Default Notice"). The Defaulting Party shall be deemed in "default" under this Agreement, where: (i) said breach or failure can be cured, but the Defaulting Party has failed to fully cure within thirty (30) days after the date of the Default Notice (subject to the provisions below), or (ii) a monetary default remains uncured for ten (10) days (or such lesser time as may be specifically provided in this Agreement).

**11.4 Non-Monetary Defaults; Longer Cure Period.** The Defaulting Party on a non-monetary default shall not be deemed in breach of this Agreement, and such default shall be waived, if such non-monetary default cannot reasonably be cured within the above-prescribed 30-day period, and as long as the Defaulting Party does each of the following:

- (a) Notifies the Non-defaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;
- (b) Notifies the Non-defaulting Party of the Defaulting Party's proposed cause of action to cure the default;
- (c) Promptly commences to cure the default within the thirty (30) day period;
- (d) Makes periodic reports to the Non-defaulting Party as to the progress of the program of cure; and
- (e) Diligently prosecutes such cure to completion.

**11.5 Termination Upon Default.** Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Non-defaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement ("Termination Notice"). The Termination Notice shall state that the Non-defaulting Party will elect to terminate this Agreement and will describe the evidence upon which the decision to terminate is based. Once the Termination Notice has been issued, the Non-defaulting Party's election to terminate this Agreement will only be waived if (i) the Defaulting Party fully and completely cures all defaults prior to the date of termination.

**11.6 Franchisee Hearing Opportunity Prior to Termination.** If Franchisee is the Defaulting Party, then the City's Termination Notice to Franchisee shall additionally specify that Franchisee has the right to a hearing prior to the City's termination of any Agreements ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, Franchisee shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented

in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follows:

- (a) Decide to terminate this Agreement; or
- (b) Determine that Franchisee is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or
- (c) Impose conditions on a finding of default and a time for cure, such that Franchisee's fulfillment of said conditions will waive or cure any default. Findings of a default or a conditional default must be based upon substantial evidence supporting the following two findings: (i) that a default in fact occurred and has continued to exist without timely cure, and (ii) that such default has, or will, cause a material breach of this Agreement and/or a substantial negative impact upon public health, safety and welfare, the environment, the City or the financial terms established in this Agreement.

**11.7 Interest on Monetary Default.** In the event Franchisee fails to perform any monetary obligation under this Agreement, Franchisee shall pay interest thereon at the rate of ten percent (10%) per annum from and after the due date of said monetary obligation until payment is actually received by City.

**11.8 City's Right to Perform Service.**

11.8.1 City Rights. In addition to any and all other legal or equitable remedies, in the event that Franchisee, for any reason whatsoever, fails, refuses or is unable to collect, transport or deliver to the MRF/TS or a Facility Site, as appropriate, any or all Solid Waste or Recyclables which it is required by this Agreement to collect and transport, at the time and in the manner provided in this Agreement, for a period of more than five (5) days, and if, as a result thereof, Solid Waste should accumulate in the City to such an extent, in such a trimmer, or for such a time that the City Manager in his or her sole discretion should find that such accumulation endangers or menaces the public health, safety or welfare, then the City Manager shall have the right, but not the obligation, without payment to Franchisee, to (i) cause to be performed, such services itself with its own personnel or employ Franchisee's personnel, without liability to Franchisee; and/or (ii) to take possession of any or all of Franchisee's equipment and other property used or useful in the collection and transportation of Solid Waste and to use such property at the expense of Franchisee to collect and transport any Solid Waste which Franchisee would otherwise be obligated to collect and transport pursuant to this Agreement.

11.8.2 Franchisee and City Responsibilities. Franchisee further agrees that in such event:

- (a) It will fully cooperate with City to effectuate the transfer of possession or property to the City for City's use;
- (b) It will, if City Manager so requests, and to the extent feasible, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil and other

service, and provide such other service as may be necessary to maintain said property in operational condition; and

(c) The City agrees to assume complete responsibility for the proper and normal use of such equipment and facilities while in its possession.

11.8.3 Franchise Waivers. Franchisee agrees that the City's exercise of its rights under this Article 11:

(a) Does not constitute a taking of private property for which compensation must be paid, but is rather an exercise of the City's police power;

(b) Will not create any liability on the part of City to Franchisee, including but not limited to, any right to compensation for use of Franchisee's equipment;

(c) Does not exempt Franchisee from the indemnity provisions of Article 13, which are meant to extend to circumstances arising under this Section 11.8, provided that Franchisee is not required to indemnify City against claims and damages arising from the sole negligence of City, its officers, employees, agents, or volunteers acting under this Section 11.8; and

(d) Does not terminate this Agreement, unless termination occurs under other provisions of this Agreement.

**11.9 Duration of City's Possession.** City has no obligation to maintain possession of Franchisee's property and/or continue its use in collecting and transporting Solid Waste, Recyclable Materials, or Organic Waste for any period of time and may, at any time, in its sole discretion, relinquish possession to the Franchisee. Should the City desire to retain possession of Franchisee's property, the City's right to retain temporary possession, and to provide Solid Waste collection services, shall continue until Franchisee can demonstrate to the City Manager's reasonable satisfaction that it is ready, willing and able to resume such services.

**11.10 Forfeiture of Performance Bond.** In the event Franchisee shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare that portion of the performance bond established pursuant to Section 13.3 which is necessary to recompense and make whole the City, forfeited to the City. Upon partial forfeiture of the performance bond, Franchisee, shall promptly take all steps necessary to restore the performance bond to its face amount.

**11.11 City's Right to Lease Franchisee's Equipment Following Termination.** If City terminates this Agreement for cause, the City shall have the right to lease Franchisee's equipment from Franchisee at its fair market value for a period not to exceed six (6) months in order to allow City to perform the services required under this Agreement.

**11.12 Cooperation Following Termination.** At the end of the Term or in the event this Agreement is terminated for cause prior to the end of the Term, Franchisee shall cooperate fully with City and any subsequent contractor to assure a smooth transition of Solid Waste management

services. Franchisee's cooperation shall include, but not be limited to, providing operating records needed to service all properties covered by this Agreement.

### **11.13 Remedies for Nuisance Violations.**

11.13.1 Liquidated Damages. The provision of poor public service or the production of any nuisance condition will subject Franchisee to administrative procedures, potential liquidated damages and, ultimately, termination, for severe and repeated violations.

11.13.2 Complaints. Public complaints (whether received by the City regarding Franchisee's performance or received directly by Franchisee) will be handled as prescribed in Section 5.2 hereof.

11.13.3 Nuisance Conditions. Repeated, substantiated complaints of, or continued conditions of, poor service quality and/or nuisance conditions may be handled in the manner prescribed below. For purposes of this Section, the term "nuisance conditions" shall include, but is not limited to, the following:

(a) Failure to duly collect Solid Waste, Recyclable Materials, or Organic Waste that have been properly set-out for collection;

(b) Damage to the property of third parties or customers through the willful or negligent conduct of Franchisee employees that is not corrected within five (5) days of occurrence;

(c) Rude or unprofessional behavior or conduct by Franchisee's employees in the course of their duties;

(d) Failure to perform service surveys and route audits as required by Sections 5.2.6 and 5.2.7, respectively, hereof;

(e) Unreasonable leakage or spillage of Solid Waste, Recyclable Materials, Organic Waste or other collected materials from Franchisee's vehicles;

(f) Failure to immediately or promptly collect Solid Waste, Recyclable Materials, Organic Waste or other materials that spilled or fell from Franchisee's vehicles onto public streets or third-party property;

(g) Maintenance of Franchisee's vehicles in violation of Sections 8.1 and 8.2 hereof;

(h) Violations of personnel standards and qualifications in contravention of Section 8.4 hereof.

11.13.4 Notice of Violation. When the Public Works Director or a designated enforcement officer observes a violation, a verbal warning shall be given to the Franchisee. If the violation is thereafter repeated and, in the opinion of the City's Public Works Director or designated enforcement officer, Franchisee has not taken timely, effective

action to correct the violation and prevent its repetition; then the Public Works Director or designated enforcement officer may issue a written notice of violation (the "Notice of Violation") describing the violation, the period in which Franchisee is required to cure the violation (if such violation is curable) and a warning that continued violations can be subject to liquidated damages.

11.13.5 Franchisee's Right To Contest. Within five (5) business days after receiving the Notice of Violation, Franchisee may submit a written response (the "Response") to the Notice of Violation to the Public Works Director. The Public Works Director shall review Franchisee's Response and may further investigate the claimed violation. The Public Works Director shall make a final determination regarding the Notice of Violation and the Public Works Director shall deliver to Franchisee a written conclusion concerning the Notice of Violation. Additionally, at the election of either Party, the Parties may meet to develop a written corrective action plan ("Correction Plan") to prevent further occurrence of the problematic conditions established in the Notice of Violation. The Correction Plan shall be finally prepared by the City (or, at the election of the City, by Franchisee) within ten (10) business days after the meeting between the Public Works Director and/or City Manager designee and Franchisee. The Correction Plan may include additional procedures, as deemed necessary by the Public Works Director and/or City Manager designee, to assure that in the future Franchisee will be able to perform its services in compliance with this Agreement.

11.13.6 Liquidated Damages. If a second Notice of Violation is issued for any violation after an initial verbal warning and thereafter the issuance of a written Notice of Violation that is not withdrawn, then liquidated damages may thereafter be assessed against Franchisee (as liquidated damages and not a penalty) by the Public Works Director and/or City Manager designee in the amount of \$250 for every day the condition persists. Further, if the violation for which liquidated damages were assessed recurs on three (3) or more days within a 60-day period following any assessment of liquidated damages, then starting on the fourth (4th) day that such violation either persists or recurs the amount of liquidated damages shall increase to \$500 per day.

11.13.7 Basis for Liquidated Damages. The Parties further recognize that if Franchisee recurrently fails to prevent and remediate nuisance conditions, the City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City and its citizens will suffer. Therefore, the Parties agree that the liquidated damages established herein represent a reasonable estimate of the amount of such damages for such specific violations, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of these liquidated damage provisions prior to entering this Agreement.

Franchisee's Initials \_\_\_\_\_ City Initials \_\_\_\_\_

11.13.8 **Further Remedies For Severe Or Persistent Violations.** The above provisions for a Correction Plan procedure and liquidated damages are intended to give the Parties a remedy under this Agreement short of termination or default; however, should Franchisee's violations be severe and repetitive or otherwise not reasonably subject to correction through liquidated damages, the Public Works Director may, in his or her sole discretion, institute the procedures set forth in this Article hereof.

**11.14 No Waiver Of City's Police Powers Or Legal Rights.** Nothing in this Agreement is intended to limit the power and ability of the City or any Local Enforcement Agency ("LEA") to initiate administrative and/or judicial proceedings for the abatement of nuisance conditions or violations of any applicable law. Nothing herein shall waive or limit any other legal rights or recourses the City may have in response to Franchisee's repeated, material violations of Performance Standards or failure to mitigate nuisance conditions.

## **ARTICLE 12 TRANSFERS OF INTEREST.**

**12.1 Restrictions on Transfers.** The City, in entering into this Agreement, has placed a special value, faith and confidence in the experience, background, and expertise of the Franchisee in the field of waste disposal. Such faith and confidence are a substantial consideration in the granting of this Agreement warrants the transfer restrictions provided in this Article 12.

**12.2 Definition of Transfer.** As used in this Section, the term "Transfer" shall include any hypothecation, mortgage, pledge, or encumbrance of this Agreement by Franchisee, subject to the exceptions set forth in Section 12.4 below. A Transfer shall also include the transfer to any person or group of persons acting in concert of more than thirty percent (30%) of the present equity ownership and/or more than thirty percent (30%) of the voting control of Franchisee (jointly and severally referred to herein as the "Trigger Percentages"), taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest to an affiliate owned or controlled by the present beneficial owners of Franchisee or members of their immediate family, or between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of Franchisee in amounts less than Trigger Percentages shall not constitute a Transfer subject to the restrictions set forth herein. In the event Franchisee or its successor is a corporation or trust, such Transfer shall refer to the transfer of the issued and outstanding capital stock of Franchisee, or of beneficial interests of such trust; in the event that Franchisee or any general partner comprising Franchisee is a limited or general partnership or a limited liability company, such Transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership or limited liability company interest; in the event that Franchisee or any general partner is a joint venture, such Transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis,

**12.3 Transfers Require Approval.** Franchisee shall not Transfer this Agreement or any of Franchisee's rights hereunder, directly or indirectly, voluntarily or by operation of law without the prior written approval of City, except as provided below, and if so purported to be transferred, the same shall be null and void. Franchisee will submit its request for City consent to the City

together with documents, including but not limited to: (i) the transferee's audited financial statements for at least the immediately preceding three (3) operating years; (ii) proof that the proposed transferee has municipal solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Franchisee; (iii) proof that in the last five (5) years, the proposed transferee has not suffered any citations or other censure from any federal, state, or local agency having jurisdiction over its waste management operations due to any significant failure to comply with federal, state, or local waste management law and that the transferee has provided the City with a complete list of such citations and censures; (iv) proof that the proposed transferee has at all times conducted its operations in an environmentally safe and conscientious fashion; (v) proof that the proposed transferee conducts its municipal solid waste management practices in accordance with sound waste management practices in full compliance with all federal, state, and local laws regulating the collection and disposal of waste, including hazardous waste; (vi) proof that the transferee's officers or directors have no criminal convictions for fraud, deceit, false claims or racketeering with respect to the transferee's course of business; and (vii) any other information required by the City to ensure the proposed transferee can fulfill the terms of this Agreement, including the payment of indemnities and damages and provision of bonds and/or performance standards, in a timely, safe, and effective manner.

**12.4 Exceptions.** The requirement to obtain City approval for a Transfer shall not apply to any of the following:

(a) Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing and any resulting foreclosure therefrom.

(b) A sale or transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(c) A sale or transfer to an affiliate of Franchisee owned or controlled by the present beneficial owners of Franchisee or members of their immediate family, or between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family.

**12.5 Assumption of Obligations.** No attempted Transfer of any of Franchisee's obligations hereunder shall be effective unless and until the successor party executes and delivers to City an assumption agreement in a form approved by the City assuming such obligations. Following any such assignment or Transfer of any of the rights and interests of Franchisee under this Agreement, the exercise, use and enjoyment shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were Franchisee.

**12.6 Release of Franchisee.** City's consent to a Transfer shall not be deemed to release Franchisee of liability for performance under this Agreement unless such release is specific and in writing executed by City, which release shall not be unreasonably withheld. Upon the written consent of City to the complete assignment of this Agreement and the express written assumption of the assigned obligations of Franchisee under this Agreement by the assignee, Franchisee shall

be relieved of its legal duty from the assigned obligations under this Agreement, except to the extent Franchisee is in default under the terms of this Agreement prior to said Transfer.

**12.7 Franchisee to Pay Transfer Costs.** Franchisee will pay City its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed transferee or assignee, and to review and finalize any documentation required as a condition for approving any such Transfer.

**12.8 Subcontracting.** This Agreement, or any portion thereof, shall not be subcontracted except with the prior written consent of the City. No such consent shall be construed as making the City a Party to such subcontract, or subject the City to liability of any kind to any subcontractor. Franchisee shall submit all subcontracts for review and approval by the City and any permitted subcontract shall terminate on or before the termination of this Agreement. All subcontractors shall be licensed as required under State, Federal and local laws and regulations to perform their subcontracted work and obtain and maintain a City business license if required. Franchisee shall remain otherwise liable for the full and complete performance of its obligations hereunder.

**12.9 Heirs and Successors.** The terms, covenants and conditions of this Agreement shall apply to and shall bind the heirs, successors, executors, administrators and assigns of the Franchisee and City.

### **ARTICLE 13 INSURANCE, INDEMNITY AND PERFORMANCE BOND.**

**13.1 Insurance.** Franchisee shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

13.1.1 **Comprehensive General Liability Insurance.** A policy of comprehensive general liability insurance written on a per occurrence basis. The policy of insurance shall be in an amount not less than either (i) a combined single limit of \$2,000,000.00, or (ii) bodily injury limits of \$1,000,000.00 per person, \$2,000,000.00 per occurrence and \$1,000,000.00 products and completed operations and property damage limits of \$2,000,000.00 per occurrence and \$2,000,000.00 in the aggregate.

13.1.2 **Workers' Compensation Insurance.** A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Franchisee and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Franchisee in the course of carrying out the work or services contemplated in this Agreement.

13.1.3 **Automotive Insurance.** A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily injury liability limits of \$1,000,000.00 per person and \$2,000,000.00 per occurrence and property damage liability limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in

the aggregate or (ii) combined single limit liability of \$2,000,000.00. Said policy shall include coverage for owned, non-owned, leased and hired cars.

13.1.4 **Umbrella Insurance.** Umbrella coverage to bring total aggregate insurance coverage for all underlying insurance coverage to TWENTY MILLION DOLLARS (\$20,000,000.00)

13.1.5 **General Insurance Provisions.** All of the above policies of insurance shall be primary insurance and shall name the City, its officers, employees, and agents as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled without providing thirty (30) days' prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled, the Franchisee shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 13.1 to the City Manager. No work or services under this Agreement shall commence until the Franchisee has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverage and said Certificates of Insurance or binders are approved by the City.

13.1.6 **No Limitation.** Franchisee agrees that the provisions of this Article 13 shall not be construed as limiting in any way the extent to which the Franchisee may be held responsible for the payment of damages to any persons or property resulting from the Franchisee's activities or the activities of any person or persons for which the Franchisee is otherwise responsible.

13.1.7 **Rating.** The insurance policies required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California with an AM Best rating of A-VII or better, unless such requirements are waived by the Risk Manager of the City.

13.1.8 **Primary Insurance.** The insurance policies shall be considered primary insurance as respects any other valid and collectible insurance the City may possess including any self-insured retention the City may have, and any other insurance the City does possess shall be considered excess insurance and shall not contribute with it. The insurance policies shall act for each insured, as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company.

13.1.9 **Changes in Market.** In the event the Risk Manager determines that (i) the market conditions creates an increased or decreased risk of loss to City, (ii) greater insurance coverage is required due to the passage of time or (iii) changes in the insurance industry require different coverages be obtained, Franchisee agrees that the minimum limits of any insurance policy required to be obtained by Franchisee may be changed accordingly upon receipt of written notice from the Risk Manager.

13.2 **Indemnification.** Without regard to the limits of any insurance coverage, Franchisee agrees to indemnify, defend with counsel appointed by the City, protect and hold

harmless the City, its representatives, officers, agents and employees against any and all fines, response costs, assessments, actions, suits, injunctive relief, claims, damages to persons or property, losses, costs penalties, obligations, errors, omissions or liabilities ("Claims or Liabilities") that may be -asserted or claimed by any person, firm or entity arising out of or in connection with (i) any challenge to the award of this Agreement; (ii) violations of the commerce clause of the U.S. Constitution, AB 939, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. ("CERCLA"), the California Hazardous Substances Account Act, California Health and Safety Code § 25300 et seq. ("HSAA"), the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq. ("RCRA"), any other Hazardous Waste laws, or other federal, state or local environmental statutes, ordinances and regulations which arise from this Agreement; (iii) the negligent performance of the work or services of Franchisee, its agents, employees, subcontractors, or invitees, provided for in this Agreement; (iv) the acts or omissions of Franchisee hereunder, or arising from Franchisee's negligent performance of or failure to perform' any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of the City, its representatives, officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its representatives, officers, agents or employees, who are directly responsible to the City, and in connection therewith:

(a) Franchisee will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Franchisee will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work or services of Franchisee hereunder; and Franchisee agrees to save and hold the City, its officers, agents and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Franchisee for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work or services of Franchisee hereunder, Franchisee agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Franchisee's obligations hereunder shall survive the termination or expiration of this Agreement

**13.3 Performance Bond.** The City acknowledges that pursuant to the Agreement, Franchisee delivered to the City a performance bond in the sum of the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), in the form provided by the City Risk Manager. Said performance bond shall be deemed to continue security of Franchisee's faithful performance of waste hauling services under the auspices of this Agreement, including without limitation, payment of any penalty and the funding of any work to cure a breach of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be

unconditional and remain in force during the entire term of this Agreement and shall be null and void only if the Franchisee promptly and faithfully performs all terms and conditions of this Agreement.

**13.4 AB 939 Guarantee and Indemnification.** Without in any way limiting the indemnification provisions in Section 13.2 above and to the maximum extent permitted by law, Franchisee unconditionally guarantees programmatic compliance with the requirements of AB 939, SB 1383, SB 1383 Regulations, and any solid waste laws, as amended from time to time. Franchisee shall carry out its obligations under this Agreement so that the City will meet or exceed the programmatic requirements set forth in AB 939, SB 1383, SB 1383 Regulations, and all amendments thereto, as more fully set forth below. City and Franchisee shall reasonably assist each other to meet the City's the programmatic requirements of AB 939, SB 1383, SB 1383 Regulations, and any other waste diversion requirements. In carrying out the provisions of this Section, Franchisee agrees to perform the following obligations at its cost and expense:

(a) Defend, with counsel approved by City, indemnify and hold harmless the City against all fines and/or penalties imposed by the California Department of Resources Recycling and Recovery ("Department") or any government agency, if Franchisee fails or refuses to provide information relating to its operations which is required under this Agreement and such failure or refusal prevents or delays City from submitting reports required by AB 939 or SB 1383 Regulations in a timely manner;

(b) Assist City in preparing for, and participating in, the Department's biannual review of the City's source reduction and recycling element pursuant to Public Resources Code Section 41825;

(c) Assist City in responding to inquiries from the Department in applying for an extension under Public Resources Code Section 41820.5, if so directed by City; in conducting any hearing conducted by the Department relating to AB 939; or in any other investigative or enforcement manner undertaken by any agency;

(d) Defend, with counsel acceptable to City, and indemnify and hold harmless the City against any fines or penalties levied against it for violation of AB 939's diversion requirements, excepting any fine or penalty imposed if City's failure to meet the Act's diversion requirements is the result of an order.

(e) In cooperating with the City, should it seek to become its own enforcement agency, to the extent it may be permitted under state law.

**13.5 AB 939 Education.** Franchisee and City shall jointly develop and implement a public awareness and education program that is consistent with the City's Source Reduction and Recycling Element and its Household Hazardous Waste Element.

## **ARTICLE 14 GENERAL PROVISIONS.**

**14.1 Late Payment Fee.** City shall give Franchisee written notice of any delinquent payment of any sum owing to City by Franchisee under this Agreement. In the event that

Franchisee does not pay City such delinquent sum within ten (10) days of the date of the written notice, Franchisee shall pay the City a late payment charge of one and one-half percent (1.5%) interest per month on the amount of delinquent sum commencing from the date such sum was originally due.

**14.2 Force Majeure.** The time period(s) specified for performance of the provisions of this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Franchisee, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, freight embargoes, wars, litigation; and/or acts of any third party governmental agency, if the Franchisee shall within ten (10) days of the commencement of such delay notify the City Manager in writing of the causes of the delay; no extension of time for performance shall be granted, however, by reason of the unavailability of any Facility Site or by reason of strikes, lockouts, or other labor disturbances, or breakage or accidents to vehicles, equipment, machinery or plants. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the City Manager such delay is justified. In no event shall Franchisee be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Franchisee's sole remedy being extension of the Agreement pursuant to this Section 14.2.

**14.3 Notices.** All notices, demands, requests, approvals, disapprovals, proposals, consents, or other communications whatsoever which this Agreement contemplates or authorizes, or requires or permits either Party to give to the other, shall be in writing and shall be personally delivered, or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective Party as follows:

If to Franchisee: EDCO Disposal Corp.  
6670 Federal Blvd.  
Lemon Grove, CA 91945  
Attention: President

If to City: CITY OF SIGNAL HILL  
2175 Cherry Avenue  
Signal Hill, CA 90755  
Attention: City Manager

A copy to: BEST BEST & KRIEGER, LLP  
18101 Von Karman Avenue, Suite 1000  
Irvine, CA 92612  
Attention: Matthew Richardson, City Attorney

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section 14.3. Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days from the date such notice is deposited in the United States mail.

**14.4 Non-discrimination.** Franchisee covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, sexual orientation, or ancestry in the performance of this Agreement. Franchisee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin or ancestry.

**14.5 Compliance with Immigration Laws.** Franchisee agrees that, in the performance of this Agreement, it will comply with all applicable immigration laws and regulations.

**14.6 No Liability of City Officials.** No officer, employee or agent of the City shall be personally liable to the Franchisee, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Franchisee or to its successor, or for breach of any obligation of the terms of this Agreement.

**14.7 Laws and Regulations.** Franchisee shall observe all the terms of any City ordinance or resolution now in effect, or as the same may be subsequently adopted or amended by the City, governing or affecting the collection, removal and disposal of Municipal Solid Waste in the City of Signal Hill. Franchisee further agrees to comply with all applicable county, state or federal laws or regulations as they exist now or may subsequently be adopted or amended, governing the collection, removal and disposal of Municipal Solid Waste. Franchisee further agrees to comply with all applicable state and federal laws governing employment, wages, working conditions, use of materials, equipment, supplies and the like.

**14.8 Proprietary Information: Public Records.** The City acknowledges that a number of the records and reports of the Franchisee are proprietary and confidential. Franchisee is obligated to permit City inspection of certain of its records, as provided herein, on demand and to provide copies to City where requested. City will endeavor to maintain the confidentiality of all proprietary information provided by Franchisee and shall not voluntarily disclose such proprietary information. Notwithstanding the foregoing, any documents provided by Franchisee to City that are public records may be disclosed pursuant to a proper public records request.

**14.9 Reserved.**

**14.10 Waiver of Future Claims.** No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

**14.11 Conflict of Interest.** No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in

violation of any State statute or regulation. The Franchisee warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement.

**14.12 Interpretation.** The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

**14.13 Integration: Amendment.** It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. This Agreement may only be amended at any time by the mutual consent of the Parties by an instrument in writing. This Agreement is intended, in part, to carry out City's obligations to comply with the provisions of AB 939 and SB 1383, and regulations promulgated thereunder, as amended from time to time. In the event that AB 939, SB 1383 or other state or federal laws or regulations enacted after this Agreement prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. No other amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

**14.14 Severability.** In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

**14.15 Attorneys' Fees.** If either Party to this Agreement is required to initiate, or defend or is made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees and expert witness fees.

**14.16 No Joint Venture.** Neither the City nor any of its employees shall have any control over the manner, mode or means by which Franchisee, its agents or employees, perform the services required herein, except as otherwise set forth. Franchisee shall perform all services required herein independent from the City and shall remain at all times as to City a wholly independent entity with only such obligations as are consistent with that role. Franchisee shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Franchisee in its business or otherwise or a joint venturer or a member of any joint enterprise with Franchisee.

**14.17 Rights and Remedies are Cumulative.** Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not

preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

**14.18 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**14.19 Jurisdiction and Venue.** The parties hereto agree that the State of California is the proper jurisdiction for litigation of any matters relating to this Agreement. The Parties further agree that Los Angeles County, California is the proper place for venue as to any such litigation arising out of the Agreement and Franchisee agrees to submit to the personal jurisdiction of such court in the event of such litigation.

**14.20 Legal Action.** In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.


IN WITNESS WHEREOF, the Parties hereto do hereby set their hands and seals as of the day and the year first written above.

**CITY OF SIGNAL HILL**

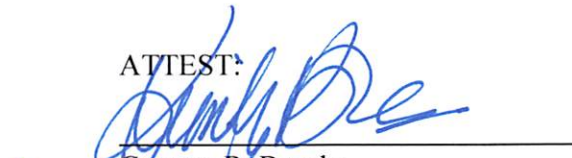
  
\_\_\_\_\_  
Edward H.J. Wilson  
Mayor

**FRANCHISEE**

EDCO Disposal Corp., a California Corporation

  
\_\_\_\_\_  
Sandra L Burr  
Chair

  
\_\_\_\_\_  
John C. Snyder  
Vice President

ATTEST:  
  
\_\_\_\_\_  
Carmen R. Brooks  
City Clerk

APPROVED AS TO FORM:  
BEST BEST & KRIEGER, LLP

\_\_\_\_\_  
Matthew Richardson  
City Attorney

IN WITNESS WHEREOF, the Parties hereto do hereby set their hands and seals as of the day and the year first written above.

**CITY OF SIGNAL HILL**

**FRANCHISEE**

EDCO Disposal Corp., a California Corporation



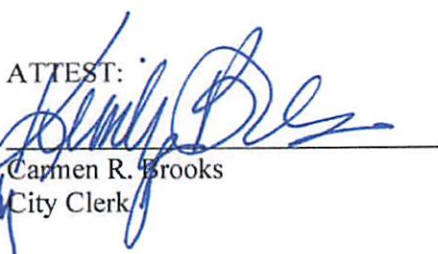
Edward H.J. Wilson  
Mayor

Sandra L Burr  
Chair

John C. Snyder

Vice President

ATTEST:



Carmen R. Brooks  
City Clerk

APPROVED AS TO FORM:  
BEST BEST & KRIEGER, LLP



Matthew Richardson  
City Attorney

# **EXHIBIT A MAXIMUM RATE SCHEDULE**

## **RESIDENTIAL RATES - Effective 10/14/2021**

	<u>Rate/Month</u>
Service	\$ 21.85
NPDES	\$ 1.30
Total Residential Rate	<u>\$ 23.15</u>
Additional Cart - Trash	\$ 7.19
Additional Cart - Recycle	No Additional Charge
Additional Cart - Organics	Up to 2 Additional Carts at No Charge

## **ROLLOFF RATES Effective - 10/14/2021**

	<u>Haul Rate</u>
Haul Rate	\$ 197.38
NPDES - 5.6%	\$ 11.71
Total Haul rate	<u>\$ 209.09</u>
	<u>Trash/Ton</u> <u>CD/Ton</u> <u>GW/Ton</u>
Tip Fee	\$ 58.00 \$ 80.00 \$ 75.00
NPDES & ASB39	\$ 7.32 \$ 10.09 \$ 9.45
Total Disposal Fee/Ton	<u>\$ 65.32 \$ 90.09 \$ 84.45</u>

GW-Green Waste  
CD-Construction Demolition Inert

## **MULTI-FAMILY RESIDENTIAL TRASH & RECYCLE RATES - Effective 10/14/2021** Includes one 32-gallon recycling cart per unit or equivalent

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>1-Yard</b>						
Rate	67.74	129.38	190.99	252.61	314.25	375.81
npds	4.02	7.68	11.33	14.99	18.64	22.29
Total	71.76	137.06	202.32	267.60	332.89	398.10
<b>2-Yard</b>						
Rate	100.86	175.06	249.28	323.52	397.74	471.99
npds	5.98	10.38	14.79	19.19	23.59	28.00
Total	106.84	185.44	264.07	342.71	421.33	499.99
<b>3-Yard</b>						
Rate	133.65	220.95	308.22	395.47	482.75	569.83
npds	7.93	13.11	18.28	23.46	28.64	33.80
Total	141.58	234.06	326.50	418.93	511.39	603.63
Multi-family Cart Service			1 Trash 1 Recycle	\$ 48.19		
			2 Trash 2 Recycle	\$ 64.54		
			3 Trash 3 Recycle	\$ 95.46		
Extra Pick-ups			3 Yard Trash	\$ 42.12		
			2 Yard Trash	\$ 35.02		
			1 Yard Trash	\$ 28.20		
Special Pick-up				\$ 31.02		
Lock Set-up				\$ 105.08		
Temporary Bins	3 Yard			\$ 107.88		
	1 Yard			\$ 107.88		

## **COMMERCIAL TRASH & RECYCLE RATES - Effective 10/14/2021** Includes one 96-gallon recycle cart

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>1-Yard</b>						
Rate	80.61	153.94	227.23	300.55	379.45	449.43
npds	4.78	9.13	13.48	17.83	22.51	26.66
Total	85.39	163.07	240.71	318.38	401.96	476.09
<b>2-Yard</b>						
Rate	119.96	208.22	296.52	384.83	480.29	569.96
npds	7.12	12.35	17.59	22.83	28.49	33.81
Total	127.08	220.57	314.11	407.66	508.78	603.77
<b>3-Yard</b>						
Rate	158.98	262.83	366.64	470.44	574.30	678.07
npds	9.43	15.59	21.75	27.91	34.07	40.22
Total	168.41	278.42	388.39	498.35	608.37	718.29
Commercial Cart Service			1 Trash 1 Recycle	59.92		
			2 Trash 2 Recycle	79.47		
Extra Pick-ups			3 Yard Trash	46.17		
			2 Yard Trash	38.38		
			1 Yard Trash	30.92		
Special Pick-up				32.88		
Lock Set-up				115.20		
Temporary Bins	3 Yard			120.98		
	1 Yard			120.98		

## **ADDITIONAL MULTI-FAMILY & COMMERCIAL RECYCLE SERVICE - Effective 10/14/2021**

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>96 Gal</b>						
Rate	39.75	65.71	91.66	117.61	143.58	169.52
npds	2.36	3.90	5.44	6.98	8.52	10.06
Total	42.11	69.61	97.10	124.59	152.10	179.58
<b>2-Yard</b>						
Rate	59.98	104.11	148.26	192.42	240.15	284.98
npds	3.56	6.18	8.80	11.41	14.25	16.91
Total	63.54	110.29	157.06	203.83	254.40	301.89
<b>3-Yard</b>						
Rate	79.49	131.42	183.32	235.22	287.15	339.04
npds	4.72	7.80	10.87	13.95	17.03	20.11
Total	84.21	139.22	194.19	249.17	304.18	359.15
Extra Pick-ups			3 Yard	42.11		
			2 Yard	31.77		
			96 Gal	21.05		

## **COMMERCIAL & MULTI-FAMILY ORGANICS RATES - Effective 10/14/2021**

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>64 Gal</b>						
Rate	76.01	152.03	228.04	304.06	380.07	456.08
npds	4.51	9.02	13.53	18.04	22.55	27.06
Total	80.52	161.05	241.57	322.10	402.62	483.14
<b>96 Gal</b>						
Rate	83.86	167.71	251.57	335.43	419.28	503.14
npds	4.97	9.95	14.92	19.90	24.87	29.85
Total	88.83	177.66	266.49	355.33	444.15	532.99
<b>2-Yard</b>						
Rate	128.10	256.20	384.29	512.39	640.49	768.59
npds	7.60	15.20	22.80	30.40	38.00	45.59
Total	135.70	271.40	407.09	542.79	678.49	814.18
Extra Pick-ups			2 Yard	67.85		
			64 Gal	44.41		
			96 Gal	40.26		

**EXHIBIT B  
FACILITY SITES**

- Frank R. Bowerman Landfill, Irvine, CA
- Alpha Olinda Landfill, Brea, CA
- Prima Descheca Landfill, San Juan Capistrano, CA
- Southeast Resource Recovery Facility, Long Beach, CA
- Escondido Resource Recovery, Escondido
- Organic Depot, Aguanga, CA.
- EDCO Recovery and Transfer
- El Sobrante Landfill, Corona CA
- Puente Hills, Industry, CA
- Emerald Acres, Homeland, CA
- Sage Ranch, Aguanga, CA

Use of other permitted Facility Sites is subjected to approval by the Public Works Director which shall not be unreasonably denied.

# EXHIBIT B

## SOLID WASTE CHARGES

### RESIDENTIAL RATES - Effective 10/14/2021

	<u>Rate/Month</u>
Service	\$ 21.85
NPDES	\$ 1.30
Total Residential Rate	<u>\$ 22.15</u>
Additional Cart - Trash	\$ 7.19
Additional Cart - Recycle	No Additional Charge
Additional Cart - Organics	Up to 2 Additional Carts at No Charge

### ROLLOFF RATES Effective - 10/14/2021

	<u>Haul Rate</u>
Haul Rate	\$ 197.38
NPDES - 5.0%	\$ 11.71
Total Haul rate	<u>\$ 209.09</u>
	<u>Trash/Ton</u> <u>CDI/Ton</u> <u>GW/Ton</u>
Tip Fee	\$ 58.00 \$ 60.00 \$ 75.00
NPDES & AB939	\$ 7.32 \$ 10.09 \$ 9.48
Total Disposal Fee/Ton	<u>\$ 65.32 \$ 90.09 \$ 84.48</u>

GW-Green Waste  
CDI-Construction Demolition Inert

### MULTI-FAMILY RESIDENTIAL TRASH & RECYCLE RATES - Effective 10/14/2021

Includes one 32-gallon recycling cart per unit or equivalent

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>1-Yard</b>						
Rate	67.74	129.38	190.99	252.61	314.25	375.81
npds	4.02	7.68	11.33	14.99	18.64	22.29
Total	71.76	137.06	202.32	267.60	332.89	398.10
<b>2-Yard</b>						
Rate	100.86	175.06	249.28	323.52	397.74	471.99
npds	5.98	10.38	14.79	19.19	23.59	28.00
Total	106.84	185.44	264.07	342.71	421.33	499.99
<b>3-Yard</b>						
Rate	133.65	220.95	308.22	395.47	482.75	569.83
npds	7.93	13.11	18.28	23.46	28.64	33.80
Total	141.58	234.06	326.50	418.93	511.39	603.63

Multi-family Cart Service	1 Trash 1 Recycle	\$ 48.19
	2 Trash 2 Recycle	\$ 64.54
	3 Trash 3 Recycle	\$ 95.46
Extra Pick-ups	3 Yard Trash	\$ 42.12
	2 Yard Trash	\$ 35.02
	1 Yard Trash	\$ 28.20
Special Pick-up		\$ 31.02
Lock Set-up		\$ 105.08
Temporary Bins	3 Yard	\$ 107.88
	1 Yard	\$ 107.88

### COMMERCIAL TRASH & RECYCLE RATES - Effective 10/14/2021

Includes one 96-gallon recycle cart

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>1-Yard</b>						
Rate	80.61	153.94	227.23	300.55	379.45	449.43
npds	4.78	9.13	13.48	17.83	22.51	26.66
Total	85.39	163.07	240.71	318.38	401.96	476.09
<b>2-Yard</b>						
Rate	119.96	208.22	296.52	384.83	480.29	569.96
npds	7.12	12.35	17.59	22.83	28.49	33.81
Total	127.08	220.57	314.11	407.66	508.78	603.77
<b>3-Yard</b>						
Rate	158.98	262.83	366.64	470.44	574.30	678.07
npds	9.43	15.59	21.75	27.91	34.07	40.22
Total	168.41	278.42	388.39	498.35	608.37	718.29

Commercial Cart Service	1 Trash 1 Recycle	\$ 59.92
	2 Trash 2 Recycle	\$ 79.47
Extra Pick-ups	3 Yard Trash	\$ 46.17
	2 Yard Trash	\$ 38.38
	1 Yard Trash	\$ 30.92
Special Pick-up		\$ 32.88
Lock Set-up		\$ 115.20
Temporary Bins	3 Yard	\$ 120.98
	1 Yard	\$ 120.98

### ADDITIONAL MULTI-FAMILY & COMMERCIAL RECYCLE SERVICE - Effective 10/14/2021

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>88 Gal</b>						
Rate	39.75	65.71	91.66	117.61	143.58	169.52
npds	2.36	3.90	5.44	6.98	8.52	10.06
Total	42.11	69.61	97.10	124.59	152.10	179.58
<b>2-Yard</b>						
Rate	59.98	104.11	148.26	192.42	240.15	284.98
npds	3.56	6.18	8.80	11.41	14.25	16.91
Total	63.54	110.29	157.06	203.83	254.40	301.89
<b>3-Yard</b>						
Rate	79.49	131.42	183.32	235.22	287.15	339.04
npds	4.72	7.80	10.87	13.95	17.03	20.11
Total	84.21	139.22	194.19	249.17	304.18	359.15
Extra Pick-ups			3 Yard	42.11		
			2 Yard	31.77		
			90 Gal	21.05		

### COMMERCIAL & MULTI-FAMILY ORGANICS RATES - Effective 10/14/2021

	Frequency of Collection (times per week)					
	1 x W	2 x W	3 x W	4 x W	5 x W	6 x W
<b>64 Gal</b>						
Rate	76.01	152.03	228.04	304.06	380.07	456.08
npds	4.51	9.02	13.53	18.04	22.55	27.06
Total	80.52	161.05	241.57	322.10	402.62	483.14
<b>96 Gal</b>						
Rate	83.86	167.71	251.57	335.43	419.28	503.14
npds	4.97	9.95	14.92	19.90	24.87	29.85
Total	88.83	177.66	266.49	355.33	444.15	532.99
<b>2-Yard</b>						
Rate	128.10	256.20	384.29	512.39	640.49	768.59
npds	7.60	15.20	22.80	30.40	38.00	45.59
Total	135.70	271.40	407.09	542.79	678.49	814.18
Extra Pick-ups			2 Yard	67.85		
			64 Gal	44.41		
			96 Gal	40.26		