

**AMENDMENT #3
TO THE AMENDED AND RESTATED
SOLID WASTE COLLECTION FRANCHISE AGREEMENT

FOR
SOLID WASTE, RECYCLABLE MATERIALS,
AND ORGANIC MATERIALS COLLECTION

BETWEEN
THE CITY OF ARROYO GRANDE

AND
SOUTH COUNTY SANITARY SERVICES, INC.**

MARCH 11, 2022 FINAL DRAFT

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This Amendment #3 to the Amended and Restated Solid Waste Collection Franchise Agreement between the City of Arroyo Grande and South County Sanitary, Inc. (“Amendment”), is made and entered into between the City of Arroyo Grande, a political subdivision of the State of California (hereafter “City”) and South County Sanitary Service, Inc. a California corporation (“Contractor”), each of which may be referred to individually as a “Party” or together as the “Parties.”

RECITALS

This Amendment #3 is made and entered into on the basis of the following facts, understandings, and intentions of the Parties:

WHEREAS: The Parties entered into a Solid Waste Collection Franchise Agreement between the City of Arroyo Grande and South County Sanitary Service on June, 10, 2008, (“Agreement” capitalized terms used but not defined herein shall have the meanings given to them in the Agreement); and,

WHEREAS: Section 4 of the Agreement provides City with the right to direct Contractor to modify the scope of one or more types of service described in the Agreement, or to otherwise modify its performance under the Agreement, subject to providing additional compensation; and,

WHEREAS: SB 1383 establishes regulatory requirements for jurisdictions, Generators, haulers, Solid Waste facilities, and other entities to support achievement of State-wide Organic Waste Disposal reduction targets; and,

WHEREAS: SB 1383 requires the City to implement Collection programs, meet Processing facility requirements, conduct contamination monitoring, provide education, maintain records, submit reports, monitor compliance, conduct enforcement, and fulfill other requirements; and, the City has chosen to delegate some of its responsibilities to the Contractor, acting as the City’s designee, through this Agreement; and,

WHEREAS: Both Parties have, in good faith, negotiated changes to the Agreement necessary to support the City’s compliance with SB 1383, as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained, City and Contractor do hereby agree as follows:

EFFECTIVE DATE

This Amendment #3 shall become effective on the date this Amendment is signed by both Parties.

PROGRAM AMENDMENTS TO AGREEMENT

Article 1.

Definitions

Article 1 of the Agreement is hereby amended to add or modify the following definitions:

“**AB 1826**” means the Organic Waste Recycling Act of 2014 (Chapter 727, Statutes of 2014 modifying Division 30 of the California Public Resources Code), also commonly referred to as “AB 1826,” as amended, supplemented, superseded, and replaced from time to time.

“**AB 341**” means the California Jobs and Recycling Act of 2011 (Chapter 476, Statues of 2011 [Chesbro, AB 341]), also commonly referred to as “AB 341”, as amended, supplemented, superseded, and replaced from time to time.

“AB 901” means Assembly Bill approved by the Governor of the State of California on October 10, 2015, which amended Section 41821.5 of, amended, renumbered and added Section 41821.6 of, and added Sections 41821.7 and 41821.8 to, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

“Applicable Law” means all Federal, State, County, and local laws, regulations, rules, orders, judgments, degrees, permits, approvals, or other requirement of any governmental agency having jurisdiction over the Collection, Transportation, and Processing of Recyclable Materials, Organic Materials, and Solid Waste that are in force on the Effective Date and as may be enacted, issued or amended during the Term of this Agreement. Applicable Law includes, but is in no way limited to, AB 939, AB 341, AB 1826, and SB 1383.

“Approved Facility(ies)” means any one of or any combination of the: Approved Materials Recovery Facility; and/or Approved Organic Materials Processing Facility.

“Approved Disposal Facility” means the Cold Canyon Landfill as the primary, and Chicago Grade Landfill, or the Santa Maria Landfill, as alternatives, which have been selected by the Contractor and approved by the City. Contractor shall notify City before using an alternative facility.

“Approved Materials Recovery Facility” means the Materials Recovery Facility at Cold Canyon Processing Facility, which has been selected by the Contractor and approved by the City.

“Approved Organic Materials Processing Facility” means the Hitachi Zosen Inova (HZI) Kompogas Facility located at 4300 Old Santa Fe Rd, San Luis Obispo, CA 93401, and Engel & Gray Inc. Regional Compost Facility, located at 745 West Betteravia Road, Santa Maria, California, which have been selected by the Contractor and approved by the City.

“Approved Processing Facility(ies)” means any one of or any combination of the: Approved Materials Recovery Facility; Approved Disposal Facility; or Approved Organic Materials Processing Facility.

“Bin” means a Container with capacity of approximately one (1) to eight (8) cubic yards, with a hinged lid, and with wheels (where appropriate), that is serviced by a front end-loading and/or rear-end-loading Collection vehicle, including Bins with Compactors attached to increase the capacity of the Bin.

“Business Days” mean days during which the City and Contractor offices are open to do business with the public.

“California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this Agreement are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

“CalRecycle” means California's Department of Resources Recycling and Recovery.

“Cart” means a plastic Container with a hinged lid and wheels that is serviced by an automated or semi-automated Collection vehicle. A Cart has capacity of 20, 35, 64 or 96 gallons (or similar volumes).

"City" means the City of Arroyo Grande, a political subdivision of the State of California, and all the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the term, acting through the City Council or the City Manager. The City may designate responsibilities to one or more third parties, in writing, between the City Manager and the designee.

"City Manager" means the City staff member or their designee responsible for contract management and maintenance.

"Collect" or **"Collection"** means to take physical possession, Transport, and remove Discarded Materials and other material at the place of generation in the City.

"Commercial" shall mean of, from, or pertaining to non-Residential Premises where business activity is conducted, including, but not limited to, retail sales, services, wholesale operations, manufacturing, and industrial operations, but excluding businesses conducted upon Residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

"Compactor" means a mechanical apparatus that compresses materials together with the Container that holds the compressed materials or the Container that holds the compressed materials if it is detached from the mechanical compaction apparatus. Compactors include two (2) to eight (8) cubic yard Bin Compactors serviced by front-end loader Collection vehicles and ten (10) to fifty (50) cubic yard Drop Box Compactors serviced by Roll-Off Collection vehicles.

"Complaint" shall mean each written or orally communicated statement made by any Person, whether to City or Contractor, alleging: (1) non-performance, or deficiencies in Contractor's performance, of its duties under this Agreement; (2) a violation by Contractor of this Agreement; or, (3) an SB 1383 Non-Compliance Complaint as required under 14 CCR Section 18995.3.

"Compost" (or any variation thereof) includes a controlled biological decomposition of Organic Materials yielding a safe and nuisance free Compost product.

"Compostable Plastic" means plastic materials that meet the ASTM D6400 standard for Compostability.

"Container" means Bins, Carts, Compactors, and franchise Roll-Offs.

"County" means the County of San Luis Obispo, a political subdivision of the State of California.

"Customer" means the Person whom Contractor submits its billing invoice to and collects payment from for Collection services provided to a Premises. The Customer may be either the Occupant or Owner of the Premises.

"Customer Notice" means the Contractor's notice to Customer(s) as described in Section 4.7.

"Designated Waste" means non-Hazardous Waste which may pose special Disposal problems because of its potential to contaminate the environment, and which may be Disposed of only in Class II Disposal sites or Class III Disposal sites pursuant to a variance issued by the California Department of Health Services. Designated Waste consists of those substances classified as

Designated Waste by the State, in California Code of Regulations Title 23, Section 2522 as may be amended from time to time.

“Discarded Materials” means Recyclable Materials, Organic Materials, and Solid Waste placed by a Generator in a receptacle and/or at a location for the purposes of Collection by Contractor, excluding Excluded Waste.

“Dispose” or “Disposal” (or any variation thereof) means the final disposition of Solid Waste, or Processing Residue at a Disposal Facility.

“Disposal Facility” means a landfill, or other facility for ultimate Disposal of Solid Waste.

“Divert” or “Diversion” (or any variation thereof) means to prevent Discarded Materials from Disposal at landfill or transformation facilities, (including facilities using incineration, pyrolysis, distillation, gasification, or biological conversion methods) through source reduction, reuse, Recycling, Composting, anaerobic digestion or other method of Processing, subsequent to the provisions of AB 939. Diversion is a broad concept that is to be inclusive of material handling and Processing changes that may occur over the Term including, but not limited to, changes in standard industry practice or implementation of innovative (but not necessarily fully proven) techniques or technology that reduce Disposal risk, decrease costs and/or are for other reasons deemed desirable by the City.

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

“Edible Food” means food intended for human consumption. For the purposes of this Agreement, Edible Food is not Solid Waste if it is recovered and not discarded. Nothing in this Agreement requires or authorizes the recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code. If the definition in 14 CCR Section 18982(a)(18) for Edible Food differs from this definition, the definition in 14 CCR Section 18982(a)(18) shall apply to this Agreement.

“Effective Date” means the date on which the latter of the two Parties signs this Agreement.

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

“Federal” means belonging to or pertaining to the Federal government of the United States.

“Food Recovery” means actions to Collect and distribute food for human consumption which otherwise would be Disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

“Food Scraps” means those Discarded Materials that will decompose and/or putrefy including: (i) all kitchen and table Food Waste; (ii) animal or vegetable waste that is generated during or results from the storage, preparation, cooking or handling of food stuffs; (iii) fruit waste, grain waste, dairy waste, meat, and fish waste; and, (iv) vegetable trimmings, houseplant trimmings and other Compostable Organic Waste common to the occupancy of Residential dwellings. Food Scraps are a subset of Food Waste.

“Food-Soiled Paper” means Compostable paper material that has come in contact with Food Scraps or liquid, such as, but not limited to, Compostable paper plates, napkins, and pizza boxes. Food - Soiled Paper is a subset of Food Waste.

“Food Waste” means Source Separated Food Scraps and Food-Soiled Paper. Food Waste is a subset of Organic Materials.

“Garbage” see also “Solid Waste”.

“Generator” has the same meaning as “Waste Generator”.

“Green Waste” means tree trimmings, grass cuttings, dead plants, leaves, branches, dead trees and scrap wood (not more than six (6) inches in diameter) and similar materials generated at the Premises. Green Waste is a subset of Organic Materials. Acceptable Green Waste may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

“Hazardous Substance” means any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant", or "toxic substances", or similarly identified as hazardous to human health or the environment, in or pursuant to: (i) the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and, (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and, (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other Applicable Law currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's (PCBs), petroleum, natural gas, and synthetic fuel products, and by-products.

“Holidays” are defined as New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

“Household Hazardous Waste” or “HHW” means Hazardous Waste generated at Residential Premises within the City. HHW includes: paint, stain, varnish, thinner, adhesives, auto products such

as old fuel, Used Motor Oil and Filter, Used Oil Filter, batteries, [household batteries](#), fluorescent bulbs, tubes, cleaners and sprays, pesticides, fertilizers and other garden products, needles, syringes, and [lancets](#).

“Infectious Waste” means biomedical waste generated at hospitals, public or private medical clinics, dental offices, research laboratories, pharmaceutical industries, blood banks, mortuaries, veterinary facilities and other similar establishments that are identified in Health and Safety Code Section 25117.5 as may be amended from time to time.

“Liquidated Damages” means the amounts due by Contractor for failure to meet specific quantifiable standards of performance as described in Section 12.3.

“Member Agency” means any jurisdiction that has allocated some or all of its Solid Waste powers to a Solid Waste Joint Powers Authority as defined by the Memorandum of Agreement related to the jurisdiction’s compliance with Applicable Law.

“Multifamily Dwelling Unit” means, notwithstanding any contrary definition in Municipal Code, any Premises, other than a Single-Family Dwelling Unit, with five (5) or more Dwelling Units used for Residential purposes, irrespective of whether the resident therein is transient, temporary or permanent, including such Premises when combined in the same building with Commercial establishments, that receive centralized, shared, Collection service for all units on the Premises which are billed to one (1) Customer at one (1) address. Customers residing in Townhouses, mobile homes, condominiums, or other structures with five (5) or more Dwelling Units who receive individual service and are billed separately shall not be considered Multi-Family.

“Occupant” means the Person who occupies a Premises.

“Organic Materials” means Green Waste and Food Waste, individually or collectively. No Discarded Material shall be considered to be Organic Materials, however, unless it is separated from Recyclable Material and Solid Waste. Organic Materials are a subset of Organic Waste.

“Organic Waste” means wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Green Waste, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined in 14 CCR Section 18982(a)(4) and 14 CCR Section 18982(a)(16.5), respectively.

“Party” or **“Parties”** refers to the City and Contractor, individually or together.

“Premises” means any land or building in the County where Discarded Materials are generated or accumulated.

“Process” or **“Processing”** means to prepare, treat, or convert through some special method.

“Processing Facility” means any plant or site used for the purpose of sorting, cleansing, treating or reconstituting Recyclable Materials for the purpose of making such material available for Recycling or reuse or the facility for the Processing and/or Composting of Organic Materials.

“Prohibited Container Contaminants” means the following: (i) Discarded Materials placed in the Recyclable Materials Container that are not identified as acceptable Recyclable Materials for the City’s Collection program; (ii) Discarded Materials placed in the Organic Materials Container that are not identified as acceptable Organic Materials for the City’s Collection program; (iii) Discarded Materials placed in the Solid Waste Container that are acceptable Recyclable Materials and/or Organic Materials to be placed in the City’s Recyclable Materials or Organic Materials Containers or otherwise managed under the City’s Collection program; and, (iv) Excluded Waste placed in any Container.

“Recyclable Materials” means by-products or discards set aside, handled, packaged or offered for Collection from Residential, Commercial, governmental or industrial Customers in a manner different from Solid Waste or Organic Materials, including, but not limited to, aluminum, newspaper, clear and colored glass, tin and bi-metal, all plastic containers, cardboard, chipboard, magazines, mixed paper (including magazines, phone books and junk mail) and motor oil and filters (separately collected). Acceptable Recyclable Materials may be added to or removed from this list from time to time by mutual consent or at the sole discretion of the City. Contractor shall not add or remove materials to or from this list without written approval from the City Manager or signed amendment to the Agreement, and such approval shall not be unreasonably withheld.

“Residential” shall mean of, from, or pertaining to a Single-Family Premises or Multi-Family Premises including Single-Family homes, apartments, condominiums, townhouse complexes, mobile home parks, and cooperative apartments.

“Residue” means those materials which, after Processing, are Disposed rather than Recycled due to either the lack of markets for materials or the inability of the Processing Facility to capture and recover the materials.

“Roll-Off” means an open-top or lidded Container with a capacity of seven (7) to forty (40) cubic yards that is serviced by a franchise Roll-Off Collection vehicle.

“SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time. For the purposes of this Agreement, SB 1383 specifically refers to the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions regulations developed by CalRecycle and adopted on November 3, 2020 that created Chapter 12 of 14 CCR, Division 7 and amended portions of regulations of 14 CCR and 27 CCR.

“SB 1383 Qualified Renewable Natural Gas” or “SB 1383 RNG” means SB 1383 qualified gas derived from Organic Waste that has been Diverted from a landfill and Processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recover Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).

“Self-Haul” or “Self-Hauler” means a Person who hauls Discarded Materials, recovered material, or any other material, to another Person, or as otherwise defined in 14 CCR Section 18982(a)(66). Self-Contractor also includes a Person who back-hauls waste, as defined in 14 CCR Section 18982(a)(66)(A).

“Service Level” refers to the size of a Customer’s Container and the frequency of Collection service.

“Single-Family” or “SFD” means, notwithstanding any contrary definition in Municipal Code, any detached or attached house or residence designed or used for occupancy by one (1) family, provided that Collection service feasibly can be provided to such Premises as an independent unit, and the Owner or Occupant of such independent unit is billed directly for the Collection service. Single-Family includes Townhouses that maintain individual collection service regardless of whether each unit is separately billed for their specific Service Level. Single-Family also includes duplex, tri-plex, or four-plex Residential structures regardless of whether each unit maintains individual collection service or is separately billed for their specific Service Level.

“Solid Waste” means all putrescible and non-putrescible refuse, garbage, rubbish, and Recyclable Materials, and as otherwise defined in Public Resources Code §40191 and regulations promulgated hereunder. Excluded from the definition of Solid Waste are Excluded Waste, Source Separated Recyclable Materials, Source Separated Organic Materials, and radioactive waste. Notwithstanding any provision to the contrary, Solid Waste may include de minimis volumes or concentrations of waste of a type and amount normally found in Residential Solid Waste after implementation of programs for the safe Collection, Recycling, treatment, and Disposal of Household Hazardous Waste in compliance with Section 41500 and 41802 of the California Public Resources Code as may be amended from time to time. Solid Waste includes salvageable materials only when such materials are included for Collection in a Solid Waste Container not Source Separated from Solid Waste at the site of generation.

“Source Separated” means the segregation, by the Generator, of materials designated for separate Collection for some form of Recycling, Composting, recovery, or reuse.

“State” means the State of California.

“Subcontractor” means a Party who has entered into a contract, express or implied, with the Contractor for the performance of an act that is necessary for the Contractor’s fulfillment of its obligations for providing service under this Agreement. Vendors providing materials and supplies to Contractor shall not be considered Subcontractors.

“Ton” or “Tonnage” means a unit of measure for weight equivalent to two thousand (2,000) standard pounds. **“Townhouse”** means an attached or semi-attached Dwelling Unit within a group of attached or semi-attached Dwelling Units. A Townhouse shall be considered a Single-Family Dwelling Unit if each unit maintains individual Collection service subscription. A Townhouse shall be considered a Multi-Family Dwelling Unit if the Premise receives centralized, shared, Collection service for all units on the Premise. These shall be the designations regardless of whether the Premises are billed individually or through a central account (e.g., homeowner association, property manager).

“Transfer” means the act of transferring the materials Collected by Contractor in its route vehicles into larger vehicles for Transport to other facilities for the purpose of Recycling or Disposing of such materials.

“Transport” or “Transportation” means the act of conveying Collected materials from one location to another.”

Article 4.

Scope of Agreement

4.1 Scope of Agreement

Article 4, Section 4.1 of the Agreement is hereby amended as follows:

“Subject to Article 4.2 (Limitations to Scope), the Agreement granted to Contractor shall be exclusive for Discarded Materials except where otherwise precluded by law. This Agreement does not include construction and demolition debris, Roll Off box Collections or the Collection of liquid waste, Hazardous Waste, medical waste,; however, City reserves the right to add construction and demolition debris, at its sole discretion, at some point in the future. In addition this Agreement does not include either animal waste or remains from slaughterhouse or butcher shops or by-products of sewage treatment, including sludge, ash, grit and screenings.

4.2 Limitations of Scope

Article 4, Section 4.2 of the Agreement is hereby amended as follows:

“The Agreement for the Collection, Processing and marketing of Recyclable Materials and Organic Materials granted to Contractor shall be exclusive except as to the following categories of Recyclable Materials and Organic Materials listed in this Article. The granting of this Agreement shall not preclude the categories of Recyclable Materials or Organic Materials listed below from being delivered to and Collected and Transported by others provided that nothing in this Agreement is intended to or shall be construed to excuse any Person from obtaining any authorization from City that is otherwise required by law:

- A. Recyclable Materials or Organic Materials separated from Solid Waste by the Waste Generator and for which Waste Generator sells or is otherwise compensated by a collector in a manner resulting in a net payment to the Waste Generator for such Recycling or related services; provided that such separation and Recycling or Disposal are actually performed by the Waste Generator, and not by a Subcontractor or other third-party;
- B. Recyclable Materials or Organic Materials donated to a charitable, environmental or other non-profit organization; provided, however, that all such Recyclable Materials are substantially separated from non-Recyclable Solid Waste by the Waste Generator
- C. Recyclable Materials or Organic Materials which are separated at any Premises and which are Transported by the Owner or Occupant of such Premises (or by their full-time employee) to a Recycling center;
- D. Other Governmental Agencies within the City which can contract for separate Solid Waste, Recycling and Organic Materials services.
- E. Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of Edible Food Recovery efforts in the City.

This Agreement to Collect, Transport, Process, and market Recyclable Materials and Organic Materials shall be interpreted to be consistent with State and Federal laws, now and during the term of the Agreement, and the scope of this Agreement shall be limited by current and developing State and Federal laws with regard to Recyclable Materials and Organic Materials handling, Recyclable Materials and Organic Materials flow control, and related doctrines. In the event that changes in

law limit the ability of the City to lawfully provide for the scope of services as specifically set forth herein, Contractor and City agree to work in good faith to amend the scope of the Agreement so as to comply with such changes in law, and the City shall not be responsible for any lost profits and/or damages claimed by the Contractor as a result of changes in law.”

4.7 City’s Right To Perform Service; Tagging of Improper Set-Outs, and Prohibited Container Contaminants

Article 4, Section 4.7 of the Agreement is hereby retitled and amended as follows:

“City’s Right to Perform Service. In the event Contractor fails to Collect, remove, and Dispose of Discarded Materials on a Customer’s regularly scheduled Collection day, within twenty-four (24) hours of a request from City or a Customer to do so, City may Collect said Discarded Materials and Contractor shall be liable for all related expenses incurred by City. Such expenses include but are not limited to Disposal, administrative, and legal costs. Contractor shall reimburse City for such expenses as required.

4.7.1 Customer Notices

- A. **General.** If the Contractor observes twenty percent (20%) or more Prohibited Container Contaminants in a Customer’s Container or does not Collect any item or Container of Discarded Materials due to a Customer’s non-compliance with rules and regulations for proper set-out, Contractor shall attach a Customer Notice, subject to City’s approval, securely to the item or Container specifying the identified non-compliance issues. The Customer Notice shall contain Contractor’s name, telephone number, and information described below.

The Customer Notice shall, at a minimum:

1. Inform the Customer of the reason for the Customer Notice; and
2. Include the date and time the issue was observed.

In addition, upon the identification of Prohibited Container Contaminants in a Customer’s Container as specified in this Section, the Contractor shall provide the Customer with the following information in the Customer Notice, or through another form of communication such as mail, e-mail, text message, or over the phone:

1. Information on the Customer’s requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Collection in each Container;
2. Inform the Customer of the contaminated materials on this occasion with information that the Contractor may assess contamination Processing fees and/or may not Collect the Container in the future; and,
3. Include photographic evidence of the violation(s).

- B. **Upon identification of Prohibited Container Contaminants.** If the Contractor Collects contaminated Recyclable Materials and/or Organic Materials Containers, Contractor shall either Transport the material to the appropriate Approved Facility for Processing; or, Contractor may Collect the contaminated materials with the Solid Waste and Transport the contaminated materials to the Approved Disposal Facility. A Collection of contaminated

Recyclable Materials or Organic Materials where the materials are sent to the Approved Disposal Facility may be made with a Solid Waste Collection vehicle, provided that the contaminants may safely and lawfully be Collected as Solid Waste.

- C. **Communications with Customer.** Whenever a Container at the Premises of a Customer is not Collected, Contractor shall contact the Customer on the scheduled Collection day by telephone, email, text message, or other verbal or electronic message to explain why the Container was not Collected. Whenever a Container is not Collected because of Prohibited Container Contaminants, a Customer service representative shall contact the Customer to discuss, and encourage the Customer to adopt proper Discarded Materials preparation and separation procedures.
- D. **Contractor Return for Collection.** Upon request from Customer, Contractor shall Collect Containers that received Customer Notices specifying non-Collection within one (1) Working Day of Customer's request. Contractor shall bill Customer for the extra Collection service event ("extra pick-up") at the applicable City-approved Rates only if Contractor notifies Customer of the premium Rate for this service at the time the request is made by Customer.
- E. **Assessment of Contamination Processing Fees.** If the Contractor observes twenty percent (20%) or more Prohibited Container Contaminants and has issued a Customer Notice specifying a Collection, the Contractor may impose a contamination rate approved by the City for that Customer's Service Level, if and only if Contractor has informed the Customer of the potential for a Processing fee pursuant to this Section. The intent of contamination fees is to provide a behavioral tool to educate and prevent Customers from placing Source Separated Discarded Material into the improper designated Container(s). To ensure that assessment of fees are to be used for the intended purposes and not as a form of revenue generation, After the first issuance of a Customer Notice for the observance of Prohibited Container Contaminants in one (1) calendar year, Contractor may issue a fee of ten (10) dollars. After the second observance of Prohibited Container Contaminants in the same calendar year, Contractor may issue a fee of twenty (20) dollars. After the third observance of Prohibited Container Contaminants in the same calendar year, Contractor may issue a fee of thirty (30) dollars. In the fourth and any subsequent observances of Prohibited Container Contaminants in the same calendar year, Contractor may increase the contamination Processing fee by ten (10) dollar increments and may Collect the contaminated materials with the Solid Waste and Transport the contaminated materials to the Approved Disposal Facility, provided that the contaminants may safely and lawfully be Collected as Solid Waste.
- F. **Suspension of Contamination Processing Fee Program.** Contractor agrees that contamination fees shall not exceed one percent (1%) of Contractor's Gross Receipts in any calendar quarter. In the event that contamination fees exceed one percent (1%) of Contractor's Gross Receipts in any calendar quarter, the assessment of contamination fees shall be suspended immediately and indefinitely pending a program assessment by the City and Contractor. Upon program suspension or at the request of the City at any time during the Term of the Agreement, City and Contractor shall meet and confer regarding the application and effectiveness of contamination fees in accomplishing the behavior change. If the program is suspended due to excessive revenue generation, the City may require Contractor to either: i) modify the program parameters; ii) modify the amount of the contamination fee; or, iii) return to the City any funds generated by the contamination fee which exceed one percent (1%) of Contractor's Gross Receipts for a given period of time.

- G. **City Actions upon Identification of Prohibited Container Contaminants.** The City or its designee shall perform SB 1383 activities required for the identification of Prohibited Container Contaminants which includes but is not limited to, record keeping, provision of educational notices and reporting.”

Article 5.

Direct Services

5.1 General

Article 5, Section 5.1 of the Agreement is hereby amended as follows:

“The work to be done by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services, as set forth in this Agreement. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated or not.

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that the Residents and Commercial Businesses within the City are provided reliable, courteous and high-quality Discarded Materials Collection services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this Article, whether such aspects are enumerated elsewhere in the Agreement or not.”

5.2 Solid Waste. Recycling and Organic Material Services

Article 5, Section 5.2 of the Agreement is hereby amended as follows:

“No later than the Effective Date, Contractor shall provide regular weekly Collection of Discarded Materials for all places and Premises within City, or such other level of service as may be determined by City with the consent of Contractor and at rates established by this Agreement. Contractor shall provide more frequent Collection services at rates established by this Agreement for those Premises within the City that generate larger volumes of Solid Waste.

Contractor shall provide regular Collection of Recyclable Materials and Organic Materials placed in Containers at the designated Collection locations for Single-Family Dwelling Units, Multifamily Dwelling Units and Commercial businesses, all at the Rates established by this Agreement and in Containers that comply with the requirements of this Agreement. Contractor shall Transport all Discarded Materials to the Approved Facility(ies) as specified in Sections 5.7 and 5.10. Residential Recyclable Material and Organic Materials Collection shall be collected weekly on the same day of the week as Solid Waste Collection service, unless in-yard service is provided or Customer has received a waiver pursuant to Section 6.12. Commercially Generated Recyclable Materials and Organic Materials Collection shall be on a schedule as determined by Contractor and the Waste Generator.

No later than the Effective Date, Contractor shall implement an Organic Materials Collection program that allows Generators to commingle Food Waste and Green Waste in the Organic Materials Containers to all Residential, Multi-family, and Commercial business with exception to any waivers granted pursuant to Section 6.12. Contractor shall provide Organic Materials Collection service, as described in this Section of the Agreement, and Transport the Organic Materials to (i)

the Approved Organic Waste Processing Facility. Contractor recognizes that because of an unusual circumstance, a Single-Family Dwelling Unit may generate more Recyclable Material than will fit in the blue Recyclable Materials Container. The excess Recyclable Material may be neatly placed next to the blue Container and Contractor will Collect the excess Recyclable Material at no additional charge. This extra service to a Single-Family Dwelling Unit shall be limited to a frequency of once per month and a quantity to an amount that will fit into the existing blue Recycling Materials Container.

Handicapped residents who reside in a Single-Family Dwelling Units shall have the option of placing their Containers near their Dwelling Unit, visible from the curb and the Contractor will collect their Containers at this location and return the Containers to the same location. To be eligible for this Collection option, residents must present proof of their physical incapacity to the Contractor.”

5.3 Recyclable Materials to be Collected

Article 5, Section 5.3 of the Agreement is hereby removed in its entirety.

5.4 Refusal to Provide Collection Services

Article 5, Section 5.4 of the Agreement is hereby amended as follows:

“Contractor may refuse to Collect Recyclable Materials or Organic Waste and shall not be obligated to continue to provide Container(s) to any participant in the Recycling or Organic Waste program who, after reasonable warning by Contractor, fails to properly sort and set out Recyclable Materials or Organic Waste, including excessive contamination. Contractor shall report monthly to City any warning notices issued as described in Exhibit G.”

5.5 Marketing and Sale Recyclable Materials and Organic Materials

Article 5, Section 5.5 is hereby retitled, and amended as follows:

“Contractor shall be responsible for the marketing and sale of all Recyclable Materials and Organic Materials Collected pursuant to this Agreement. Revenues from the sales of these materials shall be retained by Contractor.”

5.6.1 Schedules

Article 5, Section 5.6.1 of the Agreement is hereby amended as follows:

“To preserve peace and quiet, no Discarded Materials shall be Collected from or within two-hundred (200) feet of Residential Premises between 5:00 P.M. and 6:00 AM. on any day. Residential Discarded Materials shall be Collected Monday through Friday on the same day. The one exception is the Contractor may elect to collect motor oil and filters with a separate vehicle using an on-call program. When the regularly scheduled Collection day falls on Christmas, Collection shall take place on the following regularly scheduled Collection day. In the event the Contractor misses the Collection of properly set out Discarded Materials the Contractor shall collect the missed pickups within one (1) Business Day of notification.”

5.6.3 Discarded Materials Containers

Article 5, Section 5.6.3 of the Agreement is hereby retitled, and amended as follows:

“Contractor shall supply each Single-Family Dwelling Unit with a 32, 64 or 96-gallon Container for Solid Waste. The monthly service fee for each size Container is shown in Exhibit A. In addition, each Single-Family Dwelling Unit will receive from Contractor a 64 or 96-gallon Container for all commingled Recyclable Materials and a 64 or 96-gallon Container for Organic Materials. If requested by Customer, Contractor shall provide to the Customer a 64, or 96 gallon Recyclable Container and a 96 gallon Organic Materials Container. The Contractor shall provide kitchen pails designed to contain Food Scraps prior to placement in the Customer’s Organic Materials Cart. Contractor will be responsible for distribution of kitchen pails to Single-Family and Multi-Family Customers upon request, from Contractor’s office beginning the Effective Date. City or its designee may restock Contractor inventories at local offices for distribution to new residents or residents who need a replacement.

Contractor shall supply each Multi-Family complex and Commercial or governmental agency with appropriately sized Containers for Discarded Materials. Contractor agrees to provide additional Containers, as requested, by all Persons at the rate as shown on Exhibit A. Note that all Multi-Family complex and Commercial or governmental agency Customers shall be entitled to the free Collection of an unlimited quantity of Recyclable Material picked up twice per week. Contractor agrees not to limit the specific type of Recyclable Material (such as cardboard only) that can be placed in a Container unless approved by the City on a Customer by Customer basis.

All Solid Waste Cart lids shall be black/grey, all Recyclable Materials Cart lids shall be blue, and all Organic Materials Cart lids shall be green. All Solid Waste Bin, Compactor, and franchise Roll-Off lids or bodies shall be black/grey, all Recyclable Materials Bin, Compactor, and franchise Roll-Off lids or bodies shall be blue, and all Organic Materials Bin, Compactor, and franchise Roll-Off lids or bodies shall be green. No later than December 31, 2035, Contractor shall provide all Customers with Collection Containers that comply with the Container color requirements specified in this Section or as otherwise specified in 14 CCR Section 18982; 14 CCR, Division 7, Chapter 12, Article 3; or other Applicable Law.

If an existing Container breaks or is otherwise rendered non-functional on or after January 1, 2022, the Contractor shall replace the non-functional Container with a Container that complies with the color requirements of this Section. Notwithstanding this Section, the Contractor is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the color requirements of this Section prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

Any new Containers for Recyclable Materials shall include an in molded graphic or sticker which provides instructions to the Waste Generator. The final color and signage, including the in molded graphic or sticker on the Containers shall be approved by the City Manager or their designee.

City and Contractor acknowledge that from time to time, Containers become damaged or destroyed. City and Contractor also acknowledge that from time to time Containers may be stolen from the curb or damaged due to normal use. The fee schedule to replace lost or damaged Containers is shown on Exhibit A.

All Contractor supplied Containers for Discarded Materials shall remain the property of Contractor. Containers damaged due to lack of reasonable care by the Customer, or Containers damaged by graffiti may be replaced by Contractor, the fee for which shall be the same as for lost or damaged

Containers as set forth on Exhibit A. Contractor may recover Containers used by Customers for other than their intended purpose.”

5.7 Disposal Requirements

Article 5, Section 5.7 of the Agreement is hereby amended as follows:

- “A. Contractor shall Dispose of all Solid Waste Collected under this Agreement at Contractor's own expense and in accordance with all Federal, State and local laws, rules, and regulations. Contractor shall be responsible for securing an Approved Facility(ies) for Disposal of all Solid Waste Collected by Contractor pursuant to this Agreement.
- B. Contractor shall secure, within ninety (90) days of the Effective Date of this Agreement, sufficient Disposal site capacity commitment including landfill Disposal site capacity to adequately serve the reasonable anticipated Solid Waste Disposal needs of Contractor's Customers. City reserves the right to review and require approval for said Disposal capacity commitments.
- C. If Contractor receives notice from an Approved Facility operator, or otherwise finds, during the term of the Agreement, to be prevented from delivering Discarded Materials to the Approved Facility(ies), Contractor shall immediately notify, in writing, the City Manager, stating the reason(s) Contractor is prevented, or expects to be prevented, from delivering Solid Waste at the Approved Facility. Contractor shall expeditiously identify and evaluate alternative sites. An alternative designated site or sites shall be arranged for and secured by Contractor.
- D. The Parties understand and agree that City intends to commence and participate in waste Diversion and resource recovery programs pursuant to regional and/or local implementation of AB 939, AB 341, AB 1826, and other Applicable Laws, or such other programs as may be established by City.
- E. Contractor shall deliver all Solid Waste to any landfill which collects the San Luis Obispo County AB 939 Tipping Fee Surcharge and Waste Management Program Fund Fee, pursuant to County Resolution No. 90-383. If the Contractor delivers Solid Waste to a landfill which does not collect the County Tipping Fee Surcharge and Waste Management Program Fund Fee, the Contractor will make, on a monthly basis, the equivalent payment directly to the County's Waste Management Tipping Fee - AB 939 Trust Fund #0159 and Waste Management Tipping Fee Trust- Site Fund# 0160.
- F. Payment of the equivalent fees shall be made to County within thirty (30) days after the end of each calendar month, or prorated portion thereof, in which the Contractor delivers waste to an alternate facility. In the event that Payment is not received by County within thirty (30) days after the date specified, then Contractor shall pay a penalty of ten percent (10%) on the outstanding balance, and Contractor shall also pay to County interest on the outstanding balance at a rate of ten percent (10%) per annum, or the maximum legal rate of interest, whichever is greater, from the date of Contractor's failure to pay.
- G. As of March 1, 2007 the Tipping Fee Surcharge for Fund # 0159 is \$3.00 per Ton and the Waste Management Program Fund Fee for Fund # 0160 is \$0.40 per Ton. Payments made by the Contractor shall be sent to the County Franchise Coordinator along with an itemized statement regarding how the payment was calculated. Payments shall be adjusted to reflect any future changes in the amount of these fees.”

5.8 Cleaning Containers

Article 5, Section 5.8 of the Agreement is hereby retitled, and amended as follows:

“Contractor shall steam clean and refurbish all Commercial Bins at Contractor's own expense every 6 months upon request. Customers desiring more frequent cleaning may arrange additional cleaning with Contractor at a Rate established by City, including pick- up, cleaning, and replacement of Bins.

Contractor shall set a steam cleaning fee and/or a clean Container exchange fee for Organics Materials Containers to Residential Customers requesting such service up to two (2) times per year per Organics Container.”

5.9 Clean-Up Days

Article 5, Section 5.9 of the Agreement is hereby amended as follows:

“At least twice per year throughout the term of this Agreement, Contractor shall provide, in addition to regularly scheduled service, two clean-up events pursuant to guidelines established by the Contractor and approved by the City, for Solid Waste placed at the curb by Single Family Dwelling Units and at pre-arranged locations for Multi-Family Residential properties in addition to each Customer's normal Collection service. The dates for each event shall be proposed by Contractor and approved by the City Manager, or their designee prior to September 1st of each year.

Contractor shall record by class and weight (in Tons) the Solid Waste, white goods, etc., Collected during the clean-up events. Contractor shall record the kinds and weights (in Tons) of Solid Waste Diverted during these clean-ups from the landfill through Recycling, reuse, transformation or other means of Diversion.

Contractor shall maintain the separation of any Collected Green Waste from other acceptable materials during clean-up days and Transport Green Waste to the Approved Organic Material Processing Facility.”

5.11 Material Processing

Article 5, Section 5.11 of the Agreement is hereby amended as follows:

5.11.1 “Receipt of Recyclable Material and Organic Material

The Contractor shall have in place or have made arrangements for an Approved Materials Recovery Facility and Approved Organic Materials Facility to receive and accept all deliveries of Recyclable Materials and Organic Materials generated in the City.

5.11.2 Status of Materials Recovery Facility

The Approved Materials Recovery Facility shall be a Facility or operation that Processes Single-Family, Multi-Family, and Commercial Source Separated Recyclable Materials to recover materials designated for Collection in the Recyclable Materials Container. Any Approved Materials Recovery Facility used by contractor must be designed and constructed in accordance with all State and local laws and other Applicable Laws (e.g., CEQA, California Code of Regulations, etc.). The Approved Materials Recovery Facility must have all permits from Federal, State, regional, County and city

agencies necessary for it to operate as a Material Recovery Facility and must be in full regulatory compliance with all such permits and Applicable Law.

The selected Approved Materials Recovery Facility must be authorized to accept, under its existing permit, and have sufficient uncommitted capacity to accept, all Recyclable Materials and/or Organic Materials delivered to it by, or on behalf of, Contractor for the term of this Agreement. Contractor shall immediately notify City of any notice of breach or default received from Approved Materials Recovery Facility.

Contractor's Approved Organic Material Processing Facility shall be a Facility that Processes Single-Family, Multi-Family, and Commercial Source Separated Organic Waste to recover Organic Material.

5.11.3 Alternative Processing Facility

If Contractor becomes unable to deliver the City's Recyclable Materials to the Materials Recovery Facility due to causes within its control and which could have been avoided by the exercise of due care, the Contractor shall arrange for it to be accepted at another Materials Recovery Facility, in which case Contractor shall pay for any increased Transportation costs, any differences in the fees charged at such Materials Recovery Facility and the fees then in effect under this Agreement. If Contractor's inability to deliver the City's Recyclable Materials to the Materials Recovery Facility is not due to causes within its control or which could have been avoided by the exercise of due care, then Contractor shall propose alternative Material Recovery Facilities including all related costs and City shall have the right to approve the alternative to be used. The City shall pay for the increased cost of using an alternative facility. Contractor shall provide notice by email to the City within forty-eight (48) hours of the use of an alternative Processing Facility.

Contractor shall keep all existing permits and approvals necessary for use of the Approved Processing Facility in full regulatory compliance. Upon request, Contractor shall provide copies of facility permits and/or notices of violations (obtained from its Processing Facility if necessary) to City Manager.

5.11.4 Disposition of Unauthorized Waste

It is understood that the Contractor is not authorized and is not required hereunder to Collect and Transport Hazardous Waste or restricted or other waste that is not acceptable or permitted for Disposal at a Transfer station, Material Recovery Facility, or Disposal site. In addition, Contractor shall not be required to Collect Containers that are not set out or filled in accordance with, or do not meet Contractor's Collection requirements. Regardless of the reason, when any Discarded Materials or other material is not Collected by Contractor, Contractor shall leave a tag on the material stating the reasons for Contractor's refusal to Collect the same. Adequate records of the tags shall be maintained by Contractor and shall be available to the City for inspection upon reasonable notice during business hours. If Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Waste unlawfully Disposed of or released in reportable quantities in the City, including on, in, under or about City property, including streets, easements, rights of way and City waste Containers, Contractor shall immediately notify the City of the same. If Contractor discovers Hazardous Waste, or other material that may not be legally accepted, among materials that it has inadvertently accepted, Contractor may either return such materials to the applicable Waste Generator or Dispose of such waste at its own expense and

pursue all legal rights and remedies it may have against the Waste Generator(s) of such Hazardous Waste, if the Waste Generator(s) can be identified.”

Article 6.

Other Services: Billing, Reporting, Record-Keeping and Public Education

6.10 Public Education

Article 6, Section 6.10 of the Agreement is hereby amended as follows:

“Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve requirements of Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, SB 1383, and other current or future Federal, State or local regulations, as amended. Accordingly, Contractor agrees to take direction from City to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle Solid Waste and to cooperate fully with City in this regard.

Contractor acknowledges that they are part of a multi-party effort to operate and educate the public about the regional integrated waste management system. Contractor shall cooperate and coordinate with the City Manager on public education activities to minimize duplicative, inconsistent, or inappropriately timed education campaigns. The Contractor shall cooperate with and shall not impede, interfere, or attempt to impede or interfere with the implementation, expansion, or operation of public education and outreach programs or campaigns conducted by the City.

Contractor shall maintain its own program of providing information relevant to billing and Discarded Materials services, issues and needs with its bills. Contractor shall also include in Customer bills additional information, including information on Recycling programs, as directed by the City. Contractor shall bear all labor costs with respect to inserting public education materials with the billings. Contractor agrees to insert and distribute brochures, newsletters, or other information developed by the City, as inserts in Contractor’s Customer invoices at no additional charge to the City. Up to letter-sized bill inserts shall be designed and produced by the City, with review and comment by Contractor, and final approval by the City. Annually, Contractor shall be responsible for printing the bill inserts. For Customers receiving electronic bills, Contractor agrees to distribute brochures, newsletters, or other information developed by the City, as attachments to Customer invoices at no additional charge to the City. Contractor shall provide electronic bill inserts (or separate email attachments) to Customers who are billed electronically, and paper bill inserts to Customers who receive paper bills. Electronic bill inserts/attachments must be readily available for the Customer to view upon receipt of the invoice (attachments shall not be provided as links). Upon the City’s request for such inserts, Contractor shall comply with such request during its next billing cycle for the targeted Customer group. Contractor shall perform this service with no additional requirement for compensation.

All public education materials shall be approved in advance by the City. Contractor shall obtain approval from the City on all Contractor-provided public education materials outside of the City’s education plan, including, but not limited to: print, radio, television, or internet media before publication, distribution, and/or release. All education and outreach materials detailed in this Section shall be provided in at the very least English and Spanish, as to comply with SB 1383 and other Applicable Law. City shall have the right to request that Contractor include City identification

and contact information on public education materials and approval of such requests shall not be unreasonably withheld.

At the direction of the City, Contractor shall participate in and promote activities of AB 939, AB 341, AB 1826, SB 1383 and other current or future Federal, State or local regulations, as amended, and other Solid Waste management techniques at community events and local activities. Such participation would normally include providing, without cost, educational and publicity information promoting the goals of the City's Solid Waste program.

Not less than once per year during each calendar, Contractor shall prepare and distribute to each Generator in the City a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units. Contractor shall also make this notice available in an electronic format through the Contractor's website."

6.12 Generator Waivers and Contract Exemptions (New)

Article 6, Section 6.12 is hereby added to the Agreement as follows:

6.12.1 "General. The City or its designee may grant waivers described in this Section to Commercial or Multi-Family Generators that impact the scope of Contractor's provision of service for those Customers; provided, the Generator shall continue to subscribe with Contractor for franchised Collection services to the extent such services are not waived by the City. Waivers issued shall be subject to compliance with SB 1383 requirements, pursuant to 14 CCR Section 18984.11, or other requirements specified by the City.

6.12.2 Generator Waivers.

6.12.2.1 De Minimis Waivers. The City or its designee may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Recyclable Materials and Organic Materials requirements set forth in this Agreement, SB 1383 Regulations, and the City Code if the Multi-Family, Commercial Business, or its Property Owner provides documentation, or the City has evidence demonstrating one of the following de minimis conditions:

6.12.2.1.1 The Multi-Family's or Commercial Business' total Solid Waste Collection service is two (2) cubic yards or more per week, and Organic Materials subject to Collection comprises less than twenty (20) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste; or,

6.12.2.1.2 The Multi-Family's or Commercial Business' total Solid Waste Collection service is less than two (2) cubic yards per week, and Organic Materials subject to Collection comprises less than ten (10) gallons per week, per applicable Container, of the Multi-Family's or Commercial Business' total waste.

6.12.2.2 Space Constraint. The City or its designee may waive a Multi-Family's, Commercial Business', or its Property Owner's obligation to comply with some or all of the Source Separated Recyclable Materials or Organic Materials Collection service requirements set forth in this Agreement, SB 1383 Regulations, and/or as required in the Municipal Code, in the event that the Generator qualifies for a space constraint waiver under the City's Municipal Code.

6.12.3 Waiver Requests. Generators may submit requests for de minimis waivers and physical space waivers to the Contractor. If a Generator submits a request for a waiver to the Contractor, the Contractor shall refer the Generator to the City. Upon request of the City, the Contractor shall support the City in the waiver review process by providing requested Customer information. If the City or its designee grants a waiver to a Generator, the City shall notify the Contractor and Contractor shall update the Customer's information and Service Level in accordance with Exhibit G."

6.13 Procurement of Recovered Organic Waste Products

Article 6, Section 6.13 is hereby added to the Agreement as follows:

6.13.1 **SB 1383 Compliance.** To assist the City in SB 1383 compliance related to organic waste product procurement, Contractor shall make reasonable efforts to provide SB1383 RNG, power, and Compost or Mulch as described below to maximize the procurement credit to the City.

6.13.2 **"Renewable Natural Gas (RNG) Vehicles.** Under this Agreement, the Contractor shall make a best effort for all Collection vehicles to be powered by SB 1383 RNG generated by a local facility or powered by SB1383 RNG that is purchased through a wheeling agreement with a party(ies), provided that the wheeling agreement is for purchase of gas derived from Organic Waste that has been Diverted from a Landfill and Processed at an in-vessel digestion Facility that is permitted or otherwise authorized by Title 14 of CCR to recover Organic Waste and meets the requirements of 14 CCR Section 18993.1(h). Upon City's request, Contractor shall obtain and provide the City with a written certification by an authorized representative of the publicly-owned treatment works or the wheeling agreement contractor certifying that the in-vessel digestion facility produces the SB 1383 RNG consistent with the requirements of 14 CCR Section 18993.1(h). Contractor shall maintain records of the amount of SB 1383 RNG purchased and shall report this information in accordance with Exhibit D. Contractor shall agree to the City's right to report this SB 1383 RNG usage toward the City's fulfillment of its annual recovered Organic Waste product procurement target in accordance with 14 CCR Section 18993.1.

6.13.3 Power. To the extent that electricity produced from the Approved Organic Materials Processing Facility qualifies for City's procurement credit under SB 1383, City shall be allocated its proportional share of such qualified electricity usage based on the inbound tonnage delivered by City divided by the total inbound tonnage of the Approved Organic Materials Processing Facility for that same time period.

6.13.4 **Compost Give-Away Events.** Contractor shall make available for distribution an annual total of at least one thousand (1,000) cubic-yards of Compost for all Member Agencies, including but not limited to the City, utilizing the Approved Processing Facility to City residents at no additional cost to the City or Customers at two (2) public events. To the extent that such distribution qualifies for City's procurement credit under SB 1383, City shall be allocated its proportional share of such qualified procurement based on the inbound Tonnage of Organic Materials collected by Contractor from City divided by the total inbound Tonnage of the Approved Organic Materials Processing Facility to which Contractor delivered such City Tonnage during the applicable measurement period by each Member Agency. The location, date, and time of such events shall be determined by the City with notice provided to the Contractor within twenty (20) Business Days of the date of the event and may be held in conjunction with other City -approved events. Contractor shall deliver the

Compost to the agreed-upon event location at no cost to City. Contractor shall provide at least one (1) attendant for at least six (6) hours per event.”

Article 7.

Payments to City

7.2 AB 939/SB 1383 Reimbursement Fee

Article 7, Section 7.2 of the Agreement is hereby retitled, and amended as follows:

“If requested by City, Contractor shall pay an AB 939/SB 1383 Reimbursement fee to City each month, to be specified annually by City, and, in addition, if the San Luis Obispo Integrated Waste Management Authority "IWMA" currently implements an AB 939, SB 1383, or Solid Waste Management fee, shall pay that fee directly to the IWMA. Said fees shall be an allowable cost in Contractor’s rate application. All AB 939 fees, SB 1383 fees, or Solid Waste Management fees paid to City or IWMA shall be considered a pass-through cost for purposes of rate setting, and, as such if the City or IWMA changes these fees the Contractor’s rates shall be adjusted accordingly subject to all applicable laws and regulations. The City or the IWMA shall have the right to establish and adjust the AB 939, SB 1383, or Solid Waste Management fee at any time, provided that any changes are considered a pass through cost for the purposes of rate setting, at the time of the change in the AB 939, SB 1383, or Solid Waste Management fee.”

7.4 Other Fees

Article 7, Section 7.4 of the Agreement is hereby amended as follows:

“The City shall receive a landfill savings payment that recognizes the capital improvement saving at the landfill by entering into this Agreement. Within two (2) days of the effective date of this Agreement and on every annual anniversary of the effective date, the Contractor shall pay the City of Arroyo Grande \$22,340. This payment shall not be included as a pass through cost for the purpose of rate setting and shall be adjusted annually by the same percent increase to the rates granted by the City.

The City shall reserve the right to set "Other" Fees, as it deems necessary. These expenses will be determined and a fee designed to reimburse City. Such fees shall be set annually by City and may be considered a pass-through cost for purposes of rate setting, and as such if City adopts or changes these fees, Contractor’s rates shall be adjusted accordingly.”

Article 9.

Records, Reports and Information, Studies and Hearing Requirements

9.1 Records

1) Article 9, Section 9.1 of the Agreement is hereby amended as follows:

“Contractor shall maintain records required to conduct its operations, to support requests it may make to City, to respond to requests of the City, and to help City fulfill its obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, SB 1383, and other current or future Federal, State or local regulations, as amended. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data and records shall be protected and an adequate backup system shall be provided for such data and records. The protection and backup

systems shall be subject to approval by the City. The following records shall be maintained for the City in form and detail satisfactory to the City, relating to:

- Customer services and billing;
- Weight of Solid Waste, especially as related to reducing and Diverting Solid Waste. Information is to be separated by kind of account;
- Special annual clean-up event results;
- Routes;
- Facilities, equipment and personnel used;
- Facilities and equipment operations, maintenance and repair;
- Processing and Disposal of Solid Waste;
- Complaints; and
- Missed pick-ups.

Contractor shall maintain records of Transfer, Diversion and Disposal of all Solid Waste Collected in the City for the period of this Agreement and all extensions to this Agreement or successor Agreements. In the event Contractor discontinues providing Solid Waste services to City, Contractor shall provide all records of Diversion and Disposal of all Solid Waste Collected within the City to City within thirty (30) days of discontinuing service. Records shall be in chronological order, and organized in a form readily and easily interpreted.

Records for other programs shall be tailored to specific needs. In general, they shall include:

- Plans, tasks, and milestones; and,
- Accomplishments in terms such as dates, activities conducted, quantities of products used, produced or distributed, and numbers of participants and responses.”

9.3 Report Formats and Schedule

Article 9, Section 9.3 of the Agreement is hereby amended as follows :

“Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Reports are intended to compile recorded data into useful forms of information that can be used to, among other things:

- Determine and set rates, and evaluate the financial efficacy of operations; and
- Evaluate past and expected progress towards achieving goals and objectives; and
- Determine needs for adjustment to programs; and
- Evaluate Customer service and Complaints.

The City may at no cost to itself request that Contractor provide such additional information in the reports set forth below as the City deems necessary or appropriate to meet its needs, including provision of AB 939 report information. Contractor may propose report formats that are responsive

to the objectives and audiences for each report. The format of each report shall be subject to approval by the City.

Contractor shall submit all reports to the City, electronically via e-mail using software acceptable to the City. The City reserves the right to require the Contractor to maintain records and submit the reports required herein through use of the City-selected web-based software platform and/or Microsoft Excel spreadsheet, at the Contractor's expense.

Monthly reports shall be submitted within ten (10) calendar days after the end of the report month. Quarterly reports shall be submitted within fifteen (15) calendar days after the end of the quarter. Quarters end on November 30, February 28, May 31, and August 31.

All reports shall be submitted to: City Manager

City of Arroyo Grande

PO Box550

Arroyo Grande, CA 93421”

9.4 Monthly Reports

Article 9, Section 9.4 of the Agreement is hereby amended as follows:

“The information listed shall be the minimum reported for each service:

- Discarded Materials, Collected, Transferred, Diverted and Disposed of, by sector (Commercial, industrial, Residential) of Waste Generator-Collected by Contractor, in Tons, by month.
- Complaint summary, for month and cumulative for report year, as above, summarized by nature of Complaints.
- Narrative summary of problems encountered and actions taken with recommendations for the City, as appropriate.
- All requirements specified in Exhibit G.”

9.5 Quarterly Report

Article 9, Section 9.5 of the Agreement is hereby amended to as follows:

“Quarterly reports shall be formatted and submitted as outlined in Exhibit G. ”

9.7 Additional Reports (NEW)

Article 9, Section 9.7 is hereby added to the Agreement:

“AB 901 Reporting. At the City's option, the City may require that Contractor provide the City with the aggregate tonnage data related to AB 901 reporting that the City needs for its SB 1383 reporting, to the extent available to Contractor within five (5) Business Days of City request, or mutually agreed time. At the City's option, the City may review specific Customer information; however, City shall not be permitted to make copies or take records specific to Customer information.

Article 12.

Default, Remedies and Liquidated Damages

12.3 Liquidated Damages

Article 12, Section 12.3 of the Agreement is hereby amended as follows:

- “A. **General.** City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Contractor of its obligations under this Agreement.
- B. **Service Performance Standards; Liquidated Damages for Failure to Meet Standards.** The Parties acknowledge that consistent, reliable Discarded Materials service is of utmost importance to City and that City has considered and relied on Contractor's representations as to its quality of service commitment in awarding the Agreement to it. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails to achieve the performance standards, comply with Complaint resolution criteria, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages that City will suffer. Therefore, without prejudice to City's right to treat such non-performance as an event of default under this Article 12, the Parties agree that the following Liquidated Damage amounts represent a reasonable estimate of the amount of such damages considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or inconvenient. Recognizing the importance of resolving any failure to meet the service performance standard, the City shall contact Contractor within two (2) days of any failing reported directly to the City. In addition Contractor agrees to meet with the City Manager within 2 days of a requested meeting to discuss the Contractor's performance.

Contractor agrees to pay (as Liquidated Damages and not as a penalty) the amounts set forth below:

Collection Reliability and Quality

For each failure over five (5) annually to commence service to a new Customer account within seven (7) days after order: \$150.00

For each failure over twenty-four (24) annually to Collect Discarded Materials, which as been properly set out for Collection, from an established Customer account on the scheduled Collection day and not Collected within 24 hours after notice of missed pick-up: \$150.00

For each failure to Collect Discarded Materials, which have been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days: \$150.00

For each occurrence over five (5) annually of damage to private property: \$250.00

For each occurrence over ten (10) annually of discourteous behavior: \$250.00

For each failure over ten (10) annually to clean up Discarded Materials, spilled by Contractor from Containers: \$150.00

For each occurrence over five (5) annually of Collecting Discarded Materials, during unauthorized hours: \$250.00

For each failure to respond to a Customer Complaint within twenty-four (24) working hours: \$100.00

Timeliness of Submissions to City

REPORTS Any report shall be considered late until such time as City receives a correct and complete report. For each calendar day a report is late, the daily assessment shall be:

Monthly Reports: For each infraction \$25 per day

Annual Reports: For each infraction \$50 per day

Violations: SB 1383 (New)

Use of Unauthorized Facilities. For each individual occurrence of delivering Discarded Materials to a Facility other than an Approved Facility(ies) for each Discarded Material type under this Agreement: \$0 for first five (5) failures; \$1,000 per each subsequent failure

Failure to Implement three-Container System. For each occurrence of failing to provide Customers with the three-Container system required by and compliant with Section 5.2 and 5.4 excluding Generators and Customers granted waivers pursuant to Section 6.12 of this Agreement, and excluding Generators and Customers that demonstrate compliance with Recycling and Organic Waste Self-Hauling requirements pursuant to City Municipal Code and 14 CCR Division 7, Article 12, Article: \$100 / Generator or Customer / occurrence / Day until compliance achieved.

Failure to Comply with Container Labeling and Colors. For each occurrence of Contractor's failure to comply with Container labeling and color requirements pursuant to Section 5.6.3 of this Agreement: \$150 / Container / occurrence

Failure to Perform Public Education and Outreach. For each failure to perform any individual education and outreach activity as required and in the timeframe specified by this Agreement: \$180 / occurrence

Failure to Allow Access to Records. For each failure to provide access to records in compliance with and in the timeframe specified in this Agreement: \$120 / day

Failure to Issue Contamination Notices. For each failure of Contractor Collection personnel to issue contamination notices and maintain documentation of issuance as required by Section 4.7 of this Agreement.: \$100 / Contractor Route / day

Improper Fee Issuance. For each fee that is issued to a Generator without prior authorization from City under this agreement: \$100 / Customer / Day

Liquidated damages will only be assessed after Contractor has been given the opportunity but failed to rectify the damages, as described in this Agreement (e.g., twenty-four (24) working hours to respond to a Complaint). City may determine the occurrence of events giving rise to Liquidated Damages through the observation of its own employees or representative or investigation of Customer Complaints.

Prior to assessing Liquidated Damages, City shall give Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Contractor may review (and make copies at its own expense) all information in the possession of City relating to incident(s)/non-performance. Contractor may, within ten (10) days after receiving the notice, request a meeting with City. If a meeting is requested, it shall be held by the City Manager or their designee. Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. The City Manager or designee will provide Contractor with a written explanation of his or her determination on each incident(s)/non-performance prior to authorizing the assessment of Liquidated Damages. The decision of the City Manager or designee shall be final.

- C. **Amount.** The City Manager or their designee may assess Liquidated Damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.
- D. **Timing of Payment.** Contractor shall pay any Liquidated Damages assessed by City within thirty (30) days after they are assessed. If they are not paid within the thirty (30) day period, City may proceed against the security required by this Agreement or order the termination of this Agreement, or both.”

Article 13.

Other Agreements of the Parties

13.6 Subcontracting

Article 13, Section 13.6 of the Agreement is hereby amended as follows:

“Except as approved in writing by City, Contractor shall not enter into an agreement to have another Person perform Contractor’s duties of this Agreement. Contractor must obtain written agreements with Processing Subcontractors, including the Approved Organic Materials Processing Facility to the Facility’s capacity to Process Discarded Materials. Contractor shall undertake to pay City its reasonable expenses for attorney’s fees and investigation costs necessary to investigate the suitability of any proposed Subcontractor, and to review and finalize any documentation required as a condition for approving any such Subcontracting agreement.”

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

CITY OF ARROYO GRANDE:

SOUTH COUNTY SANITARY SERVICE,
INC.

By: _____
Caren Ray Russom, Mayor

By: _____

ATTEST:

By: _____

Jessica Matson, City Clerk

APPROVED AS TO FORM:

Timothy J. Carmel, City Attorney

EXHIBITS

Exhibit G Recordkeeping and Reporting (NEW)

Exhibit G, Recordkeeping and Reporting, is hereby added to the Agreement as follows:

G.1 General

Contractor shall maintain such accounting, statistical, and other records related to its performance under this Agreement as shall be necessary to develop the reports required by this Agreement or City Municipal Code. Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with Applicable Laws and regulations and to meet the reporting and Discarded Materials Collection, Processing, and Disposal program management needs of the City. At the written direction or approval of City, the records and reports to be maintained and provided by Contractor in accordance with this Exhibit and other Articles of the Agreement may be adjusted in number, format, and frequency, if required to comply with State or Federal regulatory or reporting requirements.

Information from Contractor's records and reports can be used to, among other things:

1. Determine and set Rates and evaluate the financial efficacy of operations;
2. Evaluate past and expected progress toward achieving the Contractor's Landfill Disposal reduction or Diversion goals and objectives;
3. Provide concise and comprehensive program information and metrics for use in fulfilling reporting requirements under Applicable Law;
4. Determine needs for adjustment to programs;
5. Evaluate Customer service and Complaints; and,
6. Determine Customer compliance with AB 341, AB 1826, and SB 1383 statutes and corresponding regulations; and, any subsequent State-mandated landfill Disposal reduction, Recycling, recovery, or Diversion statutes, regulations, or other requirements.

G.2 Record Keeping

- A. **General.** Contractor shall maintain Customer contact data, Customer service, accounting, statistical, operational, and other records related to its performance as shall be necessary to provide reporting required by this Agreement and Applicable Law and to demonstrate compliance with this Agreement and Applicable Law (such as, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations).

Record keeping and reporting requirements specified in this Agreement shall not be considered a comprehensive list of reporting requirements. In particular, this Exhibit is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports that Contractor is required to maintain and report by Applicable Law or this Agreement. Upon written direction or approval of City, the records and reports required by Contractor in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

Contractor shall maintain adequate records, and corresponding documentation, of information required by this Exhibit, such that the Contractor is able to produce accurate monthly, quarterly,

and annual reports, and is able to provide records to verify such reports. Contractor will make these records available and provide to the City any record or documentation necessary for the City to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, and SB 1383 statutes and corresponding regulations; and, other current or future Federal, State, or local statutes and regulations, as amended. Upon request by the City, Contractor shall provide access to Contractor's requested records in a timely manner, not to exceed ten (10) Business Days from the time of City's request to Contractor.

- B. **Record Retention and Security.** Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed, pursuant to this Exhibit. Contractor's records shall be stored in one central location, physical or electronic, that can be readily accessed by Contractor. City reserves the right to require the Contractor to maintain the records required herein through the use of a City-selected web-based software platform, at Contractor's expense. Unless otherwise required in this Exhibit, Contractor shall retain all records and data required to be maintained by this Agreement for the Term of this Agreement plus five (5) years after its expiration or earlier termination.

Records and data shall be in chronological and organized form and readily and easily interpreted. Contractor shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically-maintained data and records shall be protected and backed-up. To the extent that Contractor utilizes its computer systems to comply with record keeping and reporting requirements under this Agreement, Contractor shall, on a monthly basis, save all system-generated reports supporting those record keeping and reporting requirements in a static format in order to provide an audit trail for all data required.

- C. **Compilation of Information for State Law Purposes.** Contractor shall maintain accurate records for its operation, including, but not limited to, Discarded Materials quantities Collected and quantities Transported to or Transferred to each Approved Facility, listed separately by material type, Customer type, and Facility. Records shall be maintained in such form by methods that facilitate the use of data for the production of reports as needed. Contractor will make these records available and provide to the City any record or documentation necessary for the City to fulfill obligations under Applicable Law including, but not limited to, AB 939, AB 341, AB 1826, AB 876, AB 901, AB 1595, and SB 1383 statutes and corresponding regulations; and, other current or future local, Federal or State statutes and regulations, as amended.

G.3 Reporting

G.3.1 General

- A. **General Purpose.** Reports are intended to compile recorded data into useful forms of information that can be used by the City. All reports shall be adequate to meet City's current and future reporting requirements to CalRecycle, including AB 939, AB 341, AB 1826, and SB 1383 statutes and corresponding regulations, or any other State or Federal agency statutes and regulations throughout the Term of this Agreement.
- B. **Failure to Report.** Failure of Contractor to comply with the reporting requirements as set forth in this Section may result in an assessment of Liquidated Damages in accordance with the Liquidated Damages provision in Section 12.3 of this Agreement. Contractor's repeated failure to submit reports, and/or failure to submit reports on time, may be deemed an event of default and may

result in the termination of the Agreement at the discretion of the City Manager, in accordance with Article 12 of this Agreement.

- C. **Report Format.** Contractor shall submit all reports to the City, electronically via e-mail using software acceptable to the City. The City reserves the right to require the Contractor to maintain records and submit the reports required herein through use of the District-selected web-based software platform and/or Microsoft Excel spreadsheet, at the Contractor's expense.
- D. **Submittal Process.** All reports shall be submitted to the City, Department of Public Works or as directed by the City Manager. Reports shall be submitted electronically via email or uploaded to a document sharing platform agreed upon by the Parties. City reserves the right to require the Contractor to maintain records and submit the reports required herein through use of a City-selected web-based software platform, at the Contractor's expense.

G.3.2 Monthly Reports

Monthly reports shall be submitted by Contractor to City and shall include the following information pertaining to the most recently completed calendar month. In addition, each monthly report shall include a year-to-date summary page that includes the data submitted from the monthly report(s) submitted in the calendar year prior to the submittal of the current monthly report. Contractor shall report the information included in the following subsections.

A. Tonnage Report

- 1. Contractor shall report the total quantities in Tons of Discarded Materials Collected, Transferred, Processed, and Disposed by the Contractor, all of which shall be based on actual certified scale weights for each load, if available, or similarly accurate methodology pursuant to weighing protocol. Tonnage shall be reported separately by:
 - a. Material type, which shall include, at a minimum, separate reporting of Source Separated Recyclable Materials, Source Separated Organic Materials, Solid Waste, and any other type of Discarded Material separately Collected by Contractor (including, but not limited to: Bulky Items, used oil, dirt, rock, metals, Cardboard, wood waste, , Salvageable Materials, etc.);
 - b. Customer/sector type (Single-Family, Multi-family, Commercial Roll-off); and,
 - c. Approved Facility and Facility type.
- 2. Report Residue level and Tonnage for all Discarded Materials Processed, listed separately by material type Collected and Approved Facility(ies) used.
- 3. Source Separated Recyclable Materials Tonnage Marketed, by commodity, and including average commodity value for each, and Processing Residue Tonnage Disposed, listed separately by material type Collected and Approved Facility(ies) used.
- 4. Documentation of all Discarded Materials exported out of State, as provided in 14 CCR Sections 18800 through 18813.

B. Collection and Subscription Report

- 1. Number of Containers at each Service Level by Customer Type and program, including:

- a. A summary of the total gallons of Cart service, cubic yards of Bin service, and pulls; and cubic yards or Tons of Drop Box and Compactor service by Customer Type.
 - b. Calculation of the average volume of service received per: Single-Family Dwelling Unit (separately identifying Dwelling Units in a duplex, triplex, or fourplex); Multi-Family Dwelling Unit; and, Commercial Customer.
2. A summary of Customer subscription data, including the number of accounts; the number of Customers subscribing to each Cart, Bin, and Roll-Off Service Level listed separately for Single-Family, Multi-Family, and Commercial and separately for each type of Discarded Material; the number and type of waivers (i.e., de minimis or physical space constraint) active for Customers for each type of Discarded material; and the number of Bulky Items Collections performed.

C. Contamination Monitoring Report

The Contractor shall submit the following information regarding Contractor conducted contamination monitoring and issuance of Prohibited Container Contaminant Notices, conducted pursuant to Section 4.7 of this Agreement:

1. Description of the Contractor's Process for determining the level of contamination;
2. Summary report of Customer Notices which shall include the date of issuance, Customer name, and service address.
3. A record of each inspection and contamination incident, which shall include, at a minimum:
 - a. Name of the Customer
 - b. Address of the Customer
 - c. The date the contaminated Container was observed
 - d. The staff who conducted the inspection
 - e. The total number of violations found and a description of what action was taken for each
 - f. Copies of all notices issued to Generators with Prohibited Container Contaminants
 - g. Any photographic documentation or supporting evidence.
4. Any other information reasonably requested by the City or specified in contamination monitoring provisions of this Agreement.

D. Customer Service Report

1. Contractor shall maintain a record of all SB 1383 non-compliance Complaints as defined in 14 CCR Section 18995.3 and responses and submit the following information:
 - a. Total number of SB 1383 non-compliance Complaints received and total number of SB 1383 non-compliance Complaints investigated
 - b. Copies of documentation recorded for each SB 1383 non-compliance Complaint received, which shall at a minimum include the following information:
 - i. The SB 1383 non-compliance Complaint as received;
 - ii. The name and contact information of the complainant, if the SB 1383 non-

- compliance Complaint is not submitted anonymously;
 - iii. The identity of the alleged violator, if known;
 - iv. A description of the alleged violation; including location(s) and all other relevant facts known to the complainant;
 - v. Any relevant photographic or documentary evidence submitted to support the allegations in the SB 1383 non-compliance Complaint; and,
 - vi. The identity of any witnesses, if known.
- c. Copies of all SB 1383 non-compliance Complaint reports submitted by Contractor to the City.
 - d. Copies of all investigation reports submitted to the City which shall include at a minimum:
 - i. The SB 1383 non-compliance Complaint as received;
 - ii. The date the Contractor investigated the SB 1383 non-compliance Complaint;
 - iii. Documentation of the findings of the investigation;
 - iv. Any photographic or other evidence collected during the investigation; and,
 - v. Contractor's recommendation to the City on whether or not the entity investigated is in violation of SB 1383 Regulations based on the Contractor's investigation.

E. Education Program Report

The monthly status of activities identified in the annual public education plan described in Section 6.10 of this Agreement.

G.3.3 Annual Reports

In addition to the monthly reporting requirements in this Exhibit and Section 9.6, the Contractor shall provide an Annual Report, covering the most recently-completed calendar year, in accordance with the format and submittal requirements of this Exhibit. The Annual Report shall include the information in the following subsections.

A. Collection and Subscription Report

1. A summary of all data provided in the Tonnage report section, including quarterly and annual totals and averages.
2. The type(s) of Collection service(s) provided, a list of all hauler routes serviced, and a record of the addresses served on each hauler route.
3. A summary of Customer subscription data, including the number of accounts; the total number of Generators enrolled with Contractor for service, listed separately by Service Level and Container type (Cart, Bin, and Roll-Off service), separately by Single-Family, Multi-Family, and Commercial Customers, and separately for each type of Discarded Material.
4. A detailed list of Single-Family, Multi-Family, and Commercial Customer information, including Solid Waste Container Waste, Recyclable Materials, and Organic Materials Service

Levels, Customer type, and Customer service addresses reflecting Customer Service Levels as of December 1 (for the year in which the report is submitted)

B. Processing Facility Report

1. **Approved Organics Processing Facility:** Contractor shall provide documentation demonstrating the actual percent of the material removed for landfill disposal that is Organic Waste is less than the percent specified in 14 CCR Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, demonstrations compliance with the digestate handling requirements specified in 14 CCR Section 17896.5.
2. **Temporary Equipment or Operations Failure:** If the Contractor is granted a Processing facility temporary equipment or operational failure waiver, in accordance with Section 5.7 or 5.11 of the Agreement, the Contractor shall include the following documents and information:
 - a. The number of days the Processing Facility temporary equipment waiver or operation failure waiver was in effect;
 - b. Copies of any notifications sent to the City pursuant to Section 5.7 or 5.11 of the Agreement, and copies of City notices to Contractor pursuant to Section 5.7 or 5.11 of the Agreement;
 - c. Documentation setting forth the date of issuance of the waiver, the timeframe for the waiver; and,
 - d. A record of the Tons of Organic Materials, Recyclable Materials, and Solid Waste redirected to an Alternative Facility or Disposed at an Approved Disposal Facility as a result of the waiver, recorded by Collection vehicle or Transfer vehicle number/load, date, and weight.
3. **Quarantined Organic Waste:** A record of all compliance agreements for quarantined Organic Waste that are Disposed of, including the name of Generator, date issued, location of final disposition, and the amount of quarantined Organic Waste that was required to be Disposed at a Landfill, pursuant to Section 5.7 of the Agreement

C. Compliance Monitoring and Enforcement Report

1. A summary of the total number of SB 1383 Regulatory non-compliance Complaints that were received and forwarded to the City or their designee.
2. The total number of Prohibited Container Contaminant Customer Notices and Contamination Processing Fees, categorized by type of Generator.
3. The number of violations that were resolved, categorized by type of Generator.
4. Copies of all Prohibited Container Contaminant Customer Notices issued and, educational materials issued to non-compliant Generators.

D. Public Education and Outreach Report

1. A copy of all education and outreach materials provided to Generators, or otherwise used for education and outreach efforts in accordance with this Agreement, including, but not limited to: flyers, brochures, newsletters, invoice messaging/billing inserts, and website and social media postings.

2. A record of the date and to whom the information was disseminated or direct contact made, in the form of a list that includes: the Generator's name or account name, the type of education or outreach received; the distribution date, and the method of distribution.
3. For any mass distribution through mailings or bill inserts, the Contractor shall maintain a record of the date, a copy of the information distributed, and the type and number of accounts that received the information.
4. A copy of electronic media, including the dates posted of: social media posts, e-mail communications, or other electronic messages.
5. A summary of the status of the annual education plan of the reporting year, including activities conducted and the quantitative and/or qualitative results of those activities.
6. The annual public education plan required by Section 6.10 of the Agreement for the upcoming then-current calendar year. For example, Contractor submittal of a 2021 annual report in February 2022 shall include Contractor submittal of the annual public education plan for calendar year 2022.
7. Contractor shall maintain a record of all technical assistance efforts conducted pursuant to Section 6.10 of the Agreement, including:
 - a. The name and address of the Customer/Generator receiving technical assistance, and account number, if applicable.
 - b. The date of any technical assistance conducted and the type of technical assistance, including, but not limited to: waste assessments, compliance assessments, direct outreach, workshops, meetings, events, and follow-up communications.
 - c. A copy of any written or electronic educational materials distributed during the technical assistance process.
8. A copy of all special event reports submitted to the City in accordance with Section 5.9 of the Agreement.

G.3.4 Additional Reports

- A. **Upon Request Reporting.** City reserves the right to request additional reports or documents in the case of unforeseen legislative or regulatory changes, requests from CalRecycle, or additional requirements imposed upon the City. The Contractor shall provide the requested reports, documents, or information within ten (10) Business Days upon receipt of the request or within a timeframe determined by the City Manager, which shall not to exceed ten (10) days.
- B. **Facility Capacity Planning Information.** To the extent such information is available to Contractor, City may require Contractor to provide City with information of available Organic Waste Processing capacity for any Approved Processing Facilities, where available capacity may include identification of monthly Tons of additional Organic Waste that such Approved Facilities have the ability to receive within permitted limits. Contractor shall respond to City within sixty (60) days of City's request for information regarding available new or expanded capacity, to the extent such information is available to Contractor and, at City's option may be required to submit reports on a more regular basis (such as monthly, quarterly, or annually). If Contractor uses a Subcontractor to perform some or all of the Facility-related services required by this Agreement, Contractor shall use commercially reasonable

efforts to secure any City-requested Facility capacity planning information from its Subcontractor(s). The annual Facility capacity planning report shall comply with the following:

1. Include reports of current throughput and permitted capacity and available capacity for Organic Materials Processing for any Facility in the City that Processes Organic Materials. Existing capacity may include identification of monthly Tons of additional Source Separated Recyclable Materials, Source Separated Organic Materials, and/or Solid Waste capacity such Facility has the ability to receive within permitted limits.
2. Include description of potential new or expanded Processing capacity at those Facilities, operations, and activities for Processing of Organic Materials, including information about throughput and permitted capacity necessary for planning purposes.
3. Be submitted using a form or format approved by the City Manager.”