

1                   **AGREEMENT TO PROVIDE**  
2                   **COMMERCIAL REFUSE, RECYCLABLE MATERIALS,**  
3                   **AND ORGANIC WASTE COLLECTION SERVICES**  
4

5                   **Executed between the**  
6                   **County of Ventura and Marborg Industries, Inc.**  
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**AGREEMENT**

This agreement ("Agreement") is entered into as of the Effective Date as defined in Article 1 below, by and between the County of Ventura, a county of the State of California (hereinafter "County") and Marborg Industries, Inc. (hereinafter "Contractor"), sometimes singularly referred to as the "Party" and collectively referred to as the "Parties" to this Agreement.

**RECITALS**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("Act") and subsequent additions and amendments (codified at California Public Resources Code Section 40000 et seq.), has declared it is in the public interest to authorize and require local agencies to provide for refuse collection within their jurisdiction; and

WHEREAS, the State of California has found and declared that the amount of refuse generated in California, coupled with diminishing landfill space and potential adverse environmental impacts from landfilling and the need to conserve natural resources, have created an urgent need for State and local agencies to enact and implement an aggressive integrated waste management program. The State has, through enactment of the Act, directed the responsible State agency, and all local agencies, to promote disposal site diversion and to maximize the use of feasible refuse reduction, re-use, recycling, and composting options to reduce the amount of refuse that must be disposed in disposal sites; and

WHEREAS, pursuant to its County Code and California Public Resources Code Section 40059(a) as may be amended from time to time, County has determined that the public health, safety, and well-being require that an exclusive right be awarded to a qualified contractor to provide for the collection of refuse, recyclable materials, and organic waste materials, except for collection of materials excluded in County's County Code, and other services related to meeting the Act's fifty percent (50%) diversion goal and other requirements of the Act. County further declares its intent to regulate and set the Maximum Service Rates Contractor may charge Service Recipients for the collection, transportation, processing, recycling, composting, and/or disposal of refuse, recyclable materials, and organic waste materials; and

WHEREAS, the Board of Supervisors has determined that Contractor, by demonstrated experience, reputation, and capacity, is qualified to provide for the collection of refuse, recyclable materials, and organic waste materials within the corporate limits of County, the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and Board of Supervisors desires that Contractor be engaged to perform such services on the basis set forth in this Agreement; and, Contractor has represented that it has the ability and capacity to provide for the collection of refuse, recyclable materials, and organic waste materials within the boundary limits of the County; the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and the processing of materials; and

WHEREAS, the rights conveyed pursuant to this Agreement are valuable and confer specific benefits not otherwise available to noncontracting parties, including the rights to transact business, provide services utilizing the public right of way rendering the service more efficient, and operate an exclusive public utility within the awarded service area(s); and

WHEREAS, the rights conveyed pursuant to this Agreement grant the Contractor the right to enter and use County property including, but not limited to: 1) the special ability to drive heavy vehicles on a weekly basis on all County roads involving numerous stops with the associated traffic impacts, 2) on a weekly basis with the resultant parking and traffic impacts, 3) the ability to operate at the hours specified herein with equipment that creates substantial noise impacts in residential and commercial areas, and 4) for the privilege of being one of the authorized contractors in the awarded area; and

WHEREAS, the Parties agree that Solid Waste collection services shall be provided pursuant to this Agreement as of 12:00 a.m. January 1, 2024 ("Commencement Date").

NOW, THEREFORE, in consideration of the mutual covenants, agreements and consideration contained in this Agreement, the receipt and adequacy being hereby acknowledged, the County and Contractor agree as follows:

## Article 1. Definitions

For the purposes of this Agreement, the definitions contained in this Article apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender includes all genders including the feminine gender, and vice versa. The meaning of terms or words not defined in this Article will be as commonly understood in the Solid Waste collection services industry when the common understanding is uncertain.

1.1 AB 341. "AB 341" means State of California Assembly Bill No. 341 approved on or about October 5, 2011. AB 341 requires businesses, defined to include commercial or public entities that generate more than 4 cubic yards of commercial Solid Waste per week or multifamily residential dwellings (MFD) of 5 units or more, to arrange for recycling services and requires jurisdictions to implement a commercial Solid Waste recycling program.

1.2 AB 827. "AB 827" means State of California Assembly Bill No. 827 approved on or about October 02, 2019. AB 827 requires businesses that are mandated to recycle under AB 341 ("MCR") and/or mandated to recycle organics under AB 1826 ("MOR") or SB 1383 and that provide Service Recipients access to the business, to provide Service Recipients with a recycling bin and/or organics collection bin for those waste streams that is visible, easily accessible, and adjacent to each bin or container for refuse.

1.3 AB 939. "AB 939" or "Act" means "The California Integrated Waste Management Act of 1989" codified in part in Public Resources Code §§ 40000 et seq, and such regulations adopted by the California Department of Resources Recycling and Recovery ("CalRecycle") for implementation of the Act, or its successor agency, including but not limited to, the Jobs and Recycling Act of 2011 (AB 341), SB 1016 (Chapter 343, Statutes of 2008 [Wiggins, SB 1016]), the Mandatory Commercial Organics Recycling Resources Code § 40000 and following as it may be amended and as implemented by the regulations of CalRecycle.

1.4 AB 1594. "AB 1594" means State of California Assembly Bill No. 1594 approved on or about September 28, 2014. AB 1594 provides that, as of January 1, 2020, the use of green material as Alternative Daily Cover ("ADC") does not constitute diversion through recycling and is considered disposal.

152 1.5 AB 1826. “AB 1826” means State of California Assembly Bill No. 1826 approved on or about  
153 September 28, 2014. AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an  
154 organic waste recycling program to divert from the landfill organic waste from businesses. Each business  
155 meeting specific organic waste or Solid Waste generation thresholds, phased in from April 1, 2016 to January  
156 1, 2020, is required to arrange for organic waste recycling services.

157 1.6 Agreement. “Agreement” means the written agreement between the County and the Contractor  
158 covering the work to be performed and all contract documents attached to the agreement and made a part  
159 thereof.

160 1.7 Agreement Administrator. “Agreement Administrator” means the County Administrator, or his or her  
161 designee, designated to administer and monitor the provisions of the Agreement.

162 1.8 Alternative Fuel Vehicle. “Alternate Fuel Vehicle” means a vehicle whose engine uses a fuel other  
163 than gasoline or diesel fuel, such as compressed natural gas (CNG) or other fuel with comparably low  
164 emissions of air pollutants.

165 1.9 Applicable Law. “Applicable Law” means all laws, regulations, rules, orders, judgments, decrees,  
166 permits, approvals, or other requirement of any federal, state, the County, and local governmental agency  
167 having jurisdiction over the collection, diversion, and disposition of Solid Waste, including Recyclable  
168 Materials, Organic Waste, Construction and Demolition Debris, and environmental regulation. Applicable  
169 Law includes, but is not limited to, the statutory changes made by AB 341, AB 827, AB 939, AB 1594, AB  
170 1826, SB 1016, and SB 1383.

171 1.10 Bin. “Bin” means a metal or plastic waste container designed or intended to be mechanically serviced  
172 by a front-end loader vehicle. It shall be designed to hold from one (1) to six (6) cubic yards of material with  
173 the lid properly closed. The specifications for Contractor-provided Bins are set forth in Exhibit 3.

174 1.11 Biohazardous or Biomedical Waste. “Biohazardous or Biomedical Waste” means any waste which  
175 may cause disease or reasonably be suspected of harboring pathogenic organisms; included are waste  
176 resulting from the operation of medical clinics, hospitals, and other facilities processing wastes which may  
177 consist of, but are not limited to, human and animal parts, contaminated bandages, pathological specimens,  
178 hypodermic needles, sharps, contaminated clothing, and surgical gloves.

179 1.12 Board. “Board” means the Ventura County Board of Supervisors.

180 1.13 Bulky Items. “Bulky Items” means Solid Waste consisting of discarded White Goods, furniture, tires,  
181 carpets, mattresses, e-waste, and similar items which do not fit in a regular Collection Container and require  
182 special handling due to their size but can be collected and transported without the assistance of special  
183 loading equipment (such as forklifts or cranes) and without violating vehicle load limits. It does not include  
184 debris and materials from construction and demolition activities, abandoned automobiles and other vehicles,  
185 nor does it include items defined as Exempt Waste.

186 1.14 Business Day. “Business Day” means any day Monday through Friday, excluding any holidays as  
187 defined in Section 5.3.

1.15 C&D. "C&D" means Construction and Demolition.

1.16 Calendar Year. "Calendar Year" means each twelve (12) month period from January 1 to December 31.

1.17 Cart. "Cart" means a heavy plastic receptacle with a rated capacity of at least twenty (20) and not more than one hundred (100) gallons, having a hinged tight-fitting lid and wheels, that is provided by the Contractor, approved by the County, and used by Service Recipients for collection, accumulation, and removal of Solid Waste from Commercial Premises in connection with Commercial Collection Services. The specifications for Contractor-provided Carts are set forth in Exhibit 3.

1.18 CERCLA. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 and following, as may be amended and regulations promulgated thereunder.

1.19 Change in Law. "Change in Law" means the occurrence of any of the following events after the Effective Date, when such event has a material and adverse effect on the Parties' performance of their respective obligations under this Agreement (except for any payment obligations): (i) the enactment, adoption, promulgation, amendment, repeal, judicial interpretation, or formal administrative interpretation of any Applicable Law; (ii) the issuance of any order or judgment of any federal, state, or local court or agency in a proceeding to which a Party is a party, but not to the extent such order or judgment finds the Party asserting there to have been a Change in Law to have been negligent or otherwise at fault; or (iii) the denial, suspension, or termination of any government permit or other entitlement, but not to the extent such denial, suspension, or termination is the result of any act or omission of the Party asserting there to have been a Change in Law.

1.20 Collect and Collection and Collected. "Collect" and "Collection" and "Collected" mean the removal of Solid Waste from a Service Unit and transportation to a Disposal Facility, Organic Waste Processing Facility, Materials Recycling (or Recovery) Facility, or Transfer Station as appropriate.

1.21 Collection Container. "Collection Container" means a Bin, Cart, or Roll-Off Container that is approved by the Agreement Administrator for use by Service Recipients for Commercial Collection Services under this Agreement.

1.22 Collection Vehicle. "Collection Vehicle" means a licensed vehicle that has all required licenses to provide Collection Service and that has been approved by the Agreement Administrator for use under this Agreement.

1.23 Commencement Date. "Commencement Date" means the date specified in Section 2.1 of this Agreement.

1.24 Commercial Collection Service. "Commercial Collection Service" or "Collection Service" means Contractor's obligations under this Agreement to Collect Solid Waste from Service Recipients within the Service Area.



1.25 Commercial Edible Food Generator. “Commercial Edible Food Generator” consists of a Tier One or a Tier Two Commercial Edible Food Generator as defined in 14 CCR Section 18982(a)(73) and (a)(74).

1.26 Commercial Organic Waste Collection Service. “Commercial Organic Waste Collection Service” means the Collection of Organic Waste, by Contractor, from Service Units in the Service Area, the delivery of those Organic Waste materials to an Organic Waste Processing Facility and the processing and marketing of those Organic Waste materials, and the disposal of all commercial Organic Waste processing Residual.

1.27 Commercial Recycling Collection Service. “Commercial Recycling Collection Service” means the Collection of Recyclable Materials, by Contractor, from Service Units in the Service Area, the delivery of those Recyclable Materials to a Materials Recycling Facility and the processing and marketing of those Recyclable Materials, and the disposal of all commercial Recyclable Materials processing Residual.

1.28 Commercial Refuse Collection Service. “Commercial Refuse Collection Service” means the Collection of Commercial Refuse by Contractor, from Service Units in the Service Area and the delivery of that commercial Solid Waste to a Disposal Facility.

1.29 Compost. “Compost” means the act or product produced from Composting.

1.30 Composting. “Composting” means the act of the controlled biological decomposition of Organic Wastes that are Source Separated or are separated at a centralized facility. Composting may also include the product of anaerobic digestion or other conversion technologies.

1.31 Construction and Demolition Debris, C&D Debris. “Construction and Demolition Debris” or “C&D Debris” means discarded materials removed from Premises, resulting from construction, renovation, remodeling, repair, deconstruction, or demolition operations on any pavement, house, or other structure or from landscaping. Such materials include but are not limited to “inert wastes” as defined in Public Resources Code Section 41821.3(a)(1) (rock, concrete, brick, sand, soil, ceramics and cured asphalt), gravel, plaster, gypsum wallboard, aluminum, glass, plastic pipe, roofing material, carpeting, wood, masonry, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavements, houses, and other structures.

1.32 Consumer Price Index (CPI). “Consumer Price Index or CPI” mean the index set published by the United States Department of Labor, Bureau of Labor Statistics titled *Garbage and trash collection in U.S. city average, all urban consumers, seasonally adjusted* and with series identification number CUSR0000SEHG02.

1.33 Contaminant. “Contaminant” means any material or substance placed into or found in a Collection Container other than the type of Source Separated material for which that Collection Container is intended or reserved. For example, anything that is not Recyclable Materials is a Contaminant if placed into or found in a Recyclable Materials Collection Container. Similarly, anything that is not Organic Waste is a Contaminant if placed into or found in an Organic Waste Collection Container.

1.34 Contractor. "Contractor" means the above-identified party having entered into this Agreement and any wholly owned subsidiaries that are performing work under the scope of this Agreement.

1.35 County. "County" means the County of Ventura, California, a political subdivision of the State of California.

1.36 County Administrator. "County Administrator" means the Director, or the Director's designated representative, or any employee of the County who succeeds to the duties and responsibilities of the County Administrator.

1.37 County Code. County Code means the Ventura County Ordinance Code.

1.38 Director. "Director" means the Director of the County Public Works Agency, or the Director's designee.

1.39 Dispose or Disposal. "Dispose" or "Disposal" means the final disposition of Solid Waste at a permitted Landfill or other permitted Solid Waste disposal facility, as defined in California Public Resources Code 40192(b).

1.40 Disposal Facility. "Disposal Facility" means any destination permitted for the Disposal of Refuse or other materials.

1.41 Diversion, Diverted, or Divert. "Diversion", "Diverted", or "Divert" means the programs and activities that reduce or eliminate the Disposal of Solid Waste in landfills and return these materials to the commerce stream in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace. Diversion activities can include source reduction, reuse, salvage, Recycling, and Composting.

1.42 Dwelling Unit. "Dwelling Unit" means one or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.

1.43 Edible Food. "Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this Article or as otherwise defined in 14 CCR Section 18982(a)(18), "Edible Food" is not Solid Waste if it is recovered and not discarded. Nothing in the County Code or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.

1.44 Effective Date. "Effective Date of Agreement" shall mean the date on which the Agreement is signed by the last of the parties hereto.

1.45 Electronic Waste (E-Waste). "Electronic Waste" or "E-Waste" means any electronic devices or cathode ray tubes, as described by Title 22, Section 66273.3 or 66273.6 of the California Code of Regulations (CCR) and/or by Title 40 Code of Federal Regulations, Part 273, as may be amended or superseded by applicable state and federal regulations.

1.46 Exempt Waste. "Exempt Waste" means Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, dead animals, and those wastes under the control of the Nuclear Regulatory Commission.

1.47 Food Waste. "Food Waste" means food scraps including all edible or inedible food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, coffee grounds, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps. Food Waste will be expanded to include food-soiled paper, which is compostable paper material that has contacted food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, and pizza boxes, once local infrastructure is capable of accepting it for composting or upon state or local mandate, whichever occurs first.

1.48 Green Waste. "Green Waste" means grass clippings, leaves, landscape and pruning waste, wood materials from trees and shrubs, and other forms of organic materials generated from landscapes or gardens.

1.49 Gross Revenue. "Gross Revenue" means all monetary amounts actually collected or received by Contractor from Service Recipients for the provision of Commercial Collection Services pursuant to this Agreement.

1.50 Hazardous Waste. "Hazardous Waste" means a waste, or combination of wastes as defined in one or more of the following: Code of Federal Regulations Title 41, California Code of Regulations, Title 14 §17225.32, Health and Safety Code §25117, or in any successor federal or state laws and regulations as may be amended from time to time. In the event of any conflict between federal and state law hereunder, the broadest definition of "Hazardous Waste" shall prevail.

1.51 Holiday. "Holiday" means New Year's Day, Memorial Day, Independence Day, Juneteenth (June 19<sup>th</sup>), Labor Day, Thanksgiving Day, Christmas Day, and any other day recognized by resolution of the Board of Supervisors or designated by Contractor as a day on which waste Collection Service will not be provided until the following day, excluding Sunday.

1.52 Inert Waste. "Inert Waste" means Solid Waste containing no hazardous waste or soluble pollutants at concentrations exceeding applicable water quality objectives. For purposes of this Article, Inert Waste does not include any decomposable waste, or Solid Waste which, under the Act, is required to be disposed of in a Class 1, 2, or 3 Solid Waste Facility unless such material is included incidentally or inadvertently with Inert Waste and constitutes less than five percent (5%) by volume of the Inert Waste. Inert Waste shall include, without limitation, concrete, asphalt, sand, gravel, rock, soil or brick that otherwise meets this definition.

1.53 Materials Recovery Facility. "Materials Recovery Facility" or "MRF" means a facility permitted to accept commingled Solid Waste, Organic Waste and Recyclable Materials for separation into marketable Recyclable Materials.

1.54 Maximum Service Rate. "Maximum Service Rate" means the maximum amount that Contractor may charge Service Recipients for Commercial Collection Services and Special Services, with the rates effective January 1, 2024 listed in Exhibit 1, and as may be adjusted in accordance with the provisions of this Agreement. For services not listed in this Exhibit 1, Contractor may charge and collect any negotiated rate.

1.55 Multi-Family Dwelling or MFD. "Multi-Family Dwelling" and "MFD" means Residential Premises with five (5) or more Dwelling Units as defined in Ventura County Ordinance 4590, Section 4741-52. Consistent with 14 CCR Section 18982(6), Residential Premises that consist of fewer than five (5) units are not "Multi-Family" and instead are "Single-Family" for the purposes of implementing this Agreement. Multi-Family Premises do not include hotels, motels, or other transient occupancy facilities.

1.56 Non-Collection Notice. "Non-Collection Notice" means a written notice approved by the Agreement Administrator that notifies a Service Recipient of the reason Contractor did not Collect Solid Waste set out for Collection. Non-Collection Notice should meet notification requirements in Applicable Law (see SB 1383) and 14 CCR 18995.1 (a) (4) for instances of non-collection due to Prohibited Container Contaminants.

1.57 Organic Waste. "Organic Waste" has the same meaning as set forth in Ventura County Ordinance 4590, Section 4741-54, as may be amended from time to time. For purposes of this Agreement, "Organic Waste" does not include any item that, at the time of collection, is not presently accepted at an Organic Waste Processing Facility in Ventura County.

1.58 Organic Waste Collection Service. "Organic Waste Collection Service" means the Collection of Organic Waste from Service Units and processing at an Organic Waste Processing Facility, and the disposal of all Organic Waste Processing Residue.

1.59 Organic Waste Processing Facility. "Organic Waste Processing Facility" means any facility designed, operated, and legally permitted for the purpose of receiving and processing Food Waste, Green Waste, and Organic Waste.

1.60 Overage. "Overage" means Solid Waste set out for Collection either on top of or outside of a Container or in any manner preventing the Container lid from completely closing or potentially causing Solid Waste to spill during Collection by Contractor's vehicles.

1.61 Premises. "Premises" means any land or building in Ventura County where waste is generated or accumulated.

1.62 Prohibited Container Contaminants. "Prohibited Container Contaminants" means any of the following but does not include Organic Waste specifically allowed for Collection in a Container that is required to be transported to a high diversion organic waste processing facility if the waste is specifically identified as acceptable for Collection in that Container in a manner that complies with the requirements of 14 CCR Section 18984.1, 18984.2, or 18984.3. (A) Non-Organic Waste placed in a Collection Container designated for Organic Waste provided pursuant to 14 CCR Section 18984.1 or 18984.2; (B) Organic Wastes that are, carpet, hazardous wood waste, or non-compostable paper placed in the Collection Container that is part of an Organic Waste Collection Service provided pursuant to 14 CCR Section 18984.1 or 18984.2; (C) Organic

Wastes, placed in a Collection Container designated for Refuse, that pursuant to 14 CCR Section 18984.1 or 18984.2 were intended to be Collected separately in a Collection Container designated for Organic Waste or Recyclable Materials; (D) Organic Wastes placed in the Collection Container designated for Recyclable Materials shall be considered Prohibited Container Contaminants when those wastes were specifically identified in this Agreement, or through local ordinance for Collection in the Container designated for Organic Waste, or mutually agreed to and promulgated by the County and Contractor. Paper products, printing and writing paper, wood and dry lumber may be considered acceptable and not considered Prohibited Container Contaminants if they are placed in Collection Container designated for Recyclable Materials; and (E) Exempt Waste placed in any Collection Container.

1.63 Project. "Project" means any proposal for grading, new construction or changed use, remodel, alteration, demolition, deconstruction, or enlargement of any structure, requiring a permit from the County.

1.64 Quarter. "Quarter" means a three-month period during a calendar year. The first Quarter is January through March. The second Quarter is April through June. The third Quarter is July through September. The fourth Quarter is October through December.

1.65 Rate Year. "Rate Year" means the period January 1 to December 31, for each year during the Term of this Agreement.

1.66 Recyclable Materials. "Recyclable Materials" means materials separated from Refuse prior to disposal to be recycled consistent with the requirements of the Act. Recyclable Materials that can be placed in the Recycling Container include, but are not limited to, glass and plastic bottles, aluminum, tin and steel cans, metals, unsoiled paper products, printing and writing paper, and cardboard, and any other items as determined by the Agreement Administrator. For purposes of this Agreement, Recyclable Materials do not include any item that at the time of collection is not presently accepted at a Materials Recovery Facility reasonably available to Contractor.

1.67 Recycling. "Recycling" means the process of collecting, sorting, cleansing, treating and/or marketing Recyclable Materials that would otherwise become Refuse, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. The collection, transportation or disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. "Recycling" does not include transformation as defined in Public Resource Code Section 40201.

1.68 Refuse. "Refuse" means all putrescible and non-putrescible solid, semi-solid and associated liquid waste generated or accumulated through the normal activities of a Premises. Refuse does not include Recyclable Materials, Organic Waste, or Bulky Items, that is source-separated and set out for purposes of collection and recycling.

1.69 Regulatory Fees. "Regulatory Fees" means any and all County fees applicable to Contractor arising from, or related to, Contractor provision of Collection Service(s) pursuant to applicable County ordinances and resolutions. The Regulatory Fees, which may be supplemented or otherwise modified in County's sole discretion, currently include a Waste Management Fee, a Collector Fee, and a Countywide Integrated Waste

Management Plan Fee, pursuant to County Code Sections 4775, 4750-6, and 4792, respectively, as may be amended. The Waste Management Fee and Collector Fee shall not be passed, in whole or in part, onto the Service Recipient, unless otherwise stated.

1.70 Remote Area. "Remote Area" means the Service Units in the portion of the Service Area consisting of the North Remote and Remote Residential/Community Hybrid areas set forth in Exhibit 2. All collection within the Remote Residential/Community Hybrid area is considered Commercial Collection Service.

1.71 Residential Premises. "Residential Premises" means any building or structure, or portion thereof, used for residential housing purposes.

1.72 Residual or Residuals. "Residual" or "Residuals" means Solid Waste that is not Diverted from landfill Disposal after it has been delivered to an Organic Waste Processing Facility or a Materials Recovery Facility for processing for Diversion from landfill Disposal. Residual does not include Recyclable Materials or Organic Material that is processed for Diversion but lacks an available market.

1.73 Roll-Off Container. "Roll-Off Container" means a metal container with a capacity of ten (10) or more cubic yards that is normally loaded onto a specialized Collection vehicle and transported to an appropriate facility.

1.74 Route Review. "Route Review" as defined in 14 CCR Section 18982(a)(65) means a visual inspection of Containers along a Contractor Route for the purpose of identifying Prohibited Container Contaminants, which may include mechanical inspection methods such as use of cameras.

1.75 SB 1383. "SB 1383" means State of California Senate Bill 1383 Short-lived Climate Pollutants: Organic Waste Reductions, approved on or about September 19, 2016.

1.76 Service Area. "Service Area" means the unincorporated area within Ventura County as shown in Exhibit 2.

1.77 Service Recipient. "Service Recipient" means the owner, occupant, or user of premises receiving Commercial Collection Service pursuant to this Agreement.

1.78 Service Unit. "Service Unit" means a single subscriber to Contractor's Commercial Collection Services.

1.79 Single-Family Dwelling or SFD. "Single Family Dwelling Unit or SFD" shall mean a residential building or a mobile home with fewer than five (5) principal Dwelling Units.

1.80 Sludge. "Sludge" means the accumulated solids, residues, and precipitates generated because of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar disposal appurtenances or any other such waste having similar characteristics or effects.

1.81 Solid Waste. "Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as set forth in California Public Resources Code Section 40191(a)(b), as amended from time to time. Solid Waste includes Recyclable Materials and Organic Waste, unless expressly specified otherwise in this Agreement, but does not include (1) Hazardous Waste; (2) radioactive waste regulated pursuant to the Health and Safety Code Section 114960 et seq.; (3) medical waste regulated pursuant to the Health and Safety Code Section 117600 et seq. and (4) Exempt Waste.

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

1.83 Special Services. "Special Services" means Solid Waste collection services made available in the Service Area, which are in addition to regularly scheduled route pickups.

1.84 SRRE (Source Reduction and Recycling Element). "SRRE" means the formal planning document that demonstrates how the County will comply with the Act's diversion goals.

1.85 Term. "Term" means the time period during which the Agreement is in effect.

1.86 Tier One Commercial Edible Food Generator. "Tier One Commercial Edible Food Generator" is defined in section 4741-78 of the County Code and means a Commercial Edible Food Generator that is one of the following: (a) supermarket with gross annual sales of \$2,000,000 or more; (b) grocery store with a total facility size equal to or greater than 10,000 square feet; (c) food service provider; (d) wholesale food vendor; or (e) food distributor. If any conflict arises between the foregoing definition and the term as defined in the County Code, the County Code definition shall prevail.

1.87 Tier Two Commercial Edible Food Generator. "Tier Two Commercial Edible Food Generator" is defined in section 4741-79 of the County Code and means a Commercial Edible Food Generator that is one of the following: (a) restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet; (b) hotel with an on-site food facility and 200 or more rooms; (c) health facility as defined in Section 1250 of the Health and Safety Code with an on-site food facility and 100 or more beds including but not limited to hospitals, skilled nursing facilities, and hospice facilities; (d) large venue; (e) large event; (f) a state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet; or (g) a local education agency including a school district, charter school, or County office of education that is not subject to the control of County regulations related to Solid Waste with an on-site food facility. If any conflict arises between the foregoing definition and the term as defined in the County Code, the County Code definition shall prevail. Tipping Fees. "Tipping Fees" means the actual fees paid by

the Contractor at a permitted Solid Waste facility or other legal processing site or destination for the disposal of Solid Waste collected from the Service Area pursuant to this Agreement.

1.88 Transfer Station. "Transfer Station" means a legally permitted place used for the conveyance of Solid Waste Collected by Contractor into larger vehicles prior to transportation of the Solid Waste to a Disposal Facility or Processing Facility.

1.89 Universal Waste or U-Waste. "Universal Waste" or "U-Waste" means Electronic devices, dry-cell batteries, non-empty aerosol cans, fluorescent lamps, and fluorescent bulbs, mercury thermostats, and other mercury containing equipment.

1.90 Waste. "Waste" means the useless, unused, unwanted, or discarded material and debris resulting from normal commercial activity or materials which, by their presence, may injuriously affect the health, safety, and comfort of persons or depreciate property values in the vicinity thereof.

1.91 Waste Reporting System. "Waste Reporting System" means the electronic data recording and reporting system used by Contractor to provide data and reports, which this Agreement requires Contractor to provide to the County. Said system must be approved by the Agreement Administrator.

1.92 White Goods. "White goods" means enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves, and refrigerators.

1.93 Work Day. "Work Day" means any day, Monday through Saturday, that is not a Holiday as set forth in Section 5.3 of this Agreement.

1.94 Wood Waste. "Wood Waste" means Solid Waste consisting of stumps, large branches, tree trunks, and wood pieces or particles that are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

## Article 2. Term of Agreement

2.1 Initial Term. The initial term of this Agreement will be for a ten (10) year period beginning January 1, 2024 and terminating on December 31, 2033. Contractor shall commence performance of its Collection Service obligations under this Agreement on January 1, 2024 ("Commencement Date").

2.2 Extension of Term. Contractor may request up to two, five (5) year term extensions to the Initial Term, and at County's sole option, County may grant Contractor's request to extend the term. Under no circumstances will County be obligated to extend the term. Contractor must request the first five (5) year extension by August 1, 2033 to be eligible for the term extension, and by August 1, 2038 to be eligible for the second term extension.

2.3 Performance Review Prior to Five (5) Year Extension. A billing audit and performance review shall be conducted two years prior to the end of the Initial Term as described in Section 12.7. To be eligible for an Extension of the Term of the Agreement under Section 2.2, Contractor must meet billing and performance standards to the satisfaction of the County. In the event Contractor fails to meet the minimum service and



diversion requirements set forth in Article 8, the term of this Agreement will not be extended beyond December 31, 2033, and may be terminated earlier as provided herein.

### Article 3. Conditions Governing Services

3.1 Grant of Non-Exclusive Agreement. County hereby grants to Contractor, on the terms and conditions set forth herein, the non-exclusive right and privilege to collect, remove and dispose, in a lawful manner, Solid Waste, which includes but is not limited to Recyclable Materials, and Organic Waste accumulating in the County's Service Area that are required to be accumulated and offered for collection to the Contractor in accordance with the County's County Code, for the Term, and within the scope, set forth in this Agreement. This grant is limited to Commercial Collection Services and does not include residential collection services.

3.2 Recyclable Materials Organic Waste, and Bulky Items Discarded by Service Recipients. This Agreement shall not prohibit any person from selling Recyclable Materials or Organic Waste or giving Recyclable Materials or Organic Waste away to persons or entities other than Contractor. However, in either instance: (1) the Recyclable Materials or Organic Waste must be source separated from, and not mixed with other, Solid Waste; and (2) the seller/donor may not pay the buyer/donor any consideration for collecting, processing, or transporting such Recyclable Materials or Organic Waste. A discount or reduction in the price for collection, disposal and/or recycling services for any form of un-segregated or segregated Solid Waste is not a sale or donation of Recyclable Materials or Organic Waste and such Solid Waste does not qualify for this exception. However, once the Recyclable Materials or Organic Waste have been placed in the Collection Container and the Container set out for Collection, the Recyclable Materials or Organic waste become the property of Contractor.

### Article 4. Regulatory Fees and Payments

4.1 Contractor's Payments to County. The Parties agree that all fees and any payments owed by Contractor to County under this Agreement are the product of extensive negotiations and constitute valid consideration for the rights and privileges granted to Contractor under this Agreement.

4.2 Quarterly Fee Payments. Regulatory Fees shall be due and payable on the twentieth (20<sup>th</sup>) day of the month following the end of each Quarter in which Commercial Collection Services were provided; first such payment being due on April 20, 2024. Regulatory Fees shall be accompanied at the time of payment by a written or electronic report, in a format acceptable to the County, setting forth the calculations Contractor used to determine the amounts due and the basis for those calculations. Figures used in the report shall be taken from Contractor's general books of account, and Contractor shall retain all supporting documentation in accordance with the records retention requirements in Article 17.

4.3 Time and Method of Payment. Contractor shall pay all amounts owed under this Article without prior notice or demand and without abatement, deduction, offset or credit in lawful money of the United States, on or before the applicable due date, unless the due date lands on a weekend or Holiday, in which case the due date shall be the next Business Day. If sent by U.S. mail, the remittance must be post-marked on or before the due date. If hand-delivered, Contractor must request and receive a date-stamped receipt from the County by 5:00 p.m. on the due date.

4.4 Late Payments. In the event Contractor fails to pay the County any amounts owed under this Article on or before the applicable due date, then in addition to the amounts already owed, Contractor shall pay a penalty as specified in Exhibit 4, except to the extent that such lateness is due to extenuating circumstances. Contractor must submit any request for approval of a late payment in writing at least five (5) Business Days prior to the date on which fees are due, and the request must be accompanied by a written explanation of the extenuating circumstances and adequate supporting documentation. The County shall not unreasonably withhold its approval and shall notify Contractor within three (3) business days of receiving the request whether and to what extent the request has been approved. A United States Postal Service postmark date shall be considered as the date of payment remittance by Contractor to County.

4.5 Taxes and Utility Charges. The Contractor shall pay all taxes lawfully levied or assessed upon, or in respect of, the operating assets or the Commercial Collection Services, or upon any part thereof or upon any revenues necessary for the operation of the operating assets and the provision of the Commercial Collection Services, when the same shall become due.

4.6 Regulatory Fee Disputes. In the event of any disputes between the Contractor and the County with respect to the fees described in this Article 4, the County shall provide the Contractor with written objection within 180 days of the receipt of the written report described in Section 4.2, encompassing the dispute amount. The County shall state its objections in writing with reference to the applicable portion(s) of the report and its reasons then known for its dispute. The Parties agree to meet and confer regarding any such dispute prior to initiating legal action.

## Article 5. General Requirements

5.1 Service Standards. Contractor must perform all Commercial Collection Services under this Agreement in a thorough and professional manner as described in Article 20, while meeting the minimum performance and diversion standards listed in Article 12.

5.2 Labor and Equipment. Contractor must provide and maintain all labor, equipment, tools, facilities, and personnel supervision required for the performance of Contractor's obligations under this Agreement. Contractor must always have sufficient backup equipment and labor to fulfill Contractor's obligations under this Agreement. No compensation for Contractor's services or for Contractor's supply of labor, equipment, tools, facilities, or supervision will be provided or paid to Contractor by County or by any Service Recipient except as expressly provided by this Agreement.

5.3 Holiday Service. The County observes New Year's Day, Memorial Day, Independence Day, Juneteenth (June 19<sup>th</sup>), Labor Day, Thanksgiving Day, and Christmas Day as legal holidays. Contractor is not required to provide Commercial Collection Services or maintain office hours on the designated holidays. In any week in which one of these holidays falls on a Work Day, Commercial Collection Services for the holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday Commercial Collection Services being performed on Saturday. Commercial Collection Services will not take place on Sundays, unless previously authorized by the Agreement Administrator.

5.4 Inspections. The County has the right to inspect Contractor's facilities or Collection Vehicles and their contents used to provide services pursuant to this Agreement at any reasonable time while operating inside or outside the County.

5.5 Recyclable Materials and Organic Waste Contamination. Contractor must offer the Service Recipients the correct combination of Collection Container sizes and collection frequency as necessary, that matches their unique service needs to reduce Prohibited Container Contaminants in of Recyclable Materials and Organic Waste and provide service at the least cost to Service Recipient. To support County's diversion goals and Contractor's Diversion Requirements as set forth in Article 8, Contractor is only required to collect and process Recyclable Materials if they have been separated by the Service Recipient from Refuse and Organic Waste and will only be required to collect Organic Waste if it has been Source Separated by the Service Recipient from Refuse and Recyclable Materials. As part of Contractor's Public Education Services under Article 15, Contractor has agreed to provide outreach and support to Service Recipients. Additionally, Contractor's route collection personnel will report to Contractor's supervisors if they observe Prohibited Container Contaminants, and/or insufficient collection capacity. For purposes of determining if Recyclable Materials or Organic Waste are deemed to be contaminated, if, by visual or digital inspection, Recyclable Materials are commingled with ten percent (10%) by weight or volume of Refuse or Organic Waste, or if, by visual inspection, Organic Waste is commingled with three percent (3%) by volume of Refuse or Recyclable Materials, then Recyclable Materials and/or Organic Waste will be deemed to be contaminated and Contractor may take the following steps:

5.5.1 First and Second Occurrence. For the first and second occurrence within any one Calendar Year of contamination for a particular container (i.e., Recyclable Materials or Organic Waste), Contractor must collect the contaminated container (as Solid Waste) and must affix a Contamination Violation Notice to the contaminated container which contains instructions on the proper procedures for sorting Recyclable Materials or Organic Waste, and must notify the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag). For the third and subsequent incidents of excess contamination, Contractor must collect the contaminated container (as Solid Waste) and the Service Recipient may be charged a contamination fee for the contaminated container, and Contractor may increase the Collection Container size, or require an additional Collection Container. Contractor's representative must also contact the Service Recipient by phone, U.S. mail, e-mail, or in person (which may be a container tag) to ensure that they have the appropriate level of service for proper collection of Recyclable Materials and/or Organic Waste. Contractor must also document the contamination issue in the Waste Reporting System provide digital/visual documentation to the Service Recipient that clearly documents the Service Recipient's on-going contamination problems. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

5.6 Overage and Correction Procedures. If a Service Recipient is found to routinely overflow their Collection Container(s) (i.e., lid will not close, material not contained within Container, etc.), Contractor may

take the steps as listed below to correct Service Recipient's on-going overflow of material. All Service Recipients will be notified of Collection "Overages." Contractor shall provide the Service Recipients the correct combination of Collection Containers and collection frequency that matches each Service Recipient's unique service needs to enable clean, efficient, and cost-effective collection of Refuse, Recyclable Materials, and Organic Waste. County and Contractor agree that overflow of Solid Waste that is not properly in the Service Recipient's Collection Containers negatively impacts public health and safety. Contractor has also agreed to conduct recycling audits and provide outreach and support to Service Recipient accounts receiving the correct level of Commercial Collection Services. However, if Service Recipients are found to routinely overflow their Collection Containers, Contractor may take the steps as listed below to correct Service Recipient's on-going overflow of Solid Waste.

5.6.1 Prior Arrangements for Collection. If the Service Recipient has made prior arrangements with Contractor for Collection of Solid Waste Overages, Contractor must collect such Overages as arranged, and may charge the Service Recipient the Solid Waste Overage fee (prior arrangement) rate set forth in Exhibit 1.

5.6.2 No Prior Arrangements. If the Service Recipient has not made prior arrangements with Contractor for Collection of Solid Waste Overage, (i) Contractor may collect such Solid Waste Overage at no additional charge as a courtesy, (ii) Contractor may not Collect the Solid Waste Overage and leave a Non-Collection Notice explaining the reason for non-collection of the Solid Waste Overage, (iii) Contractor may Collect the Solid Waste Overage (up to two lifts) and charge the Service Recipient the Solid Waste Overage fee (no prior arrangement) rate set forth in Exhibit 1 as provided below, or increase the capacity or frequency of Collection of the existing Collection Container(s) to match documented service needs as provided below.

5.6.3 Service Recipients – Each Occurrence. Contractor must provide a written notice on the Container, as well as provide a copy of the notice via e-mail, U.S. mail, or in person (which may be by Non-Collection Notice) to the Service Recipient with the date, description, and photograph of the Solid Waste Overage. Contractor may collect the Solid Waste Overage and may charge the Service Recipient a Solid Waste Overage fee as set forth in Exhibit 1, and increase the capacity, or collection frequency of the Collection Container to match documented service needs. At least ten (10) Business Days prior to increasing the Collection Container size, or frequency of Collection, Contractor's representative must also contact the Service Recipient by phone, U.S. mail, e-mail or in person (which may be by Non-Collection Notice) to ensure that Service Recipient has the appropriate level of service. Contractor must document overage issue in the Waste Reporting System and notify County within ten (10) Business Days of any changes in Service Recipient's Collection Container size or collection frequency. The increased capacity or collection frequency will remain in effect until Contractor determines that it is no longer needed to prevent overages. Such determination will be in Contractor's sole but reasonable discretion and will be subject to the dispute resolution procedure set forth below.

5.7 Tracking Occurrences of Solid Waste Overage. After twelve (12) months have passed from the last applicable Solid Waste Overage occurrence, the next Solid Waste Overage occurrence will be deemed a first Solid Waste Overage occurrence.

5.8 Disputes Over Container Overflow Charges. If Service Recipient disputes a Solid Waste Overage charge or container size or collection frequency change within 30 days of the disputed action, Contractor must temporarily halt Solid Waste Overage charge and/or increased Maximum Service Rate resulting from increasing the Collection Container size or collection frequency, and Contractor may request a ruling by the County Administrator to resolve the dispute. During the pendency of any request, Contractor may restore Container size or number, or collection frequency, to the prior levels. A request by Contractor to the County Administrator to rule on any such dispute must be filed within ten (10) Business Days of Contractor's halting of Solid Waste Overage charge, or increased Maximum Service Rate, and must include written documentation and digital/visual evidence of ongoing overall problems. The County Administrator may request a meeting (in person or phone) with both the Service Recipient and Contractor to resolve the dispute. Following such a meeting, the County Administrator will rule on the dispute within ten (10) Business Days, and the County Administrator's decision on resolving the dispute between and Service Recipient will be final. If the County Administrator rules in favor of the Service Recipient, Contractor must credit the disputed charge or increased Maximum Service Rate. If the County Administrator rules in favor of Contractor, Contractor may charge Service Recipient the prior halted Solid Waste Overage charge and/or increased Maximum Service Rate resulting from increasing the Solid Waste Collection Container size or collection frequency and may follow the steps in Section 7.6 for collection of delinquent accounts.

5.9 Ownership of Materials. Except as provided otherwise under Applicable Law, title to Solid Waste will pass to Contractor at such time as said materials are set out for Collection.

5.10 Spillage and Litter. Contractor may not litter Service Recipient premises in the process of providing Commercial Collection Services or while its vehicles are on the road. Contractor must transport all materials Collected under the terms of this Agreement in such a manner as to prevent the spilling or blowing of such materials from Contractor's vehicles. Contractor must exercise all reasonable care and diligence in providing Commercial Collection Services to prevent spilling or dropping of Solid Waste and must immediately, at the time of occurrence, clean up such spilled or dropped Solid Waste.

5.10.1 Contractor is not responsible for cleaning up sanitary conditions caused by the carelessness of the Service Recipient, the County, or third party; however, Contractor must clean up any material or residue that is spilled or scattered by Contractor or its employees.

5.10.2 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from Contractor's operations or equipment repair must be covered immediately with an absorptive material and removed from the street surface. Contractor must document spillage in the Waste Reporting System and notify County's stormwater compliance coordinator, and County Administrator within ninety (90) minutes of any spills resulting from Contractor's operations or equipment. When necessary, Contractor must apply a suitable cleaning agent and cleaning technique to the street surface to provide adequate cleaning as approved by the County's stormwater compliance coordinator to be compliant with the County's stormwater permit.

5.10.3 The above paragraphs notwithstanding, Contractor must clean up any spillage or litter caused by Contractor within ninety (90) minutes (or two hundred and forty (240) minutes in Remote Area) upon notice from the County. If County deems necessary, Contractor must engage

third-party environmental clean-up specialist to remove any equipment oil, hydraulic fluids, or any other liquid or debris that remains on street after Contractor's own clean-up efforts. If clean-up is not conducted to satisfaction of County, County has right to engage environmental clean-up specialist to perform additional clean-up work at the expense of Contractor.

5.10.4 In the event where damage to County streets is caused by a hydraulic fluid spill (i.e., any physical damage more than a simple cosmetic stain caused by the spill), Contractor shall be responsible for all repairs to return the street to the same condition as that prior to the spill. Contractor shall be responsible for all clean-up activities related to the spill. Repairs and clean-up shall be performed in a manner satisfactory to the County and at no cost to the County.

5.10.5 To facilitate immediate cleanup, Contractor's vehicles must always carry enough petroleum absorbent materials along with a broom and shovel.

5.11 Green and Organic Waste Capacity. Contractor shall guarantee capacity for all County Green and Organic Waste at facilities selected by Contractor for the term of the Agreement using a legally permitted facility. Capacity shall be provided to meet the requirements under Applicable Law (see SB 1383). This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

5.12 Regulations and Record Keeping. Contractor must comply with emergency notification procedures required by Applicable Laws and regulatory requirements. All records required by regulations must be maintained at Contractor's facility. These records must include waste manifests, waste inventories, waste characterization records, inspection records, incident reports, and training records.

5.13 Commingling of Materials. In order to reduce carbon footprints and operate with maximum efficiency, if a Collection Service route spans multiple jurisdictions, Contractor may elect to commingle any materials Collected pursuant to this Agreement ,as long as such commingling does not constitute or cause a violation of any applicable flow control, with any other material Collected by Contractor inside or outside the Service Area, provided that only materials Collected by Contractor of the same type are commingled with each other except to the extent the Agreement Administrator allows the commingle of materials of different types. Contractor shall allocate the tonnage shares between jurisdictions as follows: (i) calculate the total local cart, bin, and roll-off capacity for each jurisdiction on the given Solid Waste route ("Local Capacity"), (ii) divide the Local Capacity in each jurisdiction by the total capacity of all jurisdictions participating in the given Solid Waste route ("Local Share"), and (iii) multiply the Local Share by the total load collected and reported by a Disposal Facility, Materials Recovery Facility, or Organic Waste Processing Facility, as applicable. By way of illustration, assume an Organic Waste route provides service to 50 accounts, with a total of 2,450 organic gallons across all accounts, and the weight ticket from a given Organic Waste Processing Facility reports a total load of 4.52 tons. Further, assume City A has 25 accounts with a Local Capacity of 1,200 organic gallons, City B has 15 accounts with a Local Capacity of 700 organic gallons, and City C has 10 accounts with a Local Capacity of 550 organic gallons. Accordingly, the Local Share of City A is 49% (1,200 / 2,450), the Local Share of City B is 29% (700 / 2,450), and the Local Share of City C

is 22% (550 / 2,450). With total tons of 4.52, City A will be allocated 2.21 tons (49% x 4.52), City B will be allocated 1.31 tons (29% x 4.52), and City C will be allocated 1.00 ton (22% x 4.52). These tonnages will be reported to each of the three cities in their individual tonnage reports.

5.14 Guarantee of Capacity. Contractor guarantees access to facilities with adequate recycling and organics capacity.

## Article 6. Maximum Service Rates

6.1 Maximum Service Rates. Contractor shall charge and collect from its Service Recipients for regular Collection Service and Special Services amounts not to exceed the Maximum Service Rates for said services set forth in Exhibit 1. Contractor shall not impose, offer, collect, or attempt to collect any rate, fee, charge, or cost exceeding the Maximum Service Rates set forth in Exhibit 1 for the corresponding service. For services not listed in Exhibit 1, Contractor may charge and collect any negotiated rate. Contractor shall itemize all rates and charges on its Service Recipients' bills to allow the Service Recipient to see individual charges as outlined in Exhibit 1. Contractor shall cooperate with County efforts to implement pricing incentives for Service Recipients encouraging the separation of Recyclable Materials from Refuse and discouraging Disposal.

### 6.1.1 Pricing Incentives for Commercial Waste Diversion.

Each Contractor providing Collection Service to Service Recipients shall offer multiple levels of service and pricing incentives to encourage the separation of commercial Recyclables and Organic Waste from Refuse and to discourage Disposal. The Director may exempt a Contractor from some, or all, of the requirements of this Section if the Director determines offering multiple levels of service is not economically feasible.

6.2 Maximum Service Rate Adjustments. The Maximum Service Rates in Exhibit 1 shall be adjusted on January 1, 2025, and annually thereafter in accordance with this Section 6.2, and will consist of the following elements: "Annual Inflation Adjustment" and "Regulatory Fee Adjustments," as specified in Sections 6.2.1 and 6.2.2.

6.2.1 Annual Inflation Adjustment. The Maximum Service Rates in Exhibit 1 shall be adjusted on January 1, 2025, and annually thereafter. Provided Contractor is not in default of this Agreement as specified in Article 24, the below-described annual inflation adjustment will be automatically applied to the Maximum Service Rates listed in Exhibit 1. The annual inflation adjustment shall be calculated by the County using the U.S. Bureau of Labor Statistics, Consumer Price Index, A Garbage and Trash Collection in U.S. City Average, All Urban Consumers, Not Seasonally Adjusted. The annual inflation shall be based on one hundred percent (100%) of the annual percentage change (up or down) in the twelve (12) month average CPI ending September of the most recent year (regardless of whether a projection is deemed "preliminary"), and the twelve

(12) month average CPI ending September of the preceding year. An example rate adjustment calculation worksheet is included as Exhibit 6.

6.2.2 Regulatory Fee Adjustments. Any change in County Regulatory Fees shall become effective on January 1 of the year following the Board approval of the change and shall be applied by County to County's Maximum Service Rate adjustments and all charges for Special Services listed on Exhibit 1. The Director shall calculate these Maximum Service Rate adjustments based on the methodology shown in Exhibit 6.

6.3 Annual Rate Cap on Maximum Service Rates. In any Rate Year that the calculation of the CPI exceeds four percent (4%), the total CPI adjustment for that year will equal four percent (4%) and there will be no rollover amount added to the CPI rate adjustment percentage in the following year, or any subsequent year. If the CPI is negative, there will be no CPI adjustment for that year.

6.4 Unusual and Unanticipated Costs. The Contractor may petition the County for consideration of a review of Maximum Service Rates if circumstances arise, other than a Change in Law, that could not have been predicted or foreseen as of the Effective Date which result in significant, uncompensated cost increases to the Contractor regarding the provision of Commercial Collection Services. Such unusual and unanticipated costs may include, but are not limited to: (1) proposed changes in the Contractor's level of service under this Agreement required by the County; (2) a significant increase in costs or expenses that arise out of causes beyond the control, or without the fault or negligence of the Contractor, that are not caused by a Change in Law; (3) changes in technology that significantly modify the intention and circumstances which have a direct bearing on the costs of services provided by Contractor hereunder; and (4) the enactment of any new, or the increase of any existing, governmental regulatory fees or costs that cannot be addressed by adjusting the Maximum Service Rates pursuant to Section 6.3. To request such a change, Contractor shall petition the County by providing the Director with a written explanation and all documentation supporting its request for a Maximum Service Rate adjustment. The Director shall issue a written decision that either approves, denies, or approves a modified Maximum Service Rate adjustment in response to Contractor's request. Contractor may thereafter appeal Director's decision to the Board by providing Director a written appeal notice within ten (10) calendar days after the decision, after which date the decision shall become final and non-appealable. In the event of an appeal to the Board, the Board may either approve, deny, or approve a modified Maximum Service Rate adjustment. The Board's resulting decision shall be final, non-appealable, and shall not be subject to arbitration pursuant to Section 24.7.

6.5 County Review. The County may initiate a Maximum Service Rate review pursuant to the factors set forth in Section 6.4. The County will provide written notice to the Contractor if such a rate review is being initiated. The Contractor shall provide all written explanation and documentation deemed necessary by the County to complete its rate review within sixty (60) days of the date that the County provided its written notice to the Contractor. The Director shall issue a written decision regarding the potential Maximum Service Rate adjustment. Contractor may appeal Director's decision to the Board by providing Director a written appeal notice within ten (10) calendar days after the Director's decision, after which date the decision shall become final and non-appealable. In the event of an appeal to the Board, the Board may either approve, deny, or approve a modified Maximum Service Rate adjustment. The Board's resulting decision shall be final, non-



appealable, and shall not be subject to arbitration pursuant to Section 24.7. The existing Maximum Service Rates shall remain effective unless and until the County issues a final, non-appealable decision regarding an adjustment in accordance with this Section. Any Maximum Service Rate adjustment approved pursuant to this Section may only be implemented by Contractor effective on January 1 of the calendar year following the date of the final, non-appealable County decision approving the adjustment.

6.6 Notice to Service Recipients. Prior to the implementation of any Maximum Service Rate adjustment the Contractor shall provide a minimum of fifteen (15) days written notice to all affected Service Recipients. At a minimum, this notice, approved by County as to form and content, must include the following: (1) a list of all new rates and applicable levels of service; (2) the date upon which the new rates will be effective; (3) information about alternative levels of service available, including, but not limited to, varying container sizes for Refuse; and (4) a customer service telephone number.

6.7 Rounding. Adjustments to the overall Maximum Service Rates shall be made only in units of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in adjusting. CPI indices shall be rounded at two (2) decimal places for the adjustment calculations.

6.8 Five Year Meet and Confer. Upon request by the County and/or Contractor, both parties agree to meet and confer on, or about, five (5) years from the Commencement Date regarding material changes in the cost of providing services that are substantially more than the rate adjustments resulting from the application of this Article. If it is determined a material change in the cost of providing a service has occurred, the County and Contractor agree to negotiate in good faith regarding an appropriate adjustment to the rate. The process for demonstrating material changes in the cost of providing services shall follow the same process as outlined in Sections 6.4 and 6.5.

## Article 7. Collection Service Billing

7.1 Responsibility for Collection Service Billing and Collection. Contractor shall be solely responsible for the billing and collecting payments for the services it provides within the Service Area.

7.2 Invoices. Contractor shall prepare and send out invoices, by either U.S. mail or electronic mail, to each Service Recipient in advance of all services provided by Contractor under this Agreement. If sent by mail, invoices for each billing period shall be placed in a separate envelope accompanied by a self-addressed return envelope. All invoices shall include Contractor's e-mail address include directions for payment by payment by check, credit card, or Automated Clearing House (ACH) debit, and shall include or be accompanied by a complete billing statement showing all charges and all services provided. County shall have the right to direct Contractor to revise the format of all invoices and billing statements upon reasonable notice to Contractor.

7.3 Frequency. Contractor shall not initiate billing to any Service Unit sooner than the first day of the service period of Collections Services covered by the invoice. Contractor shall invoice Service Recipients once every month for Service Units. No invoice shall be due and payable sooner than the last day of the respective month for which Commercial Collection Services are provided.

7.4 Partial Month Service. If, during a month, a Service Unit is added to, or deleted from, Contractor's Service Recipients, Contractor shall prorate billing to the impacted Service Recipient on a weekly basis, meaning one-fourth of the applicable rate found in Exhibit 1 multiplied by the number of weeks of service provided by Contractor.

7.5 Overpayments. Contractor shall refund or issue a service credit for overpayments by Service Recipients no later than 30 days after Contractor discovers or is notified of the overpayment. Contractor shall refund every overpayment that: (1) exceeds two hundred dollars (\$200.00) or the amount of Service Recipient's typical invoice, whichever is less; or (2) is due to the Service Recipient closing the account prior to the end of the billing period. Contractor may issue a service credit of no more than two (2) years against future invoices for all other overpayments.

7.6 Delinquent Service Accounts. Upon request, Contractor shall report all Service Recipients whose accounts are delinquent by more than ninety (90 days) to the Agreement Administrator monthly.

## Article 8. Diversion Requirements

8.1 Warranties and Representations. Contractor warrants that it is aware of and familiar with County's waste stream in the Service Area, and that it has the ability as to the Service Units served, and shall use commercially reasonable efforts as to the Service Units served to provide and employ sufficient programs and services to ensure County will meet or exceed County's Diversion goals requirements (including, without limitation, amounts of Solid Waste to be Diverted, time frames for Diversion, and any other requirements) as set forth in this Article, Applicable Law, and that Contractor will do so without imposing any costs or fees other than those set forth in Exhibit 1, as may be adjusted as provided in Sections 6.3 or Article 25.

8.2 Minimum Diversion Requirements. Contractor, as pertaining to the Service Area, shall comply with all waste diversion requirements set forth in County Code Section 4770-1, as may be amended. Contractor shall also comply in the Service Area with all diversion requirements under Applicable Law (including, but not limited to those set forth in AB 341, AB 1826, and SB 1383). This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

8.3 Cooperation. County and Contractor shall, with respect to the Service Area, each reasonably cooperate in good faith with all efforts of the other Party to meet County's Diversion requirements under Applicable Law and the Contractor's obligations under this Article. County's obligations in this regard shall include, without limitation, making such petitions and applications as may be reasonably requested by Contractor for time extensions in meeting Diversion goals, or other exceptions from the terms of Applicable Laws, and to agree to authorize such changes to Contractor's Recycling, Organic Waste, or Solid Waste programs as may be reasonably requested by Contractor to achieve the minimum requirements of this Article.

8.4 Contractor's Diversion Programs. Contractor shall implement the Diversion programs required under this Agreement to ensure the County and Contractor comply with all Diversion requirements under Applicable Law and the County meets or exceeds all minimum Diversion requirements under Applicable Law, as to Contractor's Service Recipients in the Service Area. Contractor shall furthermore, at its sole cost and expense, as it pertains to the Contractor's Service Recipients in the Service Area (1) assist the County in responding to inquiries from, or prepare for and attend any hearing before, CalRecycle or any other regulatory agency relating to the County's compliance with Applicable Law; prepare for and participate in CalRecycle's review of the County's SRRE; apply for any extension available under Applicable Law; develop and implement a public awareness and education program consistent with the County's SRRE and Household Hazardous Waste Element and any related requirements of Applicable Law; (2) provide the County with Recycling, source reduction, and other technical assistance as may be needed to comply with Applicable Law; (3) advise the County of additional programs or measures Contractor can, if authorized by the County, implement to increase compliance with the Diversion requirements of Applicable Law; and (4) promptly pay any and all fees, penalties, or other costs imposed on the County by CalRecycle relating to its Diversion requirements, and indemnify and hold harmless the County from and against any fines, penalties, or other liabilities, levied against the County for violation of such Diversion requirements to the fullest extent allowed by law. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

8.5 New Diversion Programs. If Contractor fails to meet any Diversion requirement or the County fails to meet any CalRecycle Diversion requirement notwithstanding Contractor's implementation of all Diversion and public education programs as required by this Agreement as to Contractor's Service Recipients in the Service Area, the County may direct Contractor to modify its Diversion and public education programs or implement new programs. Such modifications may constitute a County-Directed Change under Section 25.1. Contractor shall not implement new Diversion programs not described in this Agreement without the County's prior consent.

8.6 Nothing contained herein shall prohibit Contractor from meeting its diversion requirements by any alternative methods or procedures, provided it complies with Applicable Law (including, but not limited to, those requirements set forth in AB 939, AB 341, AB 1826, AB 1594, SB 1016, SB 1383), as may be amended from time to time. Contractor's ability to meet its diversion requirements by alternative methods, per this Section, is subject to Agreement Administrator review and approval.

## Article 9. Commercial Service

9.1 Commercial Conditions of Service. Except as set forth below, Contractor must provide Commercial Collection Services to any Service Units Contractor serves in the Service Area. This service is governed by the following terms and conditions:

9.1.1 Provision of Service. Contractor must provide Commercial Refuse Collection Service, Commercial Recycling Service and Commercial Organic Waste Collection Service to all

Service Units in the Service Area whose Refuse, Recyclable Materials, and Organics Waste are properly containerized in Collection Containers as appropriate where the Collection Containers are accessible as set forth in Section 9.1.3 Contractor may offer Refuse, Recyclable Materials, and Organic Waste Carts in 32, 64, and 96-gallon sizes. Contractor may offer Refuse and Recyclable Materials Bins in 1, 2, 3, 4, and 6-cubic yard sizes (stab only, no wheels or maneuvering required for 6 cubic yard sized Bins) and 1, 1.5, 2, 3 and 4-cubic yard sizes for Organic Waste Bins. Contractor must offer Roll-off Containers in 10, 20, 30, and 40-cubic yard sizes. The size of the container and the frequency (above the minimum) of collection will be determined between the Service Recipient and Contractor. However, the size and frequency must be sufficient to provide that no Refuse, Recyclable Materials, or Organic Waste need be placed outside the Collection Container. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

**9.1.2 Hours of Collection.** Commercial Collection Service must be provided, commencing no earlier than 5:00 a.m., and terminating no later than 6:00 p.m., Monday through Saturday, except for Holidays. There will be no Commercial Collection Service on Sundays. The hours, day, or both of Collection may be extended due to extraordinary circumstances or conditions with the prior verbal or written consent of the Agreement Administrator.

**9.1.3 Accessibility.** Contractor must Collect all Collection Containers that are readily accessible to Contractor's crew and vehicles and not blocked. However, Contractor must provide accessibility services as necessary upon request during the provision of Commercial Collection Services for the Service Rate set forth in Exhibit 1 ("Drive-in Charge" or "Hard to Service Area"). Push services include, but are not limited to, dismounting from the Collection Vehicle, moving the Collection Containers from their storage location for Collection and returning the Collection Containers back to their storage location. Stinger/scout truck services provide for the retrieval of Collection Containers from locations with accessibility constraints that make Containers difficult or impossible to access using regular refuse collection trucks.

**9.1.4 Manner of Collection.** Contractor must provide Commercial Collection Service with as little disturbance as possible and must leave any Collection Container at the same point it originally located without obstructing alleys, roadways, driveways, sidewalks, or mailboxes.

**9.1.4.1 Purchase and Distribution of Collection Containers for new Service Units.** Contractor must also distribute newly painted Collection Containers as specified in Exhibit 3 to new Service Units that are added to Contractor's Service Area during the term of this Agreement. The size and mix of the Collection Containers will be in accordance with the service agreement obtained by Contractor as set forth in this Agreement and the distribution must be completed within five (5) Work Days of receipt of the request for service.

**9.1.5 Replacement of Collection Containers.** Contractor's employees must take care to prevent damage to Collection Containers by unnecessary rough treatment. However, any Collection

Container damaged by the Contractor must be replaced by Contractor, at Contractor's expense, within five (5) Work Days at no cost or inconvenience to the Service Recipient.

9.1.5.1 Each Commercial Service Unit is entitled to the replacement of one (1) lost, destroyed, or stolen Refuse, Recyclable Materials, and Organic Waste Collection Container during the initial term of this Agreement at no cost to the Service Unit. Accordingly, Contractor will be compensated for the cost of those replacements in excess of one (1) Refuse, Recyclable Materials, and Organic Waste Collection Container per Commercial Service Unit during the initial term of the Agreement, in accordance with Bin exchange charge, as appropriate, set forth in Exhibit 1. Contractor must deliver a replacement Collection Container to such Service Unit within five (5) Work Days.

9.1.6 Repair of Collection Containers. Contractor is responsible for repair of Collection Containers, including but not limited to, hinged lids, wheels and axles. Within five (5) Work Days of notification by County or a Service Recipient of the need for such repairs, Contractor must repair the Collection Container or if necessary, remove the Collection Container for repairs and deliver a replacement Collection Container to the Service Recipient. Collection Container repair also includes the removal of graffiti from the Collection Container.

9.1.7 Collection Container Exchange. Upon notification to Contractor by County or a Service Recipient that a change in their Collection Containers is required, Contractor must deliver such Collection Containers to such Service Recipient within five (5) Work Days. Each Commercial Service Unit is eligible to receive one (1) free Collection Container exchange per Calendar Year during the term of this Agreement. Contractor is allowed to charge the Service Unit for the cost of those exchanges in excess of one (1) Collection Container exchange per Calendar Year, in accordance with the appropriate Bin exchange service rate set forth in Exhibit 1 as may be adjusted by County under this Agreement. Additional Collection Containers or different size Collection Containers are subject to the applicable Service Rate set forth in Exhibit 1.

9.1.8 Newly painted Bins and Roll-off Containers. At the start of this Agreement, Contractor must supply newly painted Bins and Roll-off Containers in good condition which comply with Collection Container specifications in Exhibit 3. If any changes to these specifications are adopted after the Effective Date that results in Contractor being required to replace Collection Containers before they have been fully depreciated, Contractor will be eligible for additional compensation in accordance with Section 25.2.

9.1.9 Ownership of Collection Containers. Ownership of Collection Containers distributed by Contractor is vested in Contractor.

9.1.10 Cleaning of Collection Containers. Once each Calendar Year, if requested by the Commercial Service Recipient, Contractor must clean all Collection Containers at the Commercial Service Recipient's premises or must replace the dirty Collection Containers with clean Collection Containers. Any Collection Container cleanings must be done in such a manner that results in no water entering the County's storm drain system. This service must be provided at no charge to the

Service Recipient, so long as the service is not requested more than once per Calendar Year. In addition, regardless of whether or not this cleaning is requested by the Service Recipient, Contractor will ensure that all Collection Containers are cleaned on an as-needed basis so as to maintain a clean appearance and proper function. Additional cleanings beyond once each Calendar Year will be subject to the Service Rate set forth in Exhibit 1. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.1.11 Removal of Graffiti from Containers. Contractor must remove any graffiti within fourteen (14) days of being notified of, or seeing, graffiti on a Collection Container.

## 9.2 Commercial Refuse Service.

9.2.1 Conditions of Service. Contractor must provide Commercial Refuse Collection Service to any Service Units Contractor serves in the Service Area whose Refuse is properly containerized in Refuse Collection Containers, where the Refuse Collection Containers are accessible.

9.2.2 Size and Frequency of Service. This service must be provided as deemed necessary and determined between Contractor and the Commercial Service Unit, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Commercial Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Recipient and Contractor as long as the minimum frequency requirement is met. However, service in the Remote Area may be received no less than once every fourteen (14) days with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Unit and Contractor as long as the minimum frequency requirement is met. The size of the container and the frequency (above the minimum) of Collection will be determined between the Commercial Service Recipient and Contractor. However, size and frequency must be sufficient to provide that no Refuse need be placed outside the Collection Container. Contractor must provide Collection Containers as part of the Commercial Collection Maximum Service Rates set forth in Exhibit 1. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor.

9.2.3 Non-Collection. Contractor is not required to Collect any Commercial Refuse that is not placed in a Refuse Collection Container unless such Commercial Refuse is outside the Refuse Collection Container because of overflow. In the event of non-collection or overflow, Contractor must follow the steps as set forth in Section 5.6.

9.2.4 Disposal Facility. Except as set forth below, all Refuse collected as a result of performing Commercial Collection Services must be transported to, and disposed of, at legally permitted Disposal Facilities. In the event a Disposal Facility is closed on a Work Day, Contractor must transport and dispose of Refuse at another legally permitted Disposal Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 4 and may result in Contractor being in default under this Agreement. County has the right to designate Disposal Facility and agrees to adjust Maximum Service Rates to reflect County's exercise of flow control rights.

9.3 Commercial Recycling Service. This service is governed by the following terms and conditions:

9.3.1 Conditions of Service. Contractor must provide Commercial Recycling Service to any Service Units Contractor serves in the Service Area whose Recyclable Materials are properly containerized in Recycling Collection Containers except as set forth below, where the Recycling Collection Containers are accessible. The Maximum Service Rates for Contractor's Commercial Recycling Services are set forth in Exhibit 1.

9.3.2 Base Commercial Recycling Service. All Service Recipients subscribing to Commercial Refuse Collection Service that generate 2 (two) or more cubic yards of combined Solid Waste must subscribe to and receive weekly collection of Recyclable Materials at the appropriate rate set forth in Exhibit 1. The actual configuration of Recycling Collection Container sizes to be provided will be based on the total equivalent volume and configured in a manner determined by the Service Recipient in consultation with Contractor.

9.3.3 Size and Frequency of Service. This service will be provided as deemed necessary and determined between Contractor and the Service Recipient, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Recipient and Contractor as long as the minimum frequency requirement is met. However, service in the Remote Area may be received no less than once every fourteen (14) days with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Unit and Contractor as long as the minimum frequency requirement is met. Service may be provided by Collection Container at the option of the Service Recipient. The size of the Collection Container and the frequency of Collection will be determined between the Service Recipient and Contractor. However, size and frequency must be sufficient to provide that no Recyclable Materials need be placed outside the Collection Container. Contractor will charge for Commercial Recycling Services and must provide Recycling Collection Containers at rates set forth in Exhibit 1. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.3.4 Overages. Corrugated cardboard that will not fit inside the Recycling Collection Containers may be placed beside the Recycling Collection Containers if flattened.

9.3.5 Recycling - Improper Procedure. Contractor is not required to Collect Recyclable Materials if the Service Recipient does not segregate the Recyclable Materials from Commercial Refuse and Organic Waste. Furthermore, Contractor is not required to collect Recyclable Materials that are contaminated through commingling with Refuse or Organic Waste. To address contamination, Contractor must follow the steps as set forth in Section 5.5.

9.3.6 Materials Recovery Facility. All Recyclable Materials collected as a result of performing Recycling Services must be delivered to the Materials Recovery Facility. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 4 and may result in Contractor being in default under this Agreement. All expenses related to materials processing and marketing will be the sole responsibility of Contractor. County has the right to designate Materials Recovery Facility and agrees to adjust Maximum Service Rates to reflect County's exercise of flow control rights.

9.3.7 Recycling - Changes to Services. Should changes in law arise that necessitate any additions or deletions to the services described herein including the type of items included as Recyclable Materials, the parties will negotiate any necessary cost changes and will enter into an Agreement amendment covering such modifications to the services to be performed and the compensation to be paid in accordance with Section 25.2 before undertaking any changes or revisions to such services.

9.3.8 Compliance with AB 341. Contractor will develop and maintain its Commercial Recycling Service in a manner designed to assist County and the Service Recipients to achieve and maintain compliance with AB 341. Contractor will notify Service Recipients of the requirements to comply with the laws starting January 1, 2024, and each January 1st thereafter. Contractor must provide the necessary volume of Collection Service to Service Units in order to be in full compliance with the law. In conjunction with the County's ordinance supporting full compliance with AB 341 by Service Units (i.e., "generators"), Contractor will conduct in-person outreach to all non-participating commercial covered generators a minimum of once per calendar year. Failure to conduct such outreach will result in a penalty as specified in Exhibit 4. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.3.9 Additional Recycling Collection Containers. Contractor must provide additional Recycling Collection Containers to Service Recipients within five (5) days of request and may charge for such additional capacity set forth in Exhibit 1 provided that additional Collection Containers are used by Service Recipients for the purposes of setting out additional Recyclable Materials for regular weekly Commercial Recycling Service.



9.4 Commercial Organic Waste Collection Service. This service is governed by the following terms and conditions:

9.4.1 Conditions of Service. Contractor must provide Commercial Organic Waste Collection Service to any non-exempt Service Units Contractor serves in the Service Area whose Organic Waste is properly containerized in Organic Collection Containers, except as set forth below in Section 9.4.6, where the Organic Waste Collection Containers are accessible. Contractor will conduct a site visit with each non-exempt Service Recipient to determine the specific materials to be included in the Service Recipient's Organic Waste Collection (i.e., Food Waste, Green Waste, combined Food and Green Waste). Contractor will charge for collection of Organic Waste at the appropriate rate specified in Exhibit 1. Contractor will provide a sufficient number of Collection Containers and at a collection frequency to allow for any such Service Unit to utilize the collection of Organic Waste. Commercial Organic Waste Collection will occur Monday through Saturday upon request and as necessary. County shall provide Contractor a list of the names and addresses of Service Units that are approved by County for exemption from Organic Waste Collection. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.2 Organic Waste Processing Services. Contractor must ensure that all Organic Waste Collected pursuant to this Agreement is diverted from the landfill in accordance with AB 939, AB 1826, AB 1594, SB 1016, and SB 1383, and any subsequent or other Applicable Law, as may be amended from time to time. Contractor must ensure that the Organic Waste Collected pursuant to this Agreement is not disposed of in a landfill, except for residue resulting from processing. If the organics processing facility accepts bagged Organic Waste, then Contractor is obligated to accept bagged Organic Waste. If Contractor initially intends to collect Food Waste in bags, Contractor must, always, be prepared to accept Food Waste loose (without bagging) at the direction of the County. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.3 Organic Waste Processing Facility. Contractor must deliver all Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted Organic Waste Transfer Station, that has been agreed upon by the County. Failure to comply with this provision will result in the levy of a penalty as specified in Exhibit 4 and may result in Contractor being in default under this Agreement. All expenses related to Organic Waste processing and marketing will be the sole responsibility of Contractor. County has the right to designate Organic Waste Processing Facility and agrees to adjust Maximum Service Rates to reflect County's exercise of flow control rights.

9.4.4 Organic Waste Collection Frequency. Contractor must comply with CalRecycle collection frequency requirements as they may apply during the term of this Agreement. If any such

changes to collection frequency are adopted after Effective Date that result in Contractor being allowed to reduce the frequency of Refuse or Organic Waste Collection, or otherwise cause Contractor to reduce its collection costs as a result in a change in Refuse or Organic Waste collection frequency, Contractor must provide County with its estimate of reduced its costs and shall make adjustments to the Maximum Service Rates. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.5 Base Commercial Organic Waste Service. All Service Recipients subscribing to Commercial Refuse Collection Service that generate 2 (two) or more cubic yards of combined Solid Waste must subscribe to and receive weekly collection of Organic Waste. The actual configuration of Organic Waste Collection Container sizes to be provided will be based on the total equivalent volume and configured in a manner determined by the Service Recipient in consultation with Contractor. Contractor will charge for Commercial Organic Waste Collection as set forth in Exhibit 1 for Commercial Organic Waste Service. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.6 Size and Frequency of Service. This service will be provided as deemed necessary and determined between Contractor and the Service Recipient, but such service must be received no less than one (1) time per week with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Recipient and Contractor as long as the minimum frequency requirement is met. However, service in the Remote Area may be received no less than once every fourteen (14) days with no exception for holiday(s) as set forth herein, except that Collection service scheduled to fall on a holiday may be rescheduled as determined between the Service Unit and Contractor as long as the minimum frequency requirement is met. Service may be provided by Bin or Cart at the option of the Service Recipient. The size of the container and the frequency (above the minimum) of Collection will be determined between the Customer Service Recipient and Contractor. However, size and frequency must be sufficient to provide that no Organic Waste needs be placed outside the Collection Container. Service Recipients may own and provide their own Compactor provided that the Service Recipient is completely responsible for its proper maintenance, and such Compactor is of a type that is compatible with Contractor's equipment. All other Collection Containers used by Service Recipients must be owned and supplied by Contractor. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.7 Organic Waste - Improper Procedure. Contractor is not required to Collect Organic Waste if the Service Recipient does not separate the Organic Waste from Refuse and Recyclable Materials. Furthermore, Contractor is not required to collect Organic Waste that is contaminated through commingling with Refuse or Recyclable Materials. To address contamination, Contractor must follow the steps set forth in Section 5.5.

9.4.8 Organic Waste Processing Facility. Subject to Section 9.4.3, all Organic Waste Collected as a result of performing Commercial Organic Waste Collection Services must be delivered to the Organic Waste Processing Facility. Failure to comply with this provision will result in the levy of an administrative charge as specified in this Agreement and may result in Contractor being in default under this Agreement.

9.4.9 Organic Waste - Changes to Services. Should changes in law arise that necessitate any additions or deletions to the services described in this Section 9. 4 including the type of items included as Organic Waste, the parties will negotiate any necessary cost changes and will enter into an Agreement amendment covering such modifications to the services to be performed and the compensation to be paid in accordance with Section 25.2 before undertaking any changes or revisions to such services.

9.4.10 Compliance with AB 1826 and SB 1383. Contractor will develop and maintain its Commercial Organic Waste Collection Service in a manner designed to assist County and Service Recipients to achieve and maintain compliance with AB 1826 and SB 1383. Contractor will notify non-exempt covered businesses of the requirements to comply with the law annually starting January 1, 2023. Contractor will offer to provide the volume of collection service that covered businesses require to be in compliance with the law. In conjunction with the County's ordinance supporting full compliance with AB 1826 , SB 1383 and AB 827 by Service Units (i.e., "generators"), Contractor will conduct in-person outreach to all non-participating non-exempt commercial covered generators as specified in Section 15.2. Failure to conduct such outreach will result in a penalty as specified in Exhibit 4. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

9.4.11 Additional Organic Waste Collection Containers. Contractor must provide additional Organic Waste Collection Containers to Service Recipients at the rates listed in Exhibit 1 provided that additional Collection Containers are used by Service Recipients for the purposes of setting out additional Organic Waste materials for regular weekly Organic Waste Collection Service. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

## Article 10. Additional Services

10.1 C&D debris and other temporary Collection Service. This service is governed by the following terms and conditions:

10.1.1 Conditions of Service. Upon request of a customer, Contractor must provide C&D debris and other temporary Collection Service on a temporary on-call basis.

10.1.2 Charges for Bin or Roll-off Containers must be in accordance with Exhibit 1 of this Agreement.

10.1.3 Frequency of Service. C&D debris and other temporary Collection Service must be provided within seven (7) Work Days of receipt of the request.

10.1.4 Contractor must provide customers with C&D debris and other temporary Collection Service with as little disturbance as possible and without obstructing alleys, roadways, driveways, sidewalks, or mailboxes. Contractor may only place Roll-off Containers in strict adherence with any County right-of-way requirements.

## Article 11. Collection Routes

11.1 Service Routes. Upon request from County, Contractor must provide County with route sheets and digital mapping data (if applicable) precisely defining Collection routes, together with the days and the anticipated times at which Collection will regularly commence.

11.2 Collection Route Audits. County reserves the right to conduct audits of Contractor's Collection routes. Contractor must cooperate with County in connection therewith, including permitting County employees or agents, designated by the Agreement Administrator, to ride in the Collection Vehicles to conduct the audits. Contractor has no responsibility or liability for the salary, wages, benefits, or worker compensation claims of any person designated by the Agreement Administrator to conduct such audits.

11.3 Route Sheet Update. Contractor must provide County with updated route sheets upon request and automatically whenever a route is changed by more than 20% to show the addition and/or subtraction of Service Units.

## Article 12. Minimum Performance and Diversion Standards

12.1 Agreement Extension. To receive a Term extension set forth in Section 2.2 of this Agreement, Contractor must meet or exceed the following annual minimum performance and diversion standards in each Calendar Year beginning January 2025.

12.2 Performance Standards. Assessment of penalties and charges, as set forth in Exhibit 4 of this Agreement, totaling less than \$50,001 in any one (1) Calendar Year.

1262 12.3 Minimum Diversion Standards. Contractor must meet the requirements set forth in Article 8.

1263 12.4 No Current Default. Contractor is not currently in default of the Agreement.

1264 12.5 Route Reviews.

1265 12.5.1 General Requirement. At least once annually, beginning in 2024, Contractor shall  
1266 conduct a Route Review for each Contractor route. The number of Containers to review per  
1267 Contractor route shall be calculated on the basis of the number of Refuse accounts provided  
1268 service by a specific Contractor route for one week. For example, "Route A" collects Refuse from  
1269 250 accounts, 4 days per week for a total of 1,000 accounts per week; include a minimum of 25  
1270 accounts for Route Review of "Route A". For each Route Review of a Contractor route, Contractor  
1271 shall inspect at least the following minimum number of Containers but may inspect more if  
1272 Contractor deems necessary; and shall inspect all Containers placed for collection (including  
1273 Recycling Containers, Organics Containers, and Refuse Containers). Each inspection shall involve  
1274 lifting the Container lid and observing the contents but shall not require Contractor to disturb the  
1275 contents or open any bags. Contractor may select the Containers to be inspected at random, or (if  
1276 mutually agreed with County) by any other method not prohibited under 14 CCR Section 18984.5.  
1277 For the avoidance of doubt, Contractor shall not be required to annually inspect every Container  
1278 on a Contractor route. Contractor shall include the results of each Route Review in its next regularly  
1279 scheduled report to County, as required by Article 17.

1280

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

1281

1282 12.5.2 Notice of Contamination. If Contractor observes Prohibited Container  
1283 Contaminants in a Container during a Route Review comprising ten percent or more of observable  
1284 container volume, Contractor shall notify the customer of the violation in writing. The written notice  
1285 shall include information regarding the requirement to properly separate materials into the  
1286 appropriate Containers. The notice may be left on the customer's Container, gate, or door at the  
1287 time the violation is discovered, and/or be mailed, e-mailed, electronically messaged or delivered  
1288 personally to the customer within 30 days. Contractor may dispose of the contents of any Container  
1289 found to contain Prohibited Container Contaminants and may charge a contamination fee listed in  
1290 Exhibit 1. The notice shall be provided in English and Spanish and must be approved by the County  
1291 prior to use.

1292 12.6 Compliance Reviews.

1293 12.6.1 General Requirement. At least once annually, beginning in 2024, Contractor shall  
1294 review the records of its Service Recipients in County that are subscribed for at least two (2) cubic  
1295 yards per week of combined Solid Waste, Organic Waste and Recyclable Materials service, to

1296 determine whether such Service Recipients are subscribed for Organic Waste collection service or  
1297 have an applicable waiver. Contractor shall include the results of each compliance review in its  
1298 next regularly scheduled report to County, as required by Article 17.

1299 12.6.2 Site Visit Requirement. Based on Contractor's review of the list of customers  
1300 requiring site visit compiled in accordance with Section 12.6.1 above, Contractor shall conduct an  
1301 annual site visit to each Service Unit in County that is determined to not be enrolled in 3-container  
1302 organic waste collection service and not be eligible for a waiver based on the County determination,  
1303 to encourage those businesses to sign up for SB 1383 compliant Organics Waste service and  
1304 provide educational material about the law's requirements.

1305 12.6.3 Monitoring, Assistance with Enforcement.

1306 12.6.3.1 Annually complete a compliance review of all Refuse accounts for Service  
1307 Recipients in accordance with 12.6.1 above.

1308 12.6.3.2 Coordinate with the County on their established waiver process.

1309 a) Waivers must be updated to meet 14 CCR Section 18984.11 and County  
1310 Ordinance Code and all waiver requests verified via inspection. Contractor to  
1311 provide County with recommendation to either approve or deny the waiver  
1312 request. Waiver form and format subject to County approval.

1313 b) Contractor to provide list and contact information for businesses not signed up for  
1314 Organic Waste Collection Service that lack a waiver on an annual basis.

1315 12.6.3.3 14 CCR Section 18984.5 (b) Route Reviews: Conduct a route review for  
1316 prohibited container contaminants on randomly selected collection route annually. Containers  
1317 may be randomly selected along a Contractor route. This Section should not be construed to  
1318 require that every container on a Contractor route must be sampled annually.

1319 a) The foregoing may be conducted using camera technology.

1320 b) Contractor is required to provide written notice upon discovering contaminants  
1321 (left at door, gate and/or through mail, email, or electronic message)

1322 c) Contractor to report instances of contamination discovered via route reviews or  
1323 other regular activities to County for enforcement action.

1324 d) Contractor to report businesses that meet edible food recovery qualifications and  
1325 are not donating edible food if discovered during regular site visits to County for  
1326 enforcement.

1327 12.7 Billing Audit and Performance Reviews.

12.7.1 Contractor Shall Review its Billings to all Service Recipients. The purpose of the review is to determine the amount which the Contractor is billing each Service Recipient is correct regarding the level of service (i.e., frequency of collection, size of container, location of container) at the rates approved by Board of Supervisors resolution or as authorized by the Director as set forth in Section 6.1. The Contractor shall review Service Recipient accounts not less than annually and provide a written certification to the County that all such billing is correct. The documentation of the review, as well as verification that any errors have been corrected, should be provided to the County annually.

12.7.2 Selection and Cost. County may conduct billing audit and performance reviews (together, "reviews") of Contractor's performance during the term of this Agreement, as provided herein. The reviews will be performed by the County or a qualified firm under contract to County. County will have the final responsibility for the selection of the firm. County may conduct reviews at any time during the term of the Agreement. County and Contractor agree to each pay fifty percent (50%) of the cost of the audits and performance reviews.

12.7.2.1 Full Reviews During Initial Term. County may conduct two (2) full reviews with costs apportioned as stated in Section 12.7.2 during the Initial Term of this Agreement. The purpose of these full reviews will be as described in Section 12.7.3.

12.7.2.2 Full Review During Extension Period. In the event Contractor is granted an extension to the Term, as described in Section 2.2, County may conduct one (1) additional full review during each of the five (5) year extension periods. The purpose of this full review is described in Section 12.7.3. For each of these full reviews, costs will be apportioned as stated in Section 12.7.2.

12.7.3 Purpose. The reviews will be designed to verify Service Recipient billing rates have been properly calculated and correspond to the level of service received by the Service Recipient, verify Contractor is correctly billing for all services provided, Regulatory Fees and other fees required under this Agreement have been properly calculated and paid to County, verify Contractor's compliance with the reporting requirements and performance standards of this Agreement, verify the diversion percentages reported by Contractor, and verify any other provisions of the Agreement. County (or its designated consultant) may utilize a variety of methods in the execution of this review, including, but not limited to, analysis of relevant documents, on-site and field observations, and interviews. County (or its designated consultant) will review and document the items in the Agreement that require Contractor to meet specific performance standards, submit information or reports, perform additional services, or document operating procedures, that can be objectively evaluated. This information will be documented and formatted in a "compliance checklist" with supporting documentation and findings tracked for each of the identified items. The review will specifically include a determination of Contractor's compliance with the diversion requirements of Article 8, and the public outreach and education requirements of [Article 15](#). County (or its designated consultant) may review the customer service functions and structure utilized by Contractor. This may include Contractor's protocol for addressing Service Recipient complaints and service interruption procedures. Complaint logs may be reviewed, along with procedures and

systems for tracking and addressing complaints. On-site and field observations by County (or its designated consultant) may include, but are not necessarily limited to:

- 12.7.3.1 Interviews and discussions with Contractor's administration and management personnel.
- 12.7.3.2 Review and observation of Contractor's customer service functions and structure.
- 12.7.3.3 Review of public education and outreach materials.
- 12.7.3.4 Interviews and discussions with Contractor's financial and accounting personnel.
- 12.7.3.5 Interviews with route dispatchers, field supervisors and managers.
- 12.7.3.6 Interviews with route drivers.
- 12.7.3.7 Interviews with vehicle maintenance staff and observation of maintenance practices.
- 12.7.3.8 Review of on-route Commercial Collection Services, including observation of driver performance and collection productivity and visual inspection of commercial routes before and after collection to evaluate Collection Container placement and cleanliness of streets.

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

12.7.5 Additional Billing Audit and Performance Review. If the Billing Audit and Performance Review determines Contractor is not in compliance with all terms and conditions of this Agreement and such non-compliance is material, Contractor is subject to administrative fees and penalties as described in Exhibit 4 as well as reimbursement to the County for the full cost of the audit plus any underpayments discovered during the Audit. Additionally, County may conduct an Additional Billing Audit and Performance Review beyond the two (2) specified in Section 12.7.2, to ensure that Contractor has cured any such area of non-compliance. Contractor will be responsible for the cost of any such Additional Billing Audit and Performance Review for a maximum cost of One-hundred Twenty Thousand Dollars (\$120,000) (starting on July 1, 2024 and each January 1 thereafter, with the maximum cost for the review adjusted annually by the change in the CPI). For the purposes of a determination of non-compliance under this Agreement, Audit findings which result in underpayments of \$100,000 or more shall be deemed material.

12.7.6 County Requested Program Review. County reserves the right to require Contractor to periodically conduct reviews of the Refuse, Recycling, and Organic Waste Collection



Service programs, provided that such reviews are reasonable and can be accomplished at no additional cost to Contractor and without interfering with Contractor's operations. Such reviews could assess one or more of the following performance indicators: average volume of Recyclable Materials per set out per Service Recipient, average volume of Organic Waste per set out per Service Recipient, participation level, contamination levels, etc. Prior to the program evaluation review, County and Contractor will meet and discuss the purpose of the review and agree on the method, scope, and data to be provided by Contractor.

12.8 Cooperation with Other Program Reviews. Contractor shall cooperate with County and/or its agent(s) as reasonably requested to collect program data, perform field work, conduct route audits to investigate Service Recipient participation levels and setout volumes and/or evaluate and monitor program results related to Refuse, Recyclable Materials and Organic Waste collected in County by Contractor, provided such cooperation can be accomplished at no additional cost to Contractor and without interfering with Contractor's operations.

## Article 13. Collection Equipment

13.1 General Provisions. All equipment used by Contractor in the performance of services under this Agreement must be of a high quality and meet all Federal, State, and local regulations and air quality standards. Collection vehicles must be designed and operated so as to prevent collected materials from escaping from the vehicles. Hoppers must be closed on top and on all sides with screening material to prevent collected materials from leaking, blowing, or falling from the vehicles. All trucks and containers must be watertight and must be operated so liquids do not spill during Collection or in transit.

13.2 Bulky Items. Vehicles used for Collection of Bulky Items may not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

13.3 Collection Vehicles. Contractor may not use any Collection Vehicle exceeding ten (10) years of age beyond the manufacturing date during the Term and shall phase out high carbon vehicles first. Contractor shall register all new Collection Vehicles under this Agreement to its address within the County and shall report all purchases of Collection Vehicles under this Agreement as attributable to the County for sales tax purposes. Collection Vehicles must utilize low carbon ("alternative") fuel, which must be renewable natural gas, LNG, CNG, or electric unless otherwise authorized by the County. If during the Term, new technologies are available, such as hybrid or electric powered collection vehicles, the County or the Contractor may request/negotiate implementation of such new collection vehicles, with a corresponding change to the Maximum Service Rates to reflect additional cost or savings. During the Term, to the extent required by law, Contractor shall provide its Collection Vehicles to be in full compliance with all Applicable Laws, including State and Federal clean air requirements that are adopted or proposed to be adopted, including, but not limited to, the California Air Resources Board Heavy Duty Engine Standards as currently proposed to be contained in California Code of Regulations, title 13, sections 2020 et seq., the Federal EPA's Highway Diesel Fuel Sulfur regulations and all other applicable air pollution control laws.

13.4 Collection Vehicle Technology. Contractor must use Collection Vehicles fitted with GPS tracking devices that can also record start and stop times, vehicle locations, and maximum speed. Contractor shall furnish to the County, at no additional cost or expense, any software and equipment necessary for County to track the location of Collection Vehicles in real time and to generate reports as needed. Collection Vehicles must also be fitted with cameras or sensors programmed to automatically take photos, record or detect contamination and/or "third eye" safety monitoring with collision or near-collision detection, failure to observe traffic signs, hard braking, hard acceleration, animal impacts, failure to use seatbelts, failure to scan roadways or intersections, unsafe lane changes, unsafe passing, improper cellular telephone use, food or drink distractions, speeding, and driver drowsiness or sleeping. Where applicable, photos taken by vehicles will be date and location stamped, to document violations, including contamination, overfilling, and lids not closed. GPS, camera, and monitoring data specified hereunder must be accessible by County, with 12-month retention of information and accessible to the County upon request.

13.5 Collection Vehicle Size Limitations / Overweight Vehicle Charge. Contractor may not use any Collection Vehicle in violation of weight limitations in Applicable Law. The Contractor may exceed the Collection Vehicle size limitation for a limited time due to extraordinary circumstances or conditions with the prior written consent of the Agreement Administrator. The limited time may not exceed one hundred and twenty (120) days. Contractor must report all instances of overweight vehicles to County as part of its quarterly Regulatory Fees submittal described in Section 4.2, and as part of its Annual Reports to the County described in Section 17.3. Contractor may be assessed administrative charges as specified in Exhibit 4 because of exceeding an overweight vehicle rate of five percent (5%) in any Calendar Year during the term of the Agreement. The overweight vehicle rate will be calculated as the total number of overweight Collection Vehicle instances during the Calendar Year, divided by the total number of Collection Vehicle loads transported during the Calendar Year. Prior to collecting administrative charges for overweight vehicles, the County shall afford Contractor a reasonable opportunity to provide the Agreement Administrator documentation of the extraordinary circumstance that caused the overweight vehicles. Extraordinary circumstances in this case may include, but not limited to, heavy rains or high winds creating increased Green Waste generation, rain to accumulate in open Collection Containers, or normal Collection routes to be delayed or shortened due to extreme weather conditions. The Agreement Administrator shall have authority to consider Contractor's documentation and uphold and collect the assessed charge, to reduce the charge, or waive and dismiss the charge. The Agreement Administrator shall also have the authority to waive charges in advance of an anticipated, or in response to an actual, emergency event.

13.6 Registration; Inspection. All vehicles used by Contractor in providing Commercial Collection Services under this Agreement, except those vehicles used solely on Contractor's Premises, are to be registered with the California Department of Motor Vehicles. In addition, each such vehicle must be inspected by the California Highway Patrol in accordance with Applicable Law., Within two (2) Work Days of a request from the Agreement Administrator, Contractor must provide County a copy of its vehicle maintenance log and any safety compliance report, including, but not limited to, any report issued under California Vehicle Code sections 34500 et seq.

13.7 Safety Markings. All Collection equipment used by Contractor must have appropriate safety markings including, but not limited to, highway lighting, flashing, and warning lights, clearance lights, and

warning flags. All such safety markings must be in accordance with the requirements of the California Vehicle Code, as may be amended from time to time.

13.8 Vehicle Signage and Painting. Collection Vehicles must be painted and numbered without repetition and must have Contractor's name, Contractor's customer service telephone number, and the number of the vehicle painted in letters of contrasting color, at least four (4) inches high, on each side and the rear of each vehicle. All Collection Vehicles shall display the words "Servicing the County of Ventura" in letters no less than two inches (2") high. No advertising is permitted other than the name of Contractor, its logo and registered service marks, except promotional advertisement of the Recyclable Materials and Organic Waste programs, which is encouraged. County to approve any promotional material of the Recyclable Materials and Organic Waste Programs affixed to or painted on Contractor's Collection Vehicles and may require such promotion to be utilized from time to time to encourage correct recycling, reduce contamination, and provide relevant education. Contractor must repaint all vehicles (including vehicles striping) during the term of this Agreement on a frequency as necessary to maintain a positive public image as reasonably determined by the Agreement Administrator, but not less often than once every five (5) years.

13.9 County Message Display. At the Contractor's sole expense, up to three (3) Collection Vehicles operating full-time within the Service Area, shall display County messaging or advertising, either related or unrelated to Solid Waste, of the County's choice. The County shall be able to change the messaging on each Collection Vehicle up to two (2) times per year per a quarterly basis. This section does not apply to the Remote Area.

13.10 Vehicle Certification. For each Collection Vehicle used in the performance of services under this Agreement, Contractor must obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 et seq.) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 et seq.) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor must maintain copies of such certificates and reports and must make such certificates and reports available for inspection upon request by the Agreement Administrator. At least annually, Contractor must submit to the Agreement Administrator verification that each of the Contractor's Collection Vehicles has passed the California Heavy Duty Vehicle Inspection. Thereafter, Contractor must cause each vehicle in Contractor's Collection fleet to be tested annually in the California Heavy Duty Inspection Program and must, upon request, submit written verification to County within ten (10) Work Days of the completion of such test. Contractor may not use any vehicle that does not pass such inspection.

13.11 Equipment Maintenance. Contractor must always maintain Collection equipment in a clean condition and in good repair. All parts and systems of the Collection equipment must operate properly and be maintained in a condition satisfactory to County. Contractor must wash all Collection Vehicles at least once a week.

13.12 Maintenance Log. Contractor must maintain a maintenance log for all Collection Vehicles. The log must always be accessible to County by physical inspection upon request of Agreement Administrator, and must show, at a minimum, each vehicle Contractor assigned identification number, date purchased or initial

lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

**13.13 Equipment Inventory.** On or before January 1, 2024, Contractor shall provide to County an inventory of Collection Vehicles and major equipment used by Contractor for Collection or transportation and performance of services under this Agreement. The inventory must indicate each Collection Vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance and rebuild status. Contractor must submit to the Agreement Administrator, either by fax or e-mail, an updated inventory annually to the County or more often at the request of the Agreement Administrator. Each inventory must also include the tare weight of each vehicle as determined by weighing at a certified scale used by Contractor. Each vehicle inventory must be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Agreement.

**13.14 Reserve Equipment.** Contractor shall always have reserve Collection equipment able to be put into service and operation within one (1) hour of any breakdown. Such reserve equipment must correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties.

## **Article 14. Contractor's Office**

**14.1 Contractor's Office.** Contractor's office must be equipped with enough telephones such that all Collection Service-related calls received during normal business hours are answered by an employee within five (5) rings. The office must have responsible persons in charge during Collection hours and must be open during such normal business hours, 7:00 a.m. to 5:00 p.m. on Monday through Friday and Saturday (8 a.m. to 12 p.m.) during Collection Service hours. Contractor must provide either a local or toll-free telephone number that connects to the call center described in Section 14.2, and a telephone answering service or mechanical device to receive Service Recipient inquiries during those times when the office is closed. Calls received after normal business hours must be addressed the next Work Day morning.

**14.2 Customer Service Call Center.** Contractor must maintain a Customer Service call center. Such office must be equipped with enough telephones that all customer service-related calls received during normal business hours, 7:00 a.m. to 6:00 p.m. on Monday through Friday and Saturday during Collection Service hours (8 a.m. to 12 p.m.), are answered by an employee within five (5) rings.

**14.3 Emergency Contact and Response.** Contractor must provide the Agreement Administrator with an emergency phone number where the Contractor can be reached outside of the required office hours. Contractor shall equip at least one truck with a two-way radio or telephone that is always available for emergency response or to respond to Service Recipient complaints. Contractor shall report any accident, as defined by State of California Vehicle Code Section 16000, to County within one (1) business day of occurrence.

**14.4 Multilingual/TDD Service.** Contractor must always maintain the capability of responding to telephone calls in English and such other languages as County may direct. Contractor must always maintain

the capability of responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services. Website shall be in at least English and Spanish, though inclusion of Mandarin and Vietnamese is preferred.

14.5 Service Recipient Calls. During office hours, Contractor must maintain a telephone answering system capable of accepting at least five (5) incoming calls at one time. Contractor must record all calls including any inquiries, service requests and complaints into a customer service log. All incoming calls will be answered at the local office or call center within five (5) rings. Any call "on-hold" exceeding 1.5 minutes must have the option to remain "on-hold" or request a "call-back" from a customer service representative. Contractor's customer service representatives must return Service Recipient calls. For all messages left before 3:00 p.m., all "call backs" must be attempted a minimum of one time prior to 5:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" must be attempted a minimum of one (1) time prior to noon the next Work Day. Contractor must make minimum of three (3) attempts within one (1) Work Day of the receipt of the call. If Contractor is unable to reach the Service Recipient on the next Work Day, Contractor must send a postcard, email or text, as indicated by the Service Recipient to the Service Recipient on the second Work Day after the call was received, indicating that the Contractor has attempted to return the call.

## Article 15. Contractor Support Services

15.1 Sustainability/Compliance Representative. Contractor will hire staff, including at least one Sustainability/Compliance Representatives available to the County as of the Commencement Date, to conduct site visits and provide outreach and education, as needed, in support of meeting Diversion requirements and State mandates under Applicable Law in the Service Area, as may be amended. The Sustainability/Compliance Representatives shall be available as needed to meet with the County and conduct site visits to implement Recycling and Organics programs in the Service Area at least four days a week throughout the year. County may request monthly meetings with Contractor to discuss problems or issues such as Collection or Recycling programs, Billing or Service Recipient service issues, and day to day operations. County and Contractor agree to meet and confer to reevaluate the ongoing need for one Sustainability/Compliance Representatives on or around August 1, 2025. This section does not apply to the Remote Area.

15.2 Sustainability and Compliance Plan. Contractor, at its own expense, must prepare, submit, and implement an annual (Calendar Year) Sustainability and Compliance Plan ("Plan"), which will guide Contractor's staffs' work efforts. This Plan will include measures to meet diversion targets, increase diversion, and increase participation of Service Recipients in recycling and organics diversion programs, and should target certain Recyclable Materials or "problem" areas, including recycling and organics sorting and contamination, within Contractor's Service Area where improvements can be maximized. Planned outreach and education services, and outreach materials should be included as part of the Plan and updated annually. Targets of outreach should be based on local trends and recycling patterns from data obtained by both the County and Contractor. Contractor will maintain current and state-of-the-art public outreach and education services throughout the term of this Agreement by providing outreach materials to Service Recipients electronically (via email and social media). Contractor must submit first year draft Plan

to the County prior to the Commencement Date and by July 1st each year thereafter for the term of the Agreement. County shall review and provide revisions to draft Plan within thirty (30) days of receipt. Contractor must revise and submit final Plan to County by December 1, 2023 for first year and then by September 1 each year thereafter for the Term. This section does not apply to the Remote Area.

**15.3 County-Specific Website.** Contractor shall maintain an interactive County-specific website that fully explains the Contractor's current services and rates, the diversion options available, and allows Service Recipients to submit service changes, inquiries, complaints, or queries. The website must describe and promote the use of the available Recyclable Materials and Organics services. Contractor's local website must provide information specific to the County's programs. The website must include all information required under Applicable Law. Contractor will ensure information provided on the website is maintained and up to date. Content will include proper container set out, educational materials, newsletters, and program descriptions. This section does not apply to the Remote Area.

**15.4 Recycling Resources.** Contractor shall maintain an accurate list of recyclable materials on its website and promote proper recycling to all Service Recipients. Contractor shall consult, collaborate, and coordinate its recycling outreach and educational materials and activities with the County and incorporate the County's input on the Contractor's recycling resources and programs.

**15.5 Waste Audits.** Contractor shall complete Recycling and Solid Waste audits for ten (10) Service Recipients per month and provide recommendations to Service Recipients on how to improve overall resource efficiency. This section does not apply to the Remote Area.

**15.6 Compliance Reporting.** Contractor shall report contaminations and overage issues via the Waste Reporting System.

**15.7 Right-sizing Containers.** Contractor must right-size Collection Containers to maximize diversion from Service Recipients.

**15.8 Education and Outreach Materials.** Contractor must implement public education and outreach in conformance with Applicable Law and in coordination with the County. Contractor will work with County to identify which special events will be attended. Contractor, together with County, shall work with local media to ensure information on new programs, events, recycling, organics etc. is communicated to the community. Contractor shall use a variety of options such as local paper, news, websites, social media, and civic groups to distribute information and education about County Solid Waste and recycling programs, and events. Contractor shall distribute educational material to Service Recipients a minimum of once a quarter by mail or electronically. Contractor shall provide Service Recipients four (4) quarterly direct mailed newsletters with program implementation compliant with Applicable Law. Materials will be provided in at least English and Spanish, though inclusion of Mandarin and Vietnamese is preferred. These materials should include all of the following:

**15.8.1 Information on the customer's requirements to properly separate materials in appropriate containers.**

15.8.2            8.1.2. Information on methods for: the prevention of Organic Waste generation, recycling Organic Waste on-site, and any other local requirements regarding Organic Waste.

15.8.3            8.1.3. Information regarding the methane reduction benefits of reducing the landfill disposal of Organic Waste, and the methods of Organic Waste recovery contemplated by the Agreement.

15.8.4            8.1.4. Information regarding how to recover Organic Waste.

15.8.5            8.1.5. Information related to the public health and safety and environmental impacts associated with the landfill disposal of Organic Waste.

15.8.6            8.1.6. Information regarding County-issued De Minimis and Space Constraint Waivers.

Contractor shall provide educational materials to customers discovered to be out of compliance with the 14 CCR Section 18985.1 requirements and report a list of such customers as well as actions taken to the County on a periodic basis as required by County.

15.9    Service Recipient Personnel Training. Contractor shall advise and educate appropriate personnel (management, employees, janitors, etc.) at Service Units on methods and recommendations to increase recycling and decrease landfilling including best practices for recycling, waste reduction and availability, and use of in-house recycling containers.

15.10   Available Services Notice and Information. At least annually, Contractor must publish and distribute (by mail or electronically) a notice to all Service Units regarding the full range of services offered. The notice must contain at a minimum (i) definitions of the materials to be Collected, (ii) procedures for setting out materials, (iii) the days when Commercial Refuse Collection Services, Recycling Services, and Organic Waste Collection Services will be provided, (iv) Contractor's local customer service phone number, (v) instructions on the proper filling of Containers, (vi) instructions as to what materials may or may not be placed in Recyclable Materials or Organic Waste Containers, (vii) how to select Container sizes to maximize diversion, (viii) participation in Recycling and Organic Waste programs, (ix) the fees for overage and Contamination in the event of non-compliance, (x) the availability of on-Premises Collection Services, and (xiv) all information required under Applicable Law. The notice must be provided in English and Spanish, and other languages as directed by the County, and must be distributed by Contractor no later than December 15 of each previous year, prior to going into effect January 1 of each new year.

15.11   Approach to Meeting County's Diversion Requirements. Contractor must document approach to meeting County's diversion requirements by specific diversion program type (Commercial Recyclable Material, Organic Waste, Bulky Items, etc.) and must relate to both specific and public education programs. This must include an implementation schedule showing the specific programs and tasks, milestones, and time frames for meeting the diversion requirements. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.

15.12 Tonnage Table. Contractor must provide as part of the Plan, a tonnage table segregated by Commercial and Additional Services that estimates tonnages for Recyclable Material and Organic Waste delivered and processed, and the estimated residual tonnages for each calendar year of the Agreement.

15.13 Environmental Stewardship. Contractor must describe all environmental management policies and activities related to the Solid Waste collection service, including the use of Alternative Fuel Vehicles, reduction of air emissions and wear and tear on the County's streets, use of recycled products throughout operations, internal waste reduction and reuse protocol, water and resource conservation activities within facilities (design, construction and operation), compliance with laws governing e-waste, hazardous waste, and u-waste, and use of non-toxic products when possible.

15.14 News Media Relations. Contractor will work with local media to ensure information is communicated to community (new programs, events, recycling information, etc.). Contractor to use options, such as; local newspaper, radio/television news outlets, websites and social media. Contractor will notify the Agreement Administrator by e-mail or phone of all requests for news media interviews related to the services covered under this Agreement within one (1) Work Day of Contractor's receipt of the request. When practicable, before responding to any inquiries involving controversial issues or any issues likely to affect participation or Service Recipient's perception of services, Contractor will discuss Contractor's proposed response with the County Agreement Administrator.

15.15 News Media Requests. Contractor will notify the Agreement Administrator by e-mail or phone of all requests for news media interviews related to the services covered under this Agreement within one (1) Work Day of Contractor's receipt of the request. When practicable, before responding to any inquiries involving controversial issues or any issues likely to affect participation or Service Recipient's perception of services, Contractor will discuss Contractor's proposed response with the Agreement Administrator.

15.15.1 Copies of draft news releases or proposed trade journal articles that use the name of County or relate to the services provided hereunder must be submitted to the Agreement Administrator for prior review and approval at least five (5) working days in advance of release, except where Contractor is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case Contractor must submit such materials to County simultaneously with Contractor's submittal to such regulatory agency.

15.15.2 Copies of articles resulting from media interviews or news releases that use the name of County or relate to the services provided hereunder must be provided to the County within five (5) days after publication.

15.16 Annual Recycling Awards. Contractor will recognize outstanding participation in Recycling and/or Organic Waste programs by identifying "recycling all-stars" for recognition at a Board of Supervisors meeting during each November, beginning November 2024. This Section is not applicable to the services provided in the Remote Area as long as the Remote Area continues to be exempt from the requirements of 14 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a). Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply with this Section.



15.17 Acceptable & Unacceptable Materials Labeling. Contractor must affix to each Recycling and Organics Collection Container a sticker that clearly lists Acceptable materials to be placed in these containers as well as unacceptable material. Stickers must be replaced annually and include any updates in the list of Acceptable materials, Exhibit 5.

15.18 Programs and Services. Contractor must provide additional educational and outreach services and programs as requested by County at a price to be mutually agreed upon between the Contractor and the Agreement Administrator. In the event Contractor and the Agreement Administrator cannot reach a mutually agreed upon price for the requested service or program, County has the right to procure the service of other vendors or contractors to provide the requested service.

15.19 Operations Plans. Contractor must provide the County with written documents constituting a Customer Service Plan, Outreach and Education Plan and Collection Service Operations Plan (taken altogether "Operations Plans") that present the specific collection, processing, customer service and outreach and education programs that will be implemented in the County. Contractor must submit its first-year draft Operations Plans to the County November 1, and by July 1st each year thereafter for the term of the Agreement, inclusive of any extensions. County shall review and provide comments to draft Operations Plans within fifteen (15) days of receipt. Contractor must revise and submit final Operations Plan to County for approval by December 1, 2023 for first year and then by September 1 each year thereafter for the Term, inclusive of all extensions. Failure to present and secure approval of the aforementioned plans to the County by the applicable deadlines as well as non-adherence to the plans constitute a material breach of this Agreement. For any disputes that arise regarding an Operation Plan which prevents County approval, the Parties agree to work collaboratively, in good faith, to resolve the dispute. If those efforts do not resolve the dispute, the Parties agree to submit the dispute to arbitration as set forth in Section 24.7 of this Agreement.

## Article 16. Emergency Service

16.1 Revised Services During an Emergency. In the event of a major storm, earthquake, fire, natural disaster, or other such event, the Agreement Administrator may grant the Contractor a variance from regular routes and schedules, which will not be withheld unreasonably. As soon as practicable after such event, Contractor must advise the Agreement Administrator when it is anticipated that normal routes and schedules can be resumed. The Agreement Administrator will try through the local news media to inform the public when regular services may be resumed. The clean-up from some events may require that Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. Contractor will receive additional compensation, above the normal compensation contained in this Agreement, to cover the costs of rental equipment, additional personnel, overtime hours and other documented expenses based on the Maximum Service Rates set forth in Exhibit 1 provided Contractor has first secured written authorization and approval from County through the Agreement Administrator. County will be given equal priority and access to resources as with other jurisdictions served by Contractor.

16.2 Disaster Recovery Support. In the event of a tornado, major storm, earthquake, fire, natural disaster, or other such event, Contractor agrees to provide disaster recovery support upon request by

Agreement Administrator. This may include additional hauling of debris, special handling such as wrapping waste in plastic (i.e., "burrito wrapping"), temporary storage of debris where feasible, additional disposal, use of different transfer and disposal facilities, and documentation of debris type, weight, and diversion. Contractor should follow protocol laid out in the County's Draft Disaster Debris Plan and any subsequent County or County Disaster Debris Plans, as applied to Solid Waste hauling and handling.

## Article 17. Record Keeping and Reporting Requirements

### 17.1 Record Keeping. Notwithstanding Article 42 herein:

17.1.1 Accounting Records. Contractor must maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Commercial Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Such records will be subject to audit, copy, and inspection. Gross receipts derived from provision of the Commercial Collection Services, whether such services are performed by Contractor or by a subcontractor or subcontractors, will be recorded as revenues in the accounts of Contractor. The Contractor shall keep and preserve, during the Term of this Agreement, and for a period of not less than four (4) years following expiration or other termination hereof, full, complete and accurate records, including all cash, billing and disposal records, as indicated in the Agreement.

17.1.2 County Inspection. At any reasonable time requested, the County shall have the right to inspect, and Contractor shall make available, all equipment, trucks, vehicles, and containers used by Contractor in the Service Area. At its request, and upon not less than twenty-four (24) hours advanced written notice, the County shall also have the right to inspect and audit Contractor's books and records to verify information contained therein, or which should have been reported therein, the reports required this Article 17 or to verify the payment of appropriate County fees pursuant to Article 4. The costs of such audits and inspections shall be borne by the Contractor when inaccuracies in Contractor's books and records result in a material difference in what should have been reported pursuant to Article 4. For purposes of this Section, a material difference shall mean a difference of five percent (5%) or more.

17.1.3 Financial and Accounting Records. County reserves the right to request audited, reviewed, or compiled financial statements prepared by an independent Certified Public Accountant, or as may be provided by Contractor or its parent company. In the event that Contractor does not maintain separate financial or accounting records prepared specifically for services provided under this Agreement, Contractor may use industry standard allocation methods to provide financial information as applicable to the service provided under this Agreement.

17.1.4 Agreement Materials Records. Contractor must maintain records of the quantities of (i) Commercial Solid Waste Collected and disposed under the terms of this Agreement, (ii) Recyclable Materials, by type, Collected, purchased, processed, sold, donated or given for no compensation, and residue disposed under the terms of this Agreement, and (iii) Organic Waste

1780 by type, Collected, purchased, processed, sold, donated or given for no compensation, and residue  
1781 disposed under the terms of this Agreement.

1782 17.1.5 Other Records. Contractor must maintain all other records reasonably related to  
1783 provision of Commercial Collection Services, whether or not specified in this Agreement.

1784 17.1.6 Report Format. All reports to be submitted in a format approved by the County,  
1785 including electronic data submission in the Waste Reporting System and in a format specified by  
1786 the County.

1787 17.2 Quarterly Reporting.

1788 17.2.1 General. Quarterly reports currently include those required by Ventura County  
1789 Ordinance Code Sections 4780-4 and 4792-6, as may be amended. Quarterly reports must be  
1790 submitted no later than 5 p.m. PT on the last day of the month following the end of Quarter in which  
1791 the receipts are collected and must be provided electronically using software acceptable to the  
1792 County. If the last day of the month falls on a day that County is closed or a Holiday, then the report  
1793 will be due on the next business day. Failure to submit complete quarterly reporting by the due date  
1794 will result in penalties as specified in Exhibit 4.

1795 17.2.2 Payments. The payment report must include an accounting of Contractor's Gross  
1796 Revenues received during the preceding Quarter, and the Regulatory Fees payable to County.

1797 17.2.3 Tonnage and Service Data. In a County-approved format, Contractor must report  
1798 the number of unique Commercial accounts serviced, the number of unique County accounts  
1799 serviced, tonnage of Refuse, Recyclable Materials and Organic Waste collected and processed for  
1800 diversion broken down by Container type, Residual amounts from Recycling and Organic Waste  
1801 Diversion operations that are landfilled.

1802 17.2.4 Overweight Vehicle Reporting. The quarterly report must include a summary total  
1803 of all instances of overweight Collection Vehicles. This summary must include the number of  
1804 overweight vehicle instances expressed as a percentage of the total number of Collection Vehicle  
1805 loads transported during the reported quarter.

1806 17.2.5 Non-Collection. The quarterly report must include a summary of each Service Unit  
1807 receiving a Non-Collection Notice in the previous quarter along with a description for the Non-  
1808 Collection Notice.

1809 17.2.6 On-hold. The quarterly report must include each Service Unit that was not billed in  
1810 the previous quarter due to vacation hold, vacancy etc.

1811 17.2.7 Collection Overage Charges. The quarterly report must include each Service Unit  
1812 incurring a charge for a Solid Waste Overage in the previous quarter.

17.2.8 Contamination Reporting. To the extent required by Applicable Law, the quarterly report must include a summary of all instances of qualifying contamination under the procedures in Section 5.5. This summary must include the total number of accounts where contamination occurred, the total number of Contamination Violation Notices issued by Contractor to Service Recipients, a list of accounts where such notices occurred, and the total number of instances where Collection Container size or Collection frequency was increased specifically due to contamination. Within twenty (20) Work Days of request by County, Contractor will provide copies of the Contamination Violation Notices and the digital documentation of contamination.

17.2.9 Service Recipient Complaint Log. The quarterly report must include the Service Recipient call log collected from the previous quarter.

### 17.3 Annual Reporting.

17.3.1 General. An annual report must be submitted no later than 5 p.m. PT on January 31, 2024 and each January 31<sup>st</sup> thereafter for the previous Calendar Year. If January 31<sup>st</sup> falls on a day that County is closed, then the report will be due on the next business day. Annual reports must be submitted electronically in software acceptable to the County. Failure to submit complete annual reporting by the due date will result in penalties as specified in Exhibit 4. Annual reports to County must include the following.

17.3.2 Summary Narrative. A summary narrative of problems encountered with Collection and processing activities and actions taken. Indicate type and number of Non-Collection Notices left at Service Recipient locations. Indicate instances of property damage or injury, significant changes in operation, market factors, publicity conducted, needs for publicity. Include description of processed material loads rejected for sale, reason for rejection and disposition of load after rejection.

17.3.3 Diversion Rate. Contractor must provide documentation acceptable to County, in its reasonable judgment, stating and supporting the Calendar Year's Diversion Rate, as calculated in accordance with the provisions of Article 8. Any tonnages diverted and disposed from large venues and events during the reporting period will be counted towards the calculated diversion rate.

17.3.4 GHG Reduction Efforts. Contractor shall provide a list of items allowing quantification of Contractor's efforts towards the reduction of greenhouse gases (GHGs) with accompanying measured impacts.

17.3.5 Financial Statements. Contractor must submit annual financial statements for the local operation. Statements need not be reviewed or audited statements.

17.3.6 Annual Sustainability and Compliance Report. Contractor must complete and submit data sections within their Sustainability and Compliance Plan to document education and outreach conducted, public event participation, school visits, compliance notices mailed, site visits,

waste audits completed, information distributed, and media used, and community events hosted. This must include public education activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to the provision of Commercial Collection Services, and must discuss the impact of these activities on recycling program participation and include amounts collected from Service Units. The report should include a complete list of all non-exempt accounts, which includes each non-exempt account's status as a "covered generator" under Applicable Law, the date and status of Contractor's outreach efforts at each non-exempt account, and the current level of Recycling and Organics program participation at each non-exempt account. The Annual Sustainability and Compliance Report shall also include the following information pertaining to annual route reviews and compliance reviews described in Sections 12.5 and 12.6. This section does not apply to the Remote Area.

17.3.6.1 The date the review was conducted.

17.3.6.2 The name and title of each person conducting the review.

17.3.6.3 A list of the account names and addresses covered by the review.

17.3.6.4 For Route Reviews, a description of each Contractor route reviewed, including Contractor's route number and a description of the Contractor route area.

17.3.6.5 For Route Reviews, the results of such review (i.e., the addresses where any Prohibited Container Contaminants were found), and any photographs taken.

17.3.6.6 For Compliance Reviews, the results of such review (i.e., Contractor's findings as to whether the customers reviewed are subscribed for Organic Waste collection service, have an applicable waiver, or neither), and any relevant evidence supporting such findings (e.g. account records).

17.3.6.7 Copies of any educational materials issued pursuant to such reviews. Additionally, Contractor shall include documentation relating to observed Prohibited Container Contaminants, whether observed during route reviews or otherwise:

17.3.6.8 Copies of the form of each notice issued to customers for Prohibited Container Contaminants, as well as, for each such form, a list of the customers to which such notice was issued, the date of issuance, the customer's name and service address, and the reason for issuance (if the form is used for multiple reasons). This information will also be provided monthly to any other government entity approved by the County.

17.3.6.9 The number of times notices were issued to customers for Prohibited Container Contaminants.

17.3.6.10 The number of Containers where the contents were disposed due to observation of Prohibited Container Contaminants.

1884 17.3.6.11 A description of Contractor's process for determining the level of Container  
1885 contamination under the Agreement.

1886 17.3.6.12 Reports to County on customers discovered to be out of compliance with  
1887 Section 18984.5(b), including a list of the customers, the type of violation, actions taken to  
1888 educate those customers, and contact information for those customers. Such reports shall be  
1889 provided periodically as required by County.

1890 17.3.7 Summary of Programs. An analysis of any Recycling and Organic Waste  
1891 Collection, processing and marketing issues or conditions (such as participation, setouts,  
1892 contamination, etc.) and possible solutions. This section does not apply to the Remote Area.

1893 17.3.8 Solid Waste Data. The number of Service Units by type and the number of  
1894 Collection Containers distributed by size and Service Unit type.

1895 17.3.9 Waste Characterization Data. A breakdown of Solid Waste (Refuse, Recycling,  
1896 and Organics) by material type as per CalRecycle material classifications.

1897 17.3.10 Recycling Data. Gross tons Collected daily on average by material type by route  
1898 for Commercial and County Recycling service, with map of routes. The average participation rates  
1899 by quarter relative to the total number of Service Units by Service Unit type. Indicate, by material  
1900 type (and grade where appropriate), annual totals of Recyclable Materials processed including  
1901 facility name and location, average cost or price received per ton and total recycling cost or revenue  
1902 received for the year. Indicate any quantities, by material type, donated or otherwise disbursed  
1903 without compensation. Indicate number of Recycling Collection Containers distributed by size and  
1904 Service Unit type. Also provide annual totals and location for residue disposed.

1905 17.3.11 Organic Waste Data. Include average daily gross tons Collected by route,  
1906 separated by Green Waste and Food Waste, with map of routes. Include the total number of Service  
1907 Recipients that receive each type of Organic Waste Collection Service provided by the Contractor.  
1908 Indicate average daily number of set outs by route. Indicate average participation rates relative to  
1909 the total number of Service Units in terms of weekly set out counts. Indicate number of Organic  
1910 Waste Collection Containers distributed by size and Service Unit type. Indicate, by material type,  
1911 annual totals of Organic Materials processed including facility name and location, average cost or  
1912 price received per ton and total organics cost or revenue received for the year. Provide totals and  
1913 location for Residue Disposed. Include the number of route reviews conducted for prohibited  
1914 contaminants and the number of Non-Collection Notices issued to Service Recipients in  
1915 accordance with Applicable Law. This Section is not applicable to the services provided in the  
1916 Remote Area as long as the Remote Area continues to be exempt from the requirements of 14  
1917 CCR 18984 through 18984.13 under a low population waiver pursuant to 14 CCR 18984.12(a).  
1918 Notwithstanding the existence of an applicable waiver, Contractor may voluntarily elect to comply  
1919 with this Section.

1920 17.3.12 Customer Service Log. A copy of the customer service log, including a summary  
1921 of the type and number of complaints and their resolution. Copies of a written record of all calls  
1922 related to missed pickups and responses to such calls.

1923 17.3.13 Customer Service Information Sheet. A copy of Contractor's most recent Customer  
1924 Service Information Sheet (i.e., customer call center "cheat sheet") for the County or the equivalent  
1925 information used by customer service representatives.

1926 17.3.14 Overweight Vehicle Data. A summary of all instances of overweight Collection  
1927 Vehicles. This summary must also include the number of overweight vehicle instances as a  
1928 percentage of the total number of Collection Vehicle loads transported during the Calendar Year.

1929 17.3.15 Collection Container and Vehicle Inventory. An updated complete inventory of  
1930 Collection Containers by type and size, and an updated complete inventory of Collection Vehicles  
1931 including for each vehicle: truck number, route number, date purchased, vehicle type, tare weight,  
1932 license plate number, fuel type and vehicle make and model.

1933 17.3.15.1 Compliance Data Required under Applicable Law. Contractor must report  
1934 the total number of Service Units serviced and the number of containers, container sizes and  
1935 frequency of collection for Refuse, Recyclable Materials and Organic Waste for each non-  
1936 exempt Commercial Service Unit. Contractor must also provide the following information  
1937 separately: the total number of non-exempt Service Units that fall under the thresholds set  
1938 under Applicable Law (see AB 341 and AB 1826), and the total number of those non-exempt  
1939 Service Units that are not subscribed to Commercial Recycling Collection Service or  
1940 Commercial Organics Collection Service

1941 17.3.15.2 Outreach Summary. A summary of the type of follow-up outreach that was  
1942 provided to those non-exempt Service Units that are not subscribed to Commercial Recycling  
1943 Collection Service or Commercial Organics Collection Service.

1944 17.3.16 Training Records. Contractor shall provide proof of training records for Service  
1945 Recipient personnel, emergency procedures, Customer Service Courtesy, and how to recognize  
1946 Illicit Discharges and stormwater pollution sources.

1947 17.4 CalRecycle Reports. Contractor will provide reasonable assistance to County in preparing annual  
1948 reports to CalRecycle (the "Electronic Annual Report" or EAR), including, but not limited to, supplying  
1949 required data for preparation of the reports, and completing all required data input in the Waste Reporting  
1950 System.

1951 17.4.1 In the event that CalRecycle requires County to report an Implementation  
1952 Schedule to comply with any Applicable Law, Contractor will provide assistance to County in  
1953 preparing a report, including Contractor's policies and procedures related to compliance with  
1954 Applicable Law and how Recyclable Materials or Organic Waste are collected, a description of the  
1955 geographic area, routes, list of addresses served and a method for tracking contamination, copies

1956 of route audits, copies of notice of contamination, copies of notices, violations, education and  
1957 enforcement actions issued, and copies of educational materials, flyers, brochures, newsletters,  
1958 website, and social media.

1959 17.5 Waste Characterization Audit. Contractor must conduct statistically valid waste audits of Service  
1960 Recipients' waste once annually, including Recycling, Refuse, and Organic Waste, and provide  
1961 characterization data to the County as part of its Annual Report (Section 17.3). Material types and guidance  
1962 should follow CalRecycle requirements and/or recommendations.

1963 17.6 Additional Reporting. Contractor must furnish County with any additional reports as may reasonably  
1964 be required, such reports to be prepared within a reasonable time following the reporting period.

## 1965 Article 18. Nondiscrimination

1966 18.1 Nondiscrimination. In the performance of all work and services under this Agreement, Contractor  
1967 may not discriminate against any person based on such person's race, sex, gender, gender identity, color,  
1968 national origin, religion, marital status, or sexual orientation. Contractor must comply with all applicable  
1969 local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting  
1970 discrimination in employment.

## 1971 Article 19. Service Inquiries and Complaints

1972 19.1 Contractor's Customer Service. All service inquiries and complaints will be directed to Contractor.  
1973 A representative of Contractor must be available to receive the complaints during normal business hours.  
1974 Customer Service training shall include courtesy, shall prohibit the use of loud or profane language, and  
1975 shall instruct Collection crews to perform the work quietly. Contractor shall use its best efforts to assure that  
1976 all employees present a neat appearance and conduct themselves in a courteous manner. Contractor shall  
1977 respond to customer complaints within twenty-four (24) hours of receipt, Holidays and weekends excluded.  
1978 Cases must be addressed and resolved within three (3) Work Days. In the case of a dispute between  
1979 Contractor and a Service Recipient, the matter will be reviewed, and a decision made by the Agreement  
1980 Administrator.

1981 19.2 Contractor will utilize an electronic customer service log to maintain a record of all inquiries and  
1982 complaints in a form approved by County. At a minimum, the log shall include a description of the complaint,  
1983 the date the complaint was received, the staff person who received the complaint, the name, telephone  
1984 number and address of the complainant, the actions the Contractor took to resolve the complaint (including  
1985 date of action(s)), and the date of resolution (if different than the date of the actions taken). Contractor shall  
1986 compile a customer complaint log summary in a format approved by Director and shall submit to Director  
1987 with the Quarterly Reports referenced in Section 17.2. The Contractor shall retain a record of each  
1988 complaint for a minimum of three (3) years from the time the first complaint was received.

1989 19.3 For those complaints related to missed Collections, where Containers are properly and timely set  
1990 out, that are received by 12:00 noon on a Work Day, Contractor will return to the Service Unit address and  
1991 Collect the missed materials before leaving the Service Area for the day. For those complaints related to



missed Collections received after 12:00 noon on a Work Day, Contractor will have until the end of the following Work Day to resolve the complaint. For those complaints related to repair or replacement of Collection Containers, the appropriate Sections of this Agreement will apply.

19.4 Contractor agrees that it is in the best interest of County that all Refuse, Recyclable Materials, and Organic Waste be collected on the scheduled Collection day. Accordingly, missed Collections will normally be Collected as set forth above regardless of the reason that the Collection was missed. However, in the event a Service Recipient requests missed Collection service more than two (2) times in any consecutive two (2) month period the Agreement Administrator will work with Contractor to determine an appropriate resolution to that situation. In the event Contractor believes any complaint to be without merit, Contractor will notify the Agreement Administrator, by e-mail. The Agreement Administrator will investigate all disputed complaints and render a decision.

19.5 Contractor's service and emergency telephone numbers must be accessible by a local (County) phone number or toll-free number. The service telephone number(s) must be listed in the area's telephone directories under Contractor's name in the White Pages and available through an online search and listed on the Contractor's website.

## Article 20. Quality of Performance of Contractor

20.1 Intent. Contractor acknowledges and agrees that one of County's primary goals in entering into this Agreement is to ensure Commercial Collection Services are of the highest caliber, Service Recipient satisfaction remains at the highest level, maximum diversion levels are achieved, and materials Collected are put to the highest and best use to the extent possible.

20.2 Administrative Charges and Penalties. Quality performance by the Contractor is of primary importance. Accordingly, Contractor agrees to pay County administrative charges and penalties as detailed in Exhibit 4 should Contractor fail to meet its responsibilities under this Agreement. Should Contractor be in breach of the requirements set forth in this Agreement, it is mutually understood and agreed the public will necessarily suffer damages and such damages, from the nature of the default in performance will be extremely difficult and impractical to fix. County finds, and the Contractor agrees, that, as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which will be incurred by County as a result of a breach by Contractor of its obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration and deprivation of the benefits of this Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) services might be available at substantially lower costs than alternative services, and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies making the public whole for past breaches.

2030 20.3 Procedure for Review of Administrative Charges. The Agreement Administrator may assess  
2031 administrative charges and penalties as specified in Exhibit 4 pursuant to this Agreement quarterly. At the  
2032 end of each quarter during the term of this Agreement, the Agreement Administrator will issue a written  
2033 notice to Contractor ("Notice of Assessment") of the administrative charges assessed and the basis for  
2034 each assessment.

2035 20.3.1 The assessment will become final unless, within ten (10) calendar days of the date  
2036 of the notice of assessment, Contractor provides a written request for a meeting with the County  
2037 Administrator to present evidence that the assessment should not be made.

2038 20.3.2 The Agreement Administrator will schedule a meeting between Contractor and the  
2039 County Administrator as soon as reasonably possible after timely receipt of Contractor's request.

2040 20.3.3 The County Administrator will review Contractor's evidence and render a decision  
2041 sustaining or reversing the administrative charges as soon as reasonably possible after the  
2042 meeting. Written notice of the decision will be provided to Contractor.

2043 20.3.4 In the event Contractor does not submit a written request for a meeting within ten  
2044 (10) calendar days of the date of the Notice of Assessment, the Agreement Administrator's  
2045 determination will be final.

2046 20.3.5 County's assessment or collection of administrative charges will not prevent  
2047 County from exercising any other right or remedy, including the right to terminate this Agreement,  
2048 for Contractor's failure to perform the work and services in the manner set forth in this Agreement.

2049 20.4 Uncontrollable Circumstances.

2050 20.4.1 If either party is prevented from or delayed in performing its duties under this  
2051 Agreement by circumstances beyond its control, whether or not foreseeable, including, without  
2052 limitation, acts of terrorism, landslides, lightning, forest fires, storms, floods, severe weather,  
2053 freezing, earthquakes, other natural disasters, the threat of such natural disasters, pandemics (or  
2054 threat of same), quarantines, civil disturbances, acts of the public enemy, wars, blockades, public  
2055 riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint  
2056 or other causes, whether of the kind enumerated or otherwise, not reasonably within the control of  
2057 the affected party, then the affected party will be excused from performance hereunder during the  
2058 period of such disability.

2059 20.4.2 The party claiming excuse from performance must promptly notify the other party  
2060 when it learns of the existence of such cause, including the facts constituting such cause, and when  
2061 such cause has terminated.

2062 20.4.3 The interruption or discontinuance of services by a party caused by circumstances  
2063 outside of its control will not constitute a default under this Agreement.

## Article 21. Performance Bond

21.1 Within ten (10) Business Days from the date the Board of Supervisors approves this Agreement, Contractor must furnish to County, and keep current, a performance bond, for the faithful performance of this Agreement and all obligations arising hereunder. From January 1, 2024, and so long as this Agreement or any extension thereof remains in force, Contractor must maintain a performance bond in the amount of one hundred thousand dollars (\$100,000).

21.2 The performance bond must be executed by a surety company licensed to do business in the State of California; having an "A-" or better rating by A. M. Best or Standard and Poor's; and included on the list of surety companies approved by the Treasurer of the United States, in a County-approved format.

21.3 In the event County draws on the bond, all of County's costs of collection and enforcement of the Bond, including reasonable attorney's fees and costs, must be paid by Contractor.

21.4 The Performance Bond must automatically renew annually for the entire term of the Agreement.

## Article 22. Insurance

22.1 Insurance Policies. Contractor must secure and maintain throughout the term of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work or services under this Contract. Contractor's performance of work or services includes performance by Contractor's employees, agents, representatives, and subcontractors.

22.2 Minimum Scope of Insurance. Insurance coverage must be at least this broad:

22.2.1 Insurance Services Office Form No. GL 0002 (Ed. 1/96) covering Comprehensive General Liability and Insurance Services Office Form No. GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001), including X, C, U where applicable.

22.2.2 Insurance Services Office Form No. CA 0001 (Ed. 12/93) covering Automobile Liability, code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage must also include code 8, "hired autos" and code 9 "non-owned autos".

22.2.3 Workers' Compensation insurance as required by the California Labor Code and Employers Liability Insurance.

22.2.4 Environmental Pollution Liability Insurance.

22.3 Minimum Limits of Insurance. Contractor must maintain insurance limits no less than:

22.3.1 Comprehensive General Liability: \$3,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability insurance

2096 with a general aggregate limit is used, either the general aggregate limit will apply separately to  
 2097 this Agreement, or the general aggregate limit must be \$5,000,000.

2098 22.3.2 Automobile Liability: \$10,000,000 combined single limit per accident for bodily  
 2099 injury and property damage.

2100 22.3.3 Workers' Compensation and Employers Liability: Workers' Compensation limits as  
 2101 required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident.

2102 22.3.4 Environmental Pollution Liability: \$3,000,000 per occurrence and \$5,000,000  
 2103 aggregate, with five (5) years tail coverage. Coverage shall include bodily injury or property damage  
 2104 arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or  
 2105 escape of pollutants resulting from Contractor's operations.

2106 22.3.5 If Contractor maintains higher limits than the minimum shown above, the County  
 2107 requires and shall be entitled to coverage for the higher limits maintained by the Service Provider.  
 2108 Any available insurance proceeds exceeding the specified minimum limits of insurance and  
 2109 coverage shall be available to the County.

2110 22.4 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention must be declared  
 2111 to County's risk manager. Should County form a reasonable belief Contractor may be unable to pay any  
 2112 deductibles or self-insured retentions, Contractor must procure a bond guaranteeing payment of losses and  
 2113 related investigations, claim administration and defense expenses in an amount specified by County's risk  
 2114 manager.

2115 22.5 Endorsements. The policies are to contain, or be endorsed to contain, the following provisions:

2116 22.5.1 General Liability, Automobile and Environmental Liability Coverage.

2117 22.5.1.1 County, its officers, employees, agents, and contractors are to be covered  
 2118 as additional insureds as respects: Liability arising out of activities performed by, or on behalf  
 2119 of, Contractor; products and completed operations of Contractor; Premises owned, leased or  
 2120 used by Contractor; and automobiles owned, leased, hired or borrowed by Contractor. The  
 2121 coverage must contain no special limitations on the scope of protection afforded to County, its  
 2122 officers, employees, agents and contractors.

2123 22.5.1.2 Contractor's insurance coverage must be primary insurance as respects  
 2124 County, its officers, employees, agents, and contractors. Any insurance, or self-insurance  
 2125 maintained by County, its officers, employees, agents, or contractors will be in excess of  
 2126 Contractor's insurance and will not contribute with it.

2127 22.5.1.3 Any failure to comply with reporting provisions of the policies will not affect  
 2128 coverage provided to County, its officers, employees, agents, or contractors.



22.11 Failure to maintain insurance. Should Contractor fail to obtain or maintain insurance as required by this Agreement, Contractor shall have seven (7) days to cure the defect, during which time County shall have the option, but not the obligation, to, at Contractor's sole expense: (i) hire replacement waste Collection Services to perform Contractor's tasks until insurance coverage is resumed; or (ii) obtain replacement insurance coverage during said cure period. Should Contractor fail to correct this defect, County shall have the option to terminate this Agreement immediately.

## Article 23. Hold Harmless and Indemnification

23.1 Hold Harmless for Contractor's Damages. Contractor holds County, its elected officials, officers, agents, employees, and volunteers harmless from all of Contractor's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Contractor, to Contractor's employees, to Contractor's contractors or subcontractors, or to the owners of Contractor's firm, which damages, losses, injuries or liability occur during the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

23.2 Defense and Indemnity of Third-Party Claims/Liability. Contractor shall indemnify, defend with legal counsel approved by County, and hold harmless County, its officers, officials, employees, and volunteers ("County Indemnitees") from and against all liability including, but not limited to, loss, damage, expense, cost (including, without limitation, reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of, or in connection with, Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the active negligence or willful misconduct of County. Should conflict of interest principles preclude a single legal counsel from representing both County and Contractor, or should County otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse County its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay County any final judgment rendered against County (and its officers, officials, employees, and volunteers) with respect to claims covered by this Section. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement. Contractor's obligations under this Section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by a County Indemnitee. However, without affecting the rights of County under any provision of this Agreement, Contractor shall not be required to indemnify and hold harmless County for liability attributable to the active negligence of County, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where County is shown to have been actively negligent and where County's active negligence accounts for only a percentage of the liability involved, the obligation of the Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of County.

23.3 Nonwaiver. County does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this Section because of the acceptance by County, or the deposit with County, of any insurance certificates or policies described in Article 22.

2203 23.4 Diversion Indemnification. Subject to the requirements of Public Resources Code section 40059.1,  
2204 which will control in the event of any conflict with the provisions of this Section, Contractor agrees to defend  
2205 and indemnify County Indemnitees with counsel selected by Contractor and approved by County, to pay all  
2206 attorneys' fees, and to indemnify and hold County Indemnitees harmless from and against all fines or  
2207 penalties imposed by the CalRecycle if the diversion goals specified in California Public Resources Code  
2208 section 41780, as it may be amended, are not met by County with respect to the Materials Collected by  
2209 Contractor and if the lack in meeting such goals are attributable to the failure of Contractor to implement  
2210 and operate the recycling or diversion programs or undertake the related activities required by this  
2211 Agreement. In the event CalRecycle provides an administrative process to challenge the imposition of a  
2212 compliance order, a fine, or fines, Contractor will be responsible for engaging any consultants or attorneys  
2213 necessary to represent County in any challenge. Contractor will be responsible for the retention of and  
2214 payment to any consultants engaged to perform waste generation studies (diversion and disposal). All  
2215 consultants and attorneys engaged hereunder are subject to the agreement of County and Contractor.

2216 23.5 Hazardous Substances Indemnification. Contractor agrees to indemnify, defend (with counsel  
2217 reasonably approved by County), protect and hold harmless the County Indemnitees from and against any  
2218 and all claims of any kind whatsoever paid, suffered or incurred by or against the County Indemnitees  
2219 resulting from any action or response action undertaken pursuant to CERCLA, the Carpenter-Presley-  
2220 Tanner Hazardous Substance Account Act of 1981, Health & Safety Code Sections 25300 et seq., or other  
2221 similar federal, state or local law or regulation with respect to Solid Waste or Hazardous Waste Collected  
2222 and Disposed of by Contractor. The foregoing indemnity is intended to operate as an agreement pursuant  
2223 to Section 107(e) of CERCLA and Section 25364 of the Health & Safety Code to defend, protect, hold  
2224 harmless and indemnify the County Indemnitees from all forms of liability under CERCLA, the Carpenter-  
2225 Presley-Tanner Hazardous Substance Account Act of 1981 with respect to Solid Waste or Hazardous  
2226 Waste Collected and Disposed of by Contractor.

2227 23.6 Proposition 218 Release. County intends to comply with all applicable laws concerning the  
2228 Maximum Service Rates provided under this Agreement. Upon thorough analysis, the parties have made  
2229 a good faith determination that the Maximum Service Rates for the Solid Waste collection services provided  
2230 under this Agreement are not subject to California Constitution Articles XIIC and XIID because, among  
2231 other reasons, such services are provided by a private corporation and not by County pursuant to Article 5,  
2232 Contractor independently establishes the rates for services within the limits established in this Agreement,  
2233 the receipt of services is voluntary and not required of any property within County, and any owner or Service  
2234 Recipient of property within County has the opportunity to avoid the services available under this Agreement  
2235 either through self-hauling or use of property in such a manner that Solid Waste is not generated.  
2236 Accordingly, Contractor agrees to hold harmless and release the County Indemnitees from and against any  
2237 and all claims Contractor may have against the County Indemnitees resulting in any form from the Maximum  
2238 Service Rates provided for under this Agreement or in connection with the application of California  
2239 Constitution Article XIIC and Article XIID to the imposition, payment or collection of the rates under this  
2240 Agreement. This Section will survive the expiration or termination of this Agreement for ~~C~~laims arising  
2241 prior to the expiration or termination of this Agreement.

2242 23.7 Consideration. It is specifically understood and agreed that the consideration inuring to Contractor  
2243 for the execution of this Agreement consists of the promises, payments, covenants, rights, and  
2244 responsibilities contained in this Agreement.

2245 23.8 Obligation. This Agreement obligates Contractor to comply with the foregoing indemnification and  
2246 release provisions; however, the collateral obligation of providing insurance must also be satisfied as set  
2247 forth in this Agreement. The provision of insurance, and the coverage limits therein, shall not in any way be  
2248 a limitation on Contractor's indemnification and defense obligations.

2249 23.9 Subcontractors. Contractor must require all subcontractors performing work in the County to enter  
2250 into a contract containing the provisions set forth in Article 23 in which contract the subcontractor fully  
2251 indemnifies County in accordance with this Agreement.

2252 23.10 Exception. Notwithstanding other provisions of this Agreement, Contractor's obligation to  
2253 indemnify, hold harmless and defend County, its officers and employees will not extend to any loss, liability,  
2254 penalty, damage, action, or suit arising or resulting solely from acts or omissions constituting active  
2255 negligence, willful misconduct, breach of this Agreement, or violation of law on the part of County, its  
2256 officers, or employees.

2257 23.11 Damage by Contractor. If Contractor's employees or subcontractors cause any injury, damage, or  
2258 loss to County property, including, but not limited to, County streets or curbs, excluding normal wear and  
2259 tear, Contractor must reimburse County for County's cost of repairing or replacing such injury, damage, or  
2260 loss. Such reimbursement is not in derogation of any right of County to be indemnified by Contractor for  
2261 any such injury, damage, or loss. With the prior written approval of County, Contractor may repair the  
2262 damage at Contractor's sole cost and expense. Any injury, damage or loss to private property caused by  
2263 the negligent or willful acts or omissions of Contractor to private property must be repaired or replaced by  
2264 Contractor at Contractor's sole expense. Disputes between Contractor and its Service Recipients or private  
2265 property owners relating to damage to private property are civil matters and complaints of damage will be  
2266 referred to Contractor as a matter within its sole responsibility and as a matter within the scope of Article  
2267 23.

## 2268 Article 24. Default of Agreement

2269 24.1 Termination. County may terminate this Agreement, except as otherwise provided below in this  
2270 Section, by giving Contractor thirty (30) calendar days advance written notice, to be served as provided in  
2271 this Agreement, upon the happening of any one of the following events:

2272 24.1.1 Contractor takes the benefit of any present or future insolvency statute, or makes  
2273 a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy (court)  
2274 or a petition or answer seeking an arrangement for its reorganization or the readjustment of its  
2275 indebtedness under the Federal bankruptcy laws or under any other law or statute of the United  
2276 States or any State thereof, or consent to the appointment of a receiver, trustee or liquidator of all  
2277 or substantially all of its property; or



2278 24.1.2 By order or decree of a court, Contractor is adjudged bankrupt or an order is made  
2279 approving a petition filed by any of its creditors or by any of the stockholders of Contractor, seeking  
2280 its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or  
2281 under any law or statute of the United States or of any State thereof, provided that if any such  
2282 judgment or order is stayed or vacated within sixty (60) calendar days after the entry thereof, any  
2283 notice of default will be and become null, void and of no effect; unless such stayed judgment or  
2284 order is reinstated in which case, such default will be deemed immediate; or

2285 24.1.3 By, or pursuant to, or under the authority of any legislative act, resolution or rule  
2286 or any order or decree of any court or governmental board, agency or officer having jurisdiction, a  
2287 receiver, trustee, or liquidator takes possession or control of all, or substantially all, Contractor  
2288 property, and such possession or control continues in effect for a period of sixty (60) calendar days;  
2289 or

2290 24.1.4 Contractor has defaulted, by failing or refusing to pay in a timely manner the  
2291 administrative charges or other monies due County and such default is not cured within thirty (30)  
2292 calendar days of receipt of written notice by County to do so; or

2293 24.1.5 Contractor has defaulted by allowing any final judgment for the payment of money  
2294 owed to County to stand against it unsatisfied and such default is not cured within thirty (30)  
2295 calendar days of receipt of written notice by County to do so; or

2296 24.1.6 In the event that monies due County under Section 24.1.3 above or an unsatisfied  
2297 final judgment under Section 24.1.4 above is the subject of a judicial proceeding, Contractor will  
2298 not be in default if the sum of money is bonded. All bonds must be in the form acceptable to the  
2299 County Attorney; or

2300 24.1.7 Contractor has defaulted, by failing or refusing to perform or observe any of the  
2301 terms, conditions or covenants in this Agreement, including, but not limited to, the maintenance of  
2302 a performance bond in accordance with Article 21, or any of the rules and regulations promulgated  
2303 by County pursuant thereto or has wrongfully failed or refused to comply with the instructions of the  
2304 Agreement Administrator relative thereto and such default is not cured within thirty (30) calendar  
2305 days of receipt of written notice by County to do so, or if by reason of the nature of such default,  
2306 the same cannot be remedied within thirty (30) calendar days following receipt by Contractor of  
2307 written demand from County to do so, Contractor fails to commence the remedy of such default  
2308 within such thirty (30) calendar days following such written notice or having so commenced fails  
2309 thereafter to continue with diligence the curing thereof (with Contractor having the burden of proof  
2310 to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it  
2311 is proceeding with diligence to cure such default, and such default will be cured within a reasonable  
2312 period of time). However, notwithstanding anything contained herein to the contrary, for the failure  
2313 of Contractor to provide Commercial Collection Services for a period of three (3) consecutive Work  
2314 Days, County may secure Contractor's records on the fourth (4th) Work Day in order to provide  
2315 interim Commercial Collection Services until such time as the matter is resolved and Contractor is  
2316 again able to perform pursuant to this Agreement; provided, however, if Contractor is unable for

any reason or cause to resume performance at the end of thirty (30) calendar days all liability of County under this Agreement to Contractor will cease and this Agreement may be terminated by County.

24.2 Violations. Notwithstanding the foregoing and as supplemental and additional means of termination of this Agreement under this Article, in the event that Contractor's record of performance shows that Contractor has defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by Contractor three (3) or more times in any twenty-four (24) month period, and regardless of whether the Contractor has corrected each individual condition of default, Contractor will be deemed a "habitual violator", will be deemed to have waived the right to any further notice or grace period to correct, and all such defaults will be considered cumulative and collectively will constitute a condition of irredeemable default. County will thereupon issue Contractor a final warning citing the circumstances therefore, and any single default by Contractor of whatever nature, subsequent to the occurrence of the last of such cumulative defaults, will be grounds for immediate termination of the Agreement. In the event of any such subsequent default, County may terminate this Agreement upon giving of written final notice to Contractor, such cancellation to be effective upon the date specified in County's written notice to Contractor, and all contractual fees due hereunder plus any and all charges and interest will be payable to such date, and Contractor will have no further rights hereunder. Immediately upon the specified date in such final notice Contractor must cease any further performance under this Agreement.

24.3 Termination Date. In the event of any the events specified above, and except as otherwise provided in such subsections, termination will be effective upon the date specified in County's written notice to Contractor and upon such date this Agreement will be deemed immediately terminated and upon such termination, except for payment of services rendered up to and including the date of termination, all liability of County under this Agreement to Contractor will cease, and County will have the right to call the performance bond and will be free to negotiate with other contractors for the operation of interim and long-term Commercial Collection Services. Contractor must reimburse County for all direct and indirect costs of providing any interim Commercial Collection Services resulting from Contractor's default in this Agreement.

24.4 Termination Cumulative. County's right to terminate this Agreement is cumulative to any other rights and remedies provided by law or by this Agreement.

24.5 Alternative Service. Should Contractor, for any reason, except the occurrence or existence of any of the events or conditions set forth in Section 20.4 (Uncontrollable Circumstances), Refuse or be unable, for a period of more than forty-eight (48) hours, to Collect a material portion or all of the Solid Waste which it is obligated under this Agreement to Collect, and as a result, Solid Waste should accumulate in County to such an extent, in such a manner, or for such a time that the County Administrator, in the reasonable exercise of the County Administrator's discretion, should find that such accumulation endangers or menaces the public health, safety or welfare, then County will have the right to Agreement with another Solid Waste enterprise to Collect any or all Solid Waste which Contractor is obligated to Collect pursuant to this Contract. County must provide twenty-four (24) hours prior written notice to Contractor during the period of such event, before contracting with another Solid Waste enterprise to Collect any or all Solid Waste that Contractor would otherwise collect pursuant to this Agreement for the duration of period during which Contractor is unable to provide such services. In such event, Contractor must undertake

commercially reasonable efforts to identify sources from which such substitute Solid Waste services are immediately available and must reimburse County for all expenses for such substitute services during period in which Contractor is unable to provide Commercial Collection Services required by this Agreement.

**24.6 Survival of Certain Contractor Obligations.** Notwithstanding the termination of this Agreement by Contractor or County, Contractor's obligation to indemnify, defend and hold County and County Indemnitees harmless as provided in this Agreement shall survive termination for five (5) years from the date of termination. Notwithstanding the termination of this Agreement by Contractor or County, such act shall not automatically invalidate or cancel any insurance policy, letter of credit, performance bond or similar instruments provided by Contractor under this Agreement and such policies, letters of credit, performance bonds and other instruments shall remain in full force and effect for one full year after termination.

**24.7 Arbitration.** Except as otherwise provided in this Agreement, any controversy, dispute, or claim arising out of, or related in any way to this Agreement, including without limitation, any claims for damages or compensation or any claims under or pursuant to a performance bond or letter of credit, shall be subject to binding arbitration before a neutral arbitrator in accordance with Title 9 or Part 3 of the California Code of Civil Procedure (commencing with Section 1280). Judgment upon any award or determination rendered by said arbitrator may be entered in any court having jurisdiction thereof. The arbitrator shall determine whether one or both parties shall pay the arbitrator's fees and costs associated with any discovery.

## Article 25. Modifications to the Agreement

**25.1 County-Directed Change.** County has the power to make changes in this Agreement to impose new rules and regulations on Contractor under this Agreement relative to the scope and methods of providing Commercial Collection Services as may from time-to-time be necessary and desirable for the public welfare. County reserves the right to redirect materials to alternate facilities. County will give the Contractor notice of any proposed change and an opportunity to be heard concerning those matters and agrees to adjust Maximum Service Rates to reflect additional costs borne by Contractor. The scope and method of providing Commercial Collection Services, as referenced herein, will be liberally construed to include procedures, operations, and obligations, financial or otherwise, of Contractor. When such modifications are made to this Agreement, County and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any modification in the Agreement under this Article. County and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between County and Contractor on compensation adjustment not be reached within six (6) months of the change request, or other period as agreed upon by both parties, County and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 24.7.

**25.2 Change in Law.** County and Contractor understand and agree that the California Legislature has the authority to make comprehensive Changes in Law, including but not limited to Solid Waste Collection legislation, and that these and other changes in Applicable Law in the future which mandate certain actions or programs for counties, municipalities or Contractor may require changes or modifications in some of the terms, conditions, or obligations under this Agreement. Contractor agrees that the terms and provisions of

County Code, as it now exists or as it may be amended in the future (in a manner not inconsistent with this Agreement), will apply to all provisions of this Agreement and the Service Recipients of Contractor located within the Service Area. In the event any future change in Federal law or regulations, State or local law or regulation, or the County Code materially alters the obligations of Contractor, then the affected Maximum Service Rates, as established in Exhibit 1 of this Agreement, will be adjusted in accordance with this Section. Nothing contained in this Agreement will require any party to perform any act or function contrary to law. County and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required to implement changes in the interest of the public welfare or due to Change in Law. When such modifications are made to this Agreement, County and Contractor will negotiate in good faith, a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of Contractor due to any Change in Law or modification in the Agreement under this Article. County and Contractor will not unreasonably withhold agreement to such compensation adjustment. Should agreement between County and Contractor on compensation adjustment not be reached within six (6) months of the change request, or other period as agreed upon by both parties, County and Contractor agree to submit the compensation adjustment to binding arbitration as described in Section 24.7.

## Article 26. Interpretation

26.1 Acknowledgement. It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Agreement and, accordingly, the rule that a contract will be interpreted strictly against the party preparing the same will not apply due to the joint contributions of both parties. For the purpose of this Agreement, wherever the masculine or neuter form is used, the same shall include the masculine or feminine, and the singular number shall include the plural, and the plural number shall include the singular, wherever the context so requires.

## Article 27. Conflict of Interest

27.1 Financial Interest. Contractor is unaware of any County employee or official that has a financial interest in Contractor's business. During the Term and/or as a result of being awarded this Agreement, Contractor shall not offer, encourage or accept any financial interest in Contractor's business by any County employee or official, nor shall Contractor provide any payment, gift or item of value to any County official, employee or agent, either directly or through intermediaries, who is involved in the negotiation, execution or administration of this Agreement except (a) as part of commercial transactions identical to those involving other members of the public generally or (b) lawful campaign contributions.

## Article 28. Contractor's Personnel

28.1 Personnel Requirements. Contractor shall assign only qualified personnel to perform all services required under this Agreement and shall be responsible for ensuring its employees comply with this Agreement and all Applicable Laws related to their employment and position. Contractor's employees, officers, agents, and subcontractors shall not identify themselves or in any way represent themselves as

being employees or officials of County. County may request the transfer of any employee of Contractor who materially violates any provision of this Agreement, or who is wanton, negligent, or discourteous in the performance of their duties under this Agreement.

28.2 Agreement Manager. Contractor shall designate a qualified employee to serve as its Agreement Manager and must provide the name of that person in writing to County within thirty (30) days prior to the Commencement Date of this Agreement and annually by January 1st of each subsequent Calendar Year of this Agreement and any other time the person in that position changes. The Agreement Manager must be available to the County through the use of telecommunications equipment at all times that Contractor is providing Commercial Collection Services in the Service Area. The Agreement Manager must provide County with an emergency phone number where the Agreement Manager can be reached outside of normal business hours.

28.3 Service Supervisor. Contractor shall assign a qualified employee to serve as is Service Supervisor to be in charge of the Collection Service within the Service Area and must provide the name of that person in writing to the Agreement Administrator on or before the Commencement Date, and thereafter annually before January 1st of each subsequent Calendar Year of the Term, and any other time Contractor changes the employee serving in that position changes. The Service Supervisor must be physically located in the Service Area and available to the Agreement Administrator via telecommunication equipment whenever Contractor is providing Commercial Collection Services. If the Service Supervisor is unavailable due to illness or vacation, Contractor must designate a substitute acceptable to the County who shall be available and have the authority to act in the same capacity as the Service Supervisor.

28.4 Key Operations Staff. Contractor shall identify a Key Operations Staff consisting at a minimum of: one (1) Operations Manager; one (1) Route Supervisor; one (1) Lead Mechanical Supervisor; and one (1) Service Recipient Service Supervisor dedicated to the County and available to the County as needed. Each Key Operations Staff will provide the following to County Staff: email address, phone number, cell phone number and office address.

28.5 Sustainability/Compliance Staff. In accordance with Article 15, Contractor shall provide one full-time Sustainability/Compliance Staff. This section does not apply to the Remote Area.

28.6 Field Personnel. Contractor's field operations personnel are required to wear a clean uniform shirt bearing Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, must bear some means of individual photographic identification such as a name tag or identification card. Each driver of a Collection vehicle must always carry a valid California driver's license and all other required licenses for the type of vehicle being operated.

28.7 Labor Certifications. Contractor certifies: (i) it is aware of the provisions of Section 3700 of the California Labor Code requiring every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code; (ii) in the performance of the Services, Contractor shall not, in any manner, employ any person or contract with any person so that any part of this Agreement is so performed by such person would be subject to the workers' compensation laws of the State of California unless and until Contractor gives County a certificate of consent to self-insure or

a certificate of Workers' Compensation Insurance Coverage; and (iii) in the event Contractor hires any subcontractor who has employees to perform the any part thereof, then Contractor shall either require the subcontractor to obtain Workers' Compensation Insurance Coverage, or must obtain Workers' Compensation Insurance Coverage for the subcontractor's employees. Before commencing performance under this Agreement, Contractor shall provide to the County evidence of any Workers' Compensation Insurance Coverage required by or for this Agreement, and all such coverage shall be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, its agents, and its subcontractors.

28.8 Employment & Labor Practices. Contractor shall indemnify and hold harmless County and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of County officials, from any and all liability, damages, claims, costs, and expenses of any nature to the extent arising from Contractor's personnel and labor practices. All duties of Contractor under this paragraph shall survive termination of this Agreement.

28.9 Subcontractors. Contractor shall not subcontract any portion of this Agreement without the prior written approval of the County Administrator. Contractor is fully responsible to County for the performance of any and all subcontractors, if any, and shall insure any and all subcontractors perform services in accordance with all terms and conditions of this Agreement. Contractor shall require any subcontractors to maintain all applicable federal, state, and local licenses required for the work they are assigned to perform. Contractor shall require any subcontractors performing work in the County to enter into a written contract that requires such subcontractors to agree they are independent contractors and have no other agency relationship with County.

28.10 Conduct of Personnel. Contractor shall require its employees and agents (including Subcontractors) to be courteous, to work as quietly as possible, to leave containers where originally found, to wear appropriate clothing and other personal protective equipment (PPE) as necessary, to use only regular pedestrian walkways or driveways while on private property, and to avoid trespassing, loitering, or meddling with property or events that do not concern them. Contractor shall clean up any spilled material created during collection of any container.

## Article 29. Exempt Waste

29.1 Contractor is not required to Collect or dispose any Exempt Waste but may offer such services. All such Collection and disposal of Exempt Waste is not regulated under this Agreement, but, if provided by Contractor, must be in strict compliance with all Applicable Laws.

## Article 30. Independent Contractor

30.1 In the performance of services pursuant to this Agreement, Contractor is an independent contractor and not an officer, agent, servant, or employee of County. Contractor will have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Neither Contractor nor its officers, employees, agents, contractors, or

subcontractors will obtain any right to retirement benefits, Workers Compensation benefits, or any other benefits which accrued to County employees and Contractor expressly waives any claim to such benefits.

30.2 Subcontractors. Contractor will require all subcontractors performing work in the County to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor agrees that Contractor and subcontractor are independent contractors and have no other agency relationship with County.

## Article 31. Laws to Govern

31.1 The law of the State of California governs the rights, obligations, duties and liabilities of County and Contractor under this Agreement and govern the interpretation of this Agreement.

## Article 32. Consent to Jurisdiction

32.1 Notwithstanding the binding arbitration clause, the parties agree that any litigation between County and Contractor concerning or arising out of this Agreement must be filed and maintained exclusively in the Superior Court of Ventura County, State of California, or in the United States District Court for the Central District of California. Each party consents to service of process in any manner authorized by California law. This provision should not be interpreted as a waiver or exception to the arbitration clause set forth herein.

## Article 33. Assignment

33.1 No Contractor interest in this Agreement may be assigned, sold, or transferred (collectively referred to hereinafter as Transfer), either in whole or in part, without the prior written consent of the County in accordance with this Section. Contractor shall promptly notify Director in writing in advance of any proposed Transfer, which must be approved by the Board prior to taking effect. In the event the Board approves of any Transfer, said approval shall not relieve Contractor of any of its obligations or duties under this Agreement unless this Agreement is duly amended in writing. For purposes of this Section, "Transfer" shall also include, but not be limited to:

33.1.1 A sale, exchange, or other transfer a third party of at least 25 percent of Contractor's assets dedicated to service under this Agreement;

33.1.2 A sale, exchange, or other transfer to a third party, including other shareholders, of outstanding common stock of Contractor, which may result in a change of control of Contractor.

33.1.3 Any dissolution, reorganization, consolidation, merger, recapitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation, or other transaction to which Contractor or any of its shareholders is a party, which results in a change of ownership or control of Contractor.

33.1.4 Any assignment by operation of law including insolvency or bankruptcy, assignment for the benefit of creditors, writ of attachment for an execution being levied against this

2540 Agreement, appointment of a receiver taking possession of Contractor's property, or transfer  
2541 occurring in a probate proceeding.

2542 33.1.5 Any combination of the foregoing, whether or not in related or contemporaneous  
2543 transactions, which has the effect of any such transfer or change of ownership or change of control  
2544 of Contractor.

2545 33.2 Contractor must comply with the following requirements prior to the County's consideration and  
2546 approval of a Transfer request:

2547 33.2.1 Contractor must not be in material breach of this Agreement.

2548 33.2.2 Contractor must pay the County its reasonable expenses for attorney's fees and  
2549 staff costs to investigate the suitability of any entity to which Contractor proposes to Transfer its  
2550 interests (hereinafter, collectively Transferee), and to review and finalize any documentation  
2551 required as a condition for approving any such Transfer.

2552 33.2.3 Contractor shall furnish the County with audited financial statements of the  
2553 proposed Transferee's operations for the immediately preceding three (3) operating years.

2554 33.2.4 Contractor shall furnish the County with satisfactory proof that:

2555 33.2.4.1 The proposed Transferee has at least ten (10) years of Solid Waste  
2556 management experience on a scale equal to, or exceeding, the scale of operations conducted  
2557 by Contractor under this Agreement;

2558 33.2.4.2 The proposed Transferee has conducted its operations in an  
2559 environmentally safe and conscientious manner;

2560 33.2.4.3 The proposed Transferee has not had a license or permit authorizing  
2561 Transferee's Solid Waste collection operations forfeited or revoked by any local, state or federal  
2562 entity within the past five (5) years;

2563 33.2.4.4 The proposed Transferee or any of its officers, directors or employees  
2564 have not pled or been found guilty (or pled no contest), or had an adverse civil judgment  
2565 entered against them, regarding the following types of criminal offenses or civil claims related  
2566 to, or arising from, a Solid Waste collection operation within the past five (5) years: bribery,  
2567 forgery, price fixing, proposal rigging, fraud, obstruction of justice, extortion, racketeering or  
2568 illegal disposal of Solid Waste, Hazardous Waste or Recyclables; and

2569 33.2.4.5 The proposed Transferee can otherwise perform its duties and obligations  
2570 under this Agreement in a timely, safe, and effective manner.

2571 33.3 The use of a subcontractor to perform services under this Contract will not constitute delegation of  
2572 Contractor's duties if Contractor has received prior written authorization from the Agreement Administrator



to subcontract such services and the Agreement Administrator has approved a subcontractor who will perform such services. Contractor will be responsible for directing the work of Contractor's subcontractors and any compensation due or payable to Contractor's subcontractor will be the sole responsibility of Contractor. The Agreement Administrator will have the right to require the removal of any approved subcontractor for reasonable cause.

## Article 34. Compliance with Laws

34.1 In the performance of this Agreement, Contractor must comply with all Applicable Laws, including, without limitation, the County Code.

34.2 County will make reasonable efforts to provide written notice to Contractor of any planned amendment of the Ventura County Code that may substantially affect the performance of Contractor's services pursuant to this Agreement. Such notice will be provided thirty (30) calendar days prior to the Board of Supervisors' approval of such an amendment when feasible. Failure to provide the advanced notice referenced herein does not excuse or delay Contractor's required compliance with the Ventura County Code.

## Article 35. Permits and Licenses

35.1 Contractor shall obtain, at its own expense, all permits, and licenses required by law or ordinance and maintain same in full force and effect throughout the term of this Agreement. Contractor must provide proof of such permits, licenses or approvals and must demonstrate compliance with the terms and conditions of such permits, licenses, and approvals upon the request of the Agreement Administrator.

35.2 The Contractor must have a valid County Business Tax Certificate throughout the Term.

## Article 36. Ownership of Written Materials

36.1 Contractor hereby grants County a non-exclusive license as to all reports, documents, brochures, public education materials, and other similar written, printed, electronic or photographic materials developed by Contractor at the request of County or as required under this Agreement, and intended for public use, without limitation or restrictions on the use of such materials by County. Contractor may not use such materials that specifically reference County for other purposes without the prior written consent of the Agreement Administrator. This Article 36 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

## Article 37. Waiver

37.1 Waiver by County or Contractor of any breach for violation of any term covenant or condition of this Agreement will not be deemed to be a waiver of any other term, covenant or condition or any subsequent breach or violation of the same or of any other term, covenant, or condition. The subsequent acceptance by County of any fee, tax, or any other monies which may become due from Contractor to County will not

2606 be deemed to be a waiver by County of any breach for violation of any term, covenant, or condition of this  
2607 Agreement.

## 2608 Article 38. Prohibition Against Gifts

2609 38.1 Contractor represents that Contractor is familiar with County's prohibition against the acceptance  
2610 of any gift by a County officer or designated employee. Contractor may not offer any County officer or  
2611 designated employee any gifts prohibited by the County.

## 2612 Article 39. Point of Contact

2613 39.1 The day-to-day dealings between Contractor and County will be between Contractor and the  
2614 Agreement Administrator.

## 2615 Article 40. Notices

2616 40.1 Except as provided in this Agreement, whenever either party desires to give notice to the other, it  
2617 must be given by written notice addressed to the party for whom it is intended, at the place last specified  
2618 and to the place for giving of notice in compliance with the provisions of this Section. For the present, the  
2619 parties designate the following as the respective persons and places for giving of notice:

2620 As to the County:

2621 County of Ventura

2622 Public Works Agency Water & Sanitation, IWMD

2623 800 S. Victoria Ave.

2624 Ventura, CA 93009-1650

2625 As to the Contractor:

2626 Marborg Industries

2627 Brian Borgatello, President

2628 P.O. Box 4127

2629 Santa Barbara, CA 93140

2630 40.2 Notices will be effective when received at the address specified above. Receipt will be presumed  
2631 three days after the notice is deposited in the United States post, with correct postage and address.  
2632 Changes to the respective address to which such notice is to be directed may be made by written notice.

40.3 Notice by County to Contractor of a Collection or other Service Recipient problem or complaint may be given to Contractor orally by telephone at Contractor's local office with confirmation sent to Contractor through the Customer Service System by the end of the Workday.

## Article 41. Transition to Next Contractor

41.1 In the event Contractor is not awarded an extension or new contract to continue to provide Commercial Collection Services following the expiration or early termination of this Agreement, Contractor will cooperate fully with County and any subsequent contractors to assure a smooth transition of services described in this Agreement. Such cooperation will include, but not be limited to, transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Service Recipients; providing a complete inventory of all Collection Containers; providing adequate labor and equipment to complete performance of all Commercial Collection Services required under this Agreement; taking reasonable actions necessary to transfer ownership of Containers, as appropriate, to County; including transporting such containers to a location designated by the Agreement Administrator; coordinating Collection of Materials set out in new containers if new containers are provided for a subsequent Agreements and providing other reports and data required by this Agreement.

## Article 42. Contractor's Records

42.1 Contractor shall keep and preserve, during the Term of this Agreement, full, complete, and accurate financial and accounting records, pertaining to cash, billing, and disposal transactions for the Service Area, prepared on an accrual basis in accordance with generally accepted accounting principles. These records and reports are necessary for the County to properly administer and monitor the Agreement and to assist the County in meeting the requirements of the Act. The Contractor shall keep and preserve, during the Term, and for a period of not less than four (4) years following expiration or other termination hereof or for any longer period required by law, full, complete, and accurate records as indicated in the Agreement.

42.2 Any records or documents required to be maintained pursuant to this Agreement must be made available for inspection or audit, at any time during regular business hours, upon written request by the Agreement Administrator, the County Counsel, County Auditor, County Administrator, or a designated representative of any of these officers. Copies of such documents will be provided to County electronically, available to County for inspection at the local Contractor office, or an alternate site if mutually agreed upon.

42.3 Contractor acknowledges that County is legally obligated to comply with the California Public Records Act ("CPRA"). County acknowledges that Contractor may consider certain records, reports, or information contained therein, ("Records") which Contractor is required to provide to County under this Agreement, to be of a proprietary or confidential nature. In such instances, Contractor will inform County in writing of which records are considered propriety or confidential and shall identify the statutory exceptions to disclosure provided under the CPRA that legally permit non-disclosure of the Records. Should County receive a request for records under the CPRA or Federal Freedom of Information Act ("FOIA") or a subpoena or other court order requesting disclosure of the Records, County will notify Contractor of the request, subpoena, or order and of County's obligation and intent to provide a response within ten (10)

calendar days. Contractor shall within five (5) calendar days either: (i) consent in writing to the disclosure of the Records; or (ii) seek and obtain, at Contractor's sole cost and expense, the order of a court of competent jurisdiction staying or enjoining the disclosure of the Records. If Contractor fails to timely respond, then County may proceed to disclosure the Records in which event Contractor agrees waives and releases County of any liability for the disclosure of the Records. In the event Contractor seeks a court order to stay or enjoining the disclosure of the Records, Contractor agrees to indemnify and hold harmless the County, its Council, elected and appointed board or commission members, officers, employees, volunteers and agents (collectively, "Indemnitees") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description, whether judicial, quasi-judicial or administrative in nature, arising or resulting from or in any way connected with the subject CPRA or FOIA request for the Records. This Indemnity shall survive the expiration or termination of this Agreement.

42.4 Where County has reason to believe that such records or documents may be lost or discarded in the event of the dissolution, disbandment or termination of Contractor's business, County may, by written request or demand of any of the above-named officers, require custody of the records be given to County and the records and documents be maintained by Agreement Administrator. Access to such records and documents will be granted to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

## Article 43. Entire Agreement

43.1 This Agreement and the attached Exhibits constitute the entire Agreement and understanding between the parties, and the Agreement will not be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties.

## Article 44. Severability

44.1 If any provision of this Agreement, or the application of it to any person or situation, is to any extent held invalid or unenforceable, the remainder of this Agreement and the application of such provisions to persons or situations other than those as to which it is held invalid or unenforceable, will not be affected, will continue in full force and effect, and will be enforced to the fullest extent permitted by law.

## Article 45. Right to Require Performance

45.1 The failure of County at any time to require performance by Contractor of any provision of this Agreement will in no way affect the right of County thereafter to enforce same. Nor will waiver by County of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

## Article 46. All Prior Agreements Superseded

46.1 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement and the parties

2705 agree there are no commitments, agreements or understandings concerning the subject matter of this  
2706 Agreement not contained in this document. Accordingly, it is agreed that no deviation from the terms of this  
2707 Agreement will be predicated upon any prior representations or agreements, whether oral or written.

## 2708 Article 47. Headings

2709 47.1 Headings in this document are for convenience of reference only and are not to be considered in  
2710 any interpretation of this Agreement.

## 2711 Article 48. Exhibits

2712 48.1 Each Exhibit referred to in this Agreement forms an essential part of this Agreement. Each such  
2713 Exhibit is a part of this Agreement, and each is incorporated by this reference. In the event of any conflicts  
2714 between this Agreement and the Exhibits, then this Agreement shall take priority.

## 2715 Article 49. No Third-Party Beneficiaries

2716  
2717 This Agreement shall not be interpreted as providing any third-parties rights.

## 2718 Article 50. Effective Date

2719 This Agreement will become effective when it is fully executed by County and Contractor and Contractor  
2720 will begin Commercial Collection Services under this Agreement as of January 1, 2024.

2721

2722 IN WITNESS WHEREOF, County and Contractor have executed this Agreement on the respective date(s)  
2723 below each signature.

2724 COUNTY OF \_\_\_\_\_ MARBORG INDUSTRIES, INC.

2725

2726 By: \_\_\_\_\_ By: \_\_\_\_\_

2727 Brian Borgatello

2728 President

2729 Title: \_\_\_\_\_

2730

2731

2732 ATTEST: \_\_\_\_\_ By: \_\_\_\_\_

2733

2734

2735 County Clerk

2736 APPROVED AS TO FORM

2737 County Counsel

2738

2739 By: \_\_\_\_\_

2740

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Exhibit 1

County Approved Maximum Service Rates Effective January 1, 2024

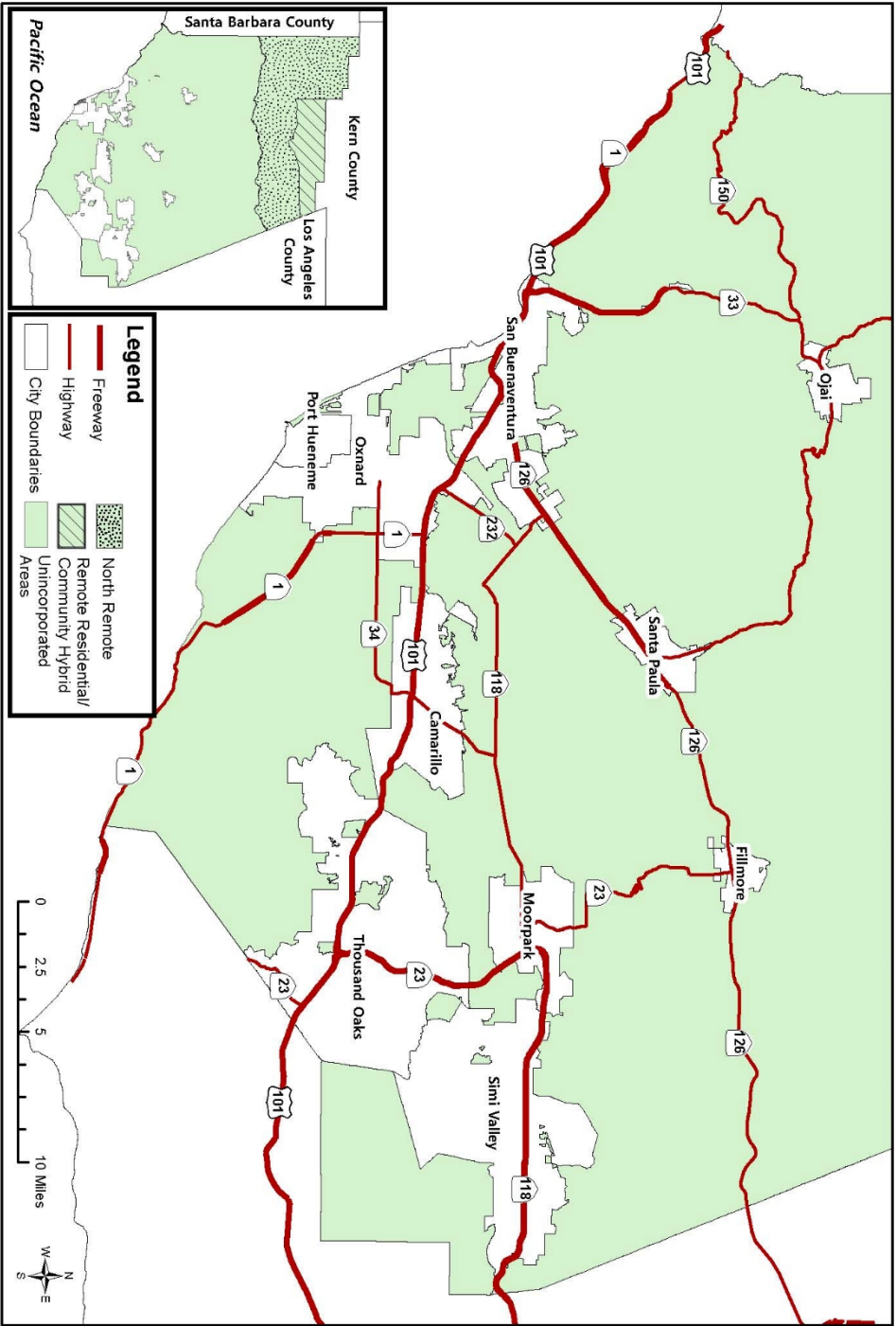
Service Size and Type  All Rates Applicable to Regular and Temporary Collection Service	Frequency					
	1x/wk	2x/wk	3x/wk	4x/wk	5x/wk	6x/wk
For services not listed in this Exhibit 1, Contractor may charge and collect any negotiated rate.						
64-96 Gal. Refuse Cart	\$61.80					
64-96 Gal. Recyclable Materials Cart	\$61.80					
64-96 Gal. Green Waste / Food Waste / or Mixed Cart	\$61.80					
1.5 Yard Bin Refuse Bin	\$133.32					
1.5 Yard Bin Recyclable Materials Bin	\$94.49					
3 Yard Bin Refuse Bin	\$187.69	\$297.69	\$407.75	\$517.74	\$627.77	\$737.79
3 Yard Bin Recyclable Materials Bin	\$130.71	\$209.69	\$286.06	\$362.43	\$440.09	\$516.46
4 Yard Bin Refuse Bin	\$205.67	\$333.70	\$461.72	\$589.75	\$717.78	\$845.80
4 Yard Bin Recyclable Materials Bin	\$144.00	\$233.58	\$323.22	\$412.82	\$502.44	\$592.05
40 Yard Roll-off Refuse Bin	\$235.57 + tipping fees (County Regulatory Fees may be added to Roll-off tipping fees only)					
40 Yard Roll-off Recyclable Materials Bin	\$235.57 + tipping fees (County Regulatory Fees may be added to Roll-off tipping fees only)					
Special Service Charges						
Return Trip (missed pick-up due to customer)	\$39.29					
Return Check fee	\$30.85					
Delinquent Fee/Non-Payment (accrues after account delinquent 30 days)	1.5% (Not compounding)					

Resume Service Charge (due to non-payment of acct)	\$32.73
Locking Bin Installation	\$39.29
Replacement Lock	\$9.17
Tires (depends on size and type - minimum fee)	\$6.53
Appliance containing Freon	\$45.82
Cathode Ray Tubes (per item disposal fee up to)	\$45.82
Bin Redelivery/Bin Relocation – per container	\$32.73
Drive-in Charge-necessary to use scout truck – per container	\$65.47
Hard to Service Area/Bin located substantial distance off road – per container	\$65.47
Excessive Weight/Bin Improperly Loaded (per ton, in addition to tip fee) – per container per incident	\$32.73
Special Handling (e.g., garage or mall "push out" (% of total rate) – per container	10%
Bin or Cart Exchange (in excess of 1 per year) – per container	\$65.47
Bin Replacement (due to customer damage or in excess of 1 per year) – per container	\$130.94
Cart Cleaning (in excess of 1 per year) – per container	\$65.47
Bin Cleaning (in excess of 1 per year) – per container	\$130.94
Overage Fee (Prior Arrangement) – per container	\$20.00
Overage Fee (No Prior Arrangement) – per container	\$40.00
Prohibited Container Contaminants Fee – per incident	20% of monthly service rate for the contaminated container



# Exhibit 2 Service Area Map

Service Area Map for Non-Exclusive Commercial Solid Waste Collection Agreement



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## **Exhibit 3**

### **Collection Container Specifications**

#### E4.01 Cart Specifications.

E4.01.1 All new or replacement Carts must be manufactured with a minimum twenty percent (20%) post-consumer recycled material content and come with a ten (10) year warranty against defects.

E4.01.2 Carts must be constructed with material that resists deterioration from ultraviolet radiation and be incapable of penetration by household pets or small wildlife when lids are fully closed.

E4.01.3 Contractor must provide Carts having an approximate volume of 32, 64 and 96 gallons. Actual cart volume may vary by +/- 10% depending on manufacturer.

E4.01.4 Carts must include wheels and handles that accommodate ease of movement by able-bodied persons, have heavy duty wheels, attached hinged lids, and be designed to be resistant to inadvertent tipping due to high winds.

E4.01.5 Carts must include lids that continuously overlap the Cart body so as to prevent the intrusion of rainwater and minimize odors. The lids would be of a design and weight so as to prevent the Cart body from tilting backward when flipping the lid open.

E4.01.6 Carts must be capable of being lifted into the Collection Vehicle without damage or distortion under normal usage.

E4.01.7 Carts be hot-stamped, embossed, or labeled/decaled with the company name, a unique identification number (i.e., serial number for carts), weight limit, and images of the type of materials to be Collected. All Carts shall also contain instructions for proper usage. If any of the above is accomplished via labels or decals, such labels or decals must be maintained and/or replaced as necessary throughout the term to maintain a near new appearance. Decals/labels showing types of materials collected in each Cart must be replaced annually.

E4.01.8 Cart and/or lids must meet all applicable colors and labeling specifications as set forth by CalRecycle (i.e., blue = recycle, black/charcoal = refuse, green/brown = yard waste/mixed organics, green w/yellow lid or yellow = food waste or other color standards as determined by CalRecycle prior to the start of this Agreement) under Applicable Law.

#### E4.02 Bin Specifications.

E4.02.1 Bins must be constructed of heavy metal or heavy plastic and must be watertight, well painted, in good condition and without rust or dents.

E4.02.2 Wheels, forklift slots, and other appurtenances, which are designed for movement, loading, or unloading of the container, must be maintained in good repair.

E4.02.3 Contractor may provide Bins having an approximate volume of 1, 2, 3, and 4-cubic yards.

E4.02.4 Bins must have the name and phone number of Contractor on the exterior so as to be visible when the Bin is placed for use.

E4.02.5 Each Bin must be labeled with a listing of materials that may and may not be placed in a particular Bin type, and each Bin must include a conspicuous warning: "Not to be used for the disposal of hazardous, electronic, or Universal Waste." Bins must be labelled in English and Spanish.

E4.02.6 Bid lids must be constructed of metal or heavy plastic, so as to minimize the intrusion of rainwater and minimize odors. Locking bins will be provided upon request at the rate set forth in Exhibit 1.

E4.02.7 Bins must be capable of being lifted into the Collection Vehicle without damage under normal usage.

E4.02.8 Bins must meet all applicable colors and labeling specifications as set forth by CalRecycle (i.e., blue = recycle, black/charcoal = refuse, green/brown = yard waste/mixed organics, green w/yellow lid or yellow = food waste or other color standards as determined by CalRecycle prior to the start of this Agreement).

#### E4.03 Roll-off Container Specifications.

Roll-off specifications shall be the same as Bin specifications E4.02.1 through E4.02.6, and E4.02.8. Roll-offs shall be provided in sizes 10, 20, 30, 40 cubic yards. Compactors shall be available in sizes 10, 20, 35, 40 cubic yards.

#### E4.05 Containers End of Life

Collection Containers must be recycled at the end of their useful life.

#### E4.06 Containers Purchase

Contractor shall report all new Carts and Bins purchased pursuant to this Agreement to its address within the County and shall report all purchases of Carts and Bins under this Agreement as attributable to the County for sales tax purposes.

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## Exhibit 4

### Administrative Charges and Penalties

Item		Amount if Not Cured in 30 Days	If Cured in 30 Days
a.	Failure to respond to each complaint within three (3) Work Days of receipt of complaint.	\$100 per day per Service Recipient.	
b.	Failure to maintain call center hours as required by this Agreement.	\$100 per day.	-0-
c.	Failure to submit to County all reports by the deadlines required under the provisions of this Agreement.	\$100 per day.	-0-
d.	Failure to include all parts of quarterly and annual reports specified in Sections 17.2 and 17.3 in the submitted report	\$100 per day.	-0-
e.	Failure to submit to County all payments by the deadlines required under the provisions of this Agreement.	1% of the total amount due if fees are 1 – 10 days late; and 10% of the total amount due if fees are more than 10 days late.	
f.	Failure for Collection Container to be compliant with specifications of Exhibit 3.	\$50.00/each Collection Container not compliant.	-0-
g.	Failure for Collection Container to be compliant with labeling requirements under Applicable Law (see SB 1383).	\$50.00/each Collection Container not compliant.	-0-
h.	Failure to display Contractor's name and customer service phone number on Collection Vehicles.	\$100 per incident per day.	-0-
i.	Failure to Collect a missed collection Container by close of the next Work Day upon notice to Contractor, that exceeds twenty (20) in any Calendar Year.	\$1,000 per Calendar year, plus \$10 per incident per day.	-0-
j.	Failure to repair or replace damaged Containers within the time required by this Agreement, that exceeds twenty (20) in any Calendar year.	\$1,000 per Calendar year, plus \$10 per incident per day.	
k.	Failure to maintain collection hours as required by this Agreement.	\$100 per day.	-0-
l.	Failure to have Contractor personnel in Contractor-provided uniforms.	\$25 per day per employee.	-0-

Item		Amount if Not Cured in 30 Days	If Cured in 30 Days
m.	Failure of Contractor to follow Recyclable Materials and Organic Waste Contamination and Overage procedures as set forth under Section 5.5 and 5.6.2.	\$100/day for failure to implement correction plan.	Submit for approval to County and implement plan of correction to County within 30 days.
n.	Vehicle fluid leak incidents from Contractor Collection Vehicles in excess of three (3) during a calendar year.		\$5000 per incident in excess of three (3)
o.	Failure of Contractor to provide proof of performance bond as required by this Agreement	Agreement Default	\$500 per day
p.	Failure of Contractor to provide proof of insurance as required by this Agreement	Agreement Default	\$500 per day
q.	Failure to provide County with documentation verifying Diversion, as outlined in Section 8.2, was achieved.	\$10,000/Quarter	Submit for approval to County and implement plan of correction within 30 days.
r.	Failure to Collect holiday trees on Collection Days.	\$25 per day.	-0-
s.	Failure to commence service to a new Service Recipient within seven (7) days after order.	\$150 per day	-0-
t.	Failure to initially respond to a Service Recipient complaint within one (1) business day.	\$50.00 per failure to resolve customer compliant or request	-0-

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**Exhibit 5**  
**Acceptable Recyclable Materials**

Recyclable Materials include but are not limited to:

Aluminum cans	Magazines/Catalogs
Aerosol cans	Newspaper
Aseptic containers	Paper
Brochures	Paper tubes
Cardboard	Phone books
Cereal boxes	Pizza boxes
Clothes hangers	Plastic containers #1-#7
Computer paper	Plastic film
Coupons	Plastic milk jugs
Envelopes	Plastic bags
Frozen food boxes and trays	Polystyrene (Styrofoam)
Glass bottles/jars	Tin cans
Glass cosmetic bottles	Tissue boxes
June mail	Wrapping paper
Laundry bottles	

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## Exhibit 6

### Rate Adjustment Calculation Worksheet

This exhibit describes the methodology for calculating the rate adjustments described in Section 6.2 for Annual Inflation Adjustment and Regulatory Fee Adjustments.

#### **I. CALCULATING THE ANNUAL INFLATION ADJUSTMENT**

Pursuant to Section 6.2.1 (Annual Inflation Adjustment), the following calculation shall be used to determine the appropriate adjustment to the CUSTOMER RATE based on an annual inflation adjustment. The annual inflation adjustment shall be applied to the BASE RATE.

#### **A. Calculating the BASE RATE**

Step 1. Identify the existing CUSTOMER RATE.

Step 2. Identify the current percentage of COUNTY REGULATORY FEES applied to the CUSTOMER RATE.

Step 3. Multiply the amount in Step 1 by the fee percentage identified in Step 2.

Step 4. Deduct this amount from the existing CUSTOMER RATE.

Step 5. Identify the current Integrated Waste Management Program (CIWMP) Fee applied to the CUSTOMER RATE and deduct this amount from the amount left in Step 4. This is the BASE RATE.

To calculate the CIWMP Fee that is applied to the CUSTOMER RATE, multiply the current CIWMP Fee rate, (i.e., 50 cents/ton of refuse disposed) by the most current estimate of annual refuse tons generated in the SERVICE AREA. This tonnage estimate shall be calculated based on the CONTRACTOR'S submittal of the most recent four quarters of refuse data provided to the COUNTY pursuant to Article 17, (Record Keeping and Reporting Requirements). Add the approved refuse tons for all four quarter and divide this amount by the number of COMMERCIAL CUSTOMERS in the SERVICE AREA. Divide this number by 12. This amount shall equal the current CIWMP Fee per month that is applied to the CUSTOMER RATE.

#### **Example BASE RATE Calculation:**

Example Step 1. CUSTOMER RATE = \$35.00

Example Step 2. COUNTY REGULATORY FEES = 11.25%

Example Step 3.  $\$35.00 * .1125 = \$3.94$

Example Step 4.  $\$35.00 - \$3.94 = \$31.06$

Example Step 5. Current CIWMP Fee =  $\$0.05/\text{ton} * 1,000 \text{ annual refuse tons} = \$50$   
 $\$50/500 \text{ COMMERCIAL CUSTOMER}/12 \text{ months} = \$0.008$   
 $\$31.06 - .008 = \$31.05 = \text{new BASE RATE}$

#### **B. Calculating the Annual Percentage Change in the CPI**

Step 6. Calculate the twelve (12) month average CPI ending September of the most recent year (regardless if a projection is deemed "preliminary").

- Step 7. Calculate the twelve (12) month average CPI ending September of the preceding year.
- Step 8. Subtract the previous period from the current period.
- Step 9. Divide this difference by the "previous period" CPI. This equals the total Annual Percentage Change in CPI. This is the allowable Annual Percentage Change in CPI that will be applied to the BASE RATE.

#### **Example Calculation of Annual Percentage Change in the CPI**

- Example Step 6. Current 12 month CPI average = 147
- Example Step 7. Previous 12 month CPI average = 143.5
- Example Step 8.  $147 - 143.5 = 3.5$
- Example Step 9.  $3.5/143.5 = 2.44\%$  (total Annual Percentage Change in CPI, applied to BASE RATE)

#### **C. Applying the Annual Percentage Change in CPI to the Base Rate**

- Step 10. Multiply the BASE RATE calculated in Step 5 by the Annual Percentage Change in CPI calculated in Step 9. Add to BASE RATE.
- Step 11. Add the REGULATORY FEES identified in Step 2 by dividing the BASE RATE (inclusive of CPI) by the inverse (.8875).
- Step 12. Add the CIWMP Fee calculated in Step 5 to this amount. This is the new CUSTOMER RATE.

#### **Example Calculation Applying Inflation Adjustment to BASE RATE:**

- Example Step 10.  $\$31.05 * 2.44\% = \$0.76$ ;  $\$31.05 + \$0.76 = \$31.81$
- Example Step 11.  $\$31.81/0.8875 = \$35.84$
- Example Step 12.  $\$35.84 + \$0.008 = \$35.85$  (New CUSTOMER RATE)

#### **D. Calculating the Rate Multiplier for Other Commercial Rates**

### **II. CALCULATING THE REGULATORY FEE ADJUSTMENT**

Pursuant to Section 6.2.2 (Regulatory Fee Adjustment), the following calculation shall be used to determine the appropriate adjustment to the CUSTOMER RATE based on a change in COUNTY REGULATORY FEES. There are three COUNTY REGULATORY FEES that may be adjusted: the Collector Fee, the Waste Management Fee, and the California Integrated Waste Management Program Fee (CIWMP).

- Step 1. Identify the existing CUSTOMER RATE.
- Step 2. Identify the current percentage of the COUNTY REGULATORY FEE being adjusted.
- Step 3. Multiply the amount in Step 1 by the fee percentage identified in Step 2.
- Step 4. Deduct this amount from the existing CUSTOMER RATE.



- 2870  
2871 Step 5. Identify the new percentage of COUNTY REGULATORY FEES.  
2872  
2873 Step 6. Divide the base rate from Step 4 by the inverse of the new percentage of COUNTY  
2874 REGULATORY FEES. This is the new CUSTOMER RATE.  
2875  
2876 Step 7. Divide the new CUSTOMER RATE by the CUSTOMER RATE identified in Step 1. This  
2877 is the rate multiplier to be applied to Single Family Dwelling additional containers, mini-  
2878 cart and bin services and Multi-Family Dwelling services.  
2879

2880 **Example Calculation for a Change in the Collector Fee and/or Waste Management Fee**  
2881

- 2882 Example Step 1. CUSTOMER RATE = \$35.00  
2883  
2884 Example Step 2. COUNTY REGULATORY FEE = 11.25%  
2885  
2886 Example Step 3.  $\$35.00 * .1125 = \$3.94$   
2887  
2888 Example Step 4.  $\$35.00 - \$3.94 = \$31.06$   
2889  
2890 Example Step 5 New COUNTY REGULATORY FEE = 12%  
2891  
2892 Example Step 6.  $\$31.06 / .88 = 35.30$  (New CUSTOMER RATE)  
2893  
2894 Example Step 7.  $\$35.30/\$35.00 = 1.01$  (New Rate Multiplier)  
2895

2896 **Example Calculation for a Change in the CIWMP Fee**  
2897

- 2898 Example Step 1. CUSTOMER RATE = \$35.00  
2899  
2900 Example Step 2. Existing COUNTY REGULATORY FEE = \$0.05/per ton disposed  
2901  
2902 Example Step 3.  $\$0.05/\text{ton} * 1,000 \text{ annual refuse tons} = \$50$   
2903  $\$50/500 \text{ COMMERCIAL CUSTOMERS}/12 \text{ months} = \$0.008$   
2904 (For more detail on this calculation, see "BASE RATE" calculation, Example Step  
2905 5)  
2906  
2907 Example Step 4.  $\$35.00 - .008 = \$34.99$   
2908  
2909 Example Step 5. New COUNTY REGULATORY FEE = \$0.10/per ton disposed  
2910  
2911 Example Step 6.  $\$0.10/\text{ton} * 1,000 \text{ annual refuse tons} = \$100$   
2912  $\$100/500 \text{ COMMERCIAL CUSTOMERS}/12 \text{ months} = \$0.016$   
2913  
2914  $\$34.99 + .016 = \$35.01$   
2915  
2916 Example Step 7.  $\$35.01/\$35.00 = 1.000$