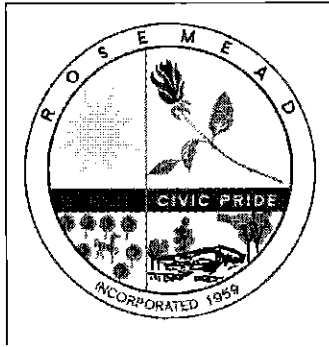


Attachment B

Solid Waste Franchise Agreement and Amendments



CITY OF ROSEMEAD

FRANCHISE AGREEMENT

Dated August 28 2012

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**EXCLUSIVE FRANCHISE AGREEMENT
FOR COMPREHENSIVE REFUSE SERVICES**

THIS AGREEMENT is made and entered into effective the 28th day of August 2012, by and between the CITY OF ROSEMEAD, a municipal corporation, hereinafter referred to as City, and Consolidated Disposal Service, a Limited Liability Corporation, hereinafter referred to as Contractor.

The City and Contractor agree each with the other, that, for a period of ten (10) years, from and after the 1st day of August, 2013, Franchisee shall have sole right to collect, haul, and dispose of all solid waste and conduct a comprehensive recycling program in the City in accordance with the following terms and conditions.

RECITALS

WHEREAS, Article XI, § 7 of the California Constitution authorizes cities to protect public health and safety by taking measures in furtherance of their authority over police and sanitary matters; and

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, ("**AB 939**" or the "**Act**") established a Solid Waste management process which requires cities and other local jurisdictions to implement plans for source reduction, reuse and recycling as integrated waste management practices for Solid Waste attributed to sources within their respective jurisdictions; and

WHEREAS, California Public Resources Code § 40059 provides that aspects of Solid Waste handling of local concern include but are not limited to frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location and extent of providing solid waste services, and whether the services are to be provided by means of nonexclusive, partially exclusive or wholly exclusive franchise, contract, license or otherwise which may be granted by local government under terms and conditions prescribed by the governing body of the local agency; and

WHEREAS, the Rosemead Municipal Code Chapter 8.32 implements Article XI, § 7 of the California Constitution and California Public Resources Code § 40059 in the City; and

WHEREAS, City is obligated to protect the public health and safety of the residents and businesses in the City, and arrangements made by solid waste enterprises and recyclers for the collection of residential and commercial Solid Wastes should be made in a manner consistent with the exercise of the City's police power for the protection of public health and safety; and

WHEREAS, City and Contractor are mindful of the provisions of the laws governing the safe collection, transport, recycling and disposal of residential and commercial Solid Waste, including AB 939, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.*; the Electronic Waste Recycling Act of 2003 (SB 20, Chapter 526, Statutes of 2003; SB 50, Chapter 863, Statutes of 2004; AB 575 Chapter 59, Statutes of 2011), laws governing Universal Waste, including, but not limited to, Universal Waste Electronics Devices (“UWED”), non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries, alkaline batteries, carbon-zinc batteries and any other batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, mercury-containing switches; and

WHEREAS, City and Contractor desire to leave no doubts as to their respective roles and to make it clear that by entering into this Agreement, City is not thereby becoming a “generator” or an “arranger” as those terms are used in the context of CERCLA § 107(a)(3) and that it is Contractor, an independent entity, not City, which will arrange to collect Solid Waste from single family dwellings, multiple family dwellings, City and commercial customers in the City of Rosemead, transport for recycling and disposal and dispose of Solid Wastes which may contain small amounts of household products with the characteristics of hazardous wastes, collect and compost Green Waste and collect and recycle Recyclable Materials from single family dwellings, multiple family dwellings, City, and commercial customers in the City of Rosemead, and collect and recycle or dispose of Construction and Demolition Materials (“C&D Materials”); and

WHEREAS, there are no places within the City limits of the where landfills are located, or which are suitable for the siting of a landfill and therefore Solid Waste must be exported from the City; and

WHEREAS, City and Contractor agree that, subject to City’s exercise of its reserved flow control right under of this Agreement, it is Contractor, and not City, that will select the landfill or transformation facility destination of the non-recyclable residential and commercial Solid Waste and Construction and Demolition Materials which Contractor will arrange to collect, that City has not, and by this Agreement does not, instruct Contractor on its collection methods, nor supervise Contractor in the collection of waste and nothing in this Agreement or other action of the City shall be construed to give rise to any inference that the City has any title, ownership or right of possession of such Solid Waste; and

WHEREAS, Contractor represents and warrants to City that Contractor has the experience and qualifications to conduct recycling and waste diversion programs, to provide City with information sufficient to meet the City’s reporting requirements to CalRecycle and other agencies under the Act, to meet City’s other requirements under the Act, to arrange with persons in charge of day-to-day activities of Customers’

properties in the City for the collection, safe transport and disposal of Solid Wastes which may contain small amounts of household products with the characteristics of Hazardous Wastes, in a safe manner which shall minimize the adverse effects of collection vehicles on air quality and traffic, and that Contractor has the ability to indemnify City in accordance with this Agreement; and

WHEREAS, the City Council finds and determines pursuant to California Public Resources Code § 40059(a)(1) that the public interest, health, safety and well-being, including the minimization of adverse impacts on air quality and traffic from excessive numbers of collection vehicles, the implementation of measures consistent with the City's Source Reduction and Recycling Element, would be served if Contractor were to be awarded an exclusive Franchise for collection, recycling, diversion and disposal of Solid Waste from Customers in the City,

NOW, THEREFORE, the City and Contractor agree as follows:

1. GRANT OF FRANCHISE.

1.1 Binding Agreement. In consideration of mutual promises and agreements made by the Parties and contained in this Agreement, the Parties agree to be bound by the terms and conditions of this Agreement and that this Agreement shall be binding upon their successors-in-interest.

1.2 Grant of Franchise, Exclusions. Except as expressly called out in this Agreement, Contractor is hereby granted the exclusive franchise, duty, right and privilege to provide Comprehensive Refuse Services to City and within boundaries of City subject to the terms and conditions set forth in this Agreement.

1.3 Exclusive Franchise. Contractor agrees that this Agreement is an "exclusive franchise" within the meaning of Public Resources Code § 40059.

1.4 Waiver of Rights. Contractor waives any right it may have to challenge the terms of this Agreement under federal, state or local law, or administrative regulation, except as provided in the dispute resolution provisions of Section 23 of this Agreement.

1.5 Recycling Agent. Contractor is hereby designated the City's authorized recycling agent as that term is used in Public Resources Code §41950.

1.6 Exclusions.

(a) Construction and Demolition Materials. The collection and disposal of Construction and Demolition Materials from Customers through the use of Debris Boxes or other Bins is within the scope of this Agreement. However, accumulation, collection and recycling or disposal of Construction and Demolition Materials by a licensed contractor, e.g. a roofing contractor, performing work within the

scope of the contractor's license, using equipment owned or leased by the contractor, is not within the scope of this Agreement.

(b) Gardeners and Landscapers. This Agreement shall not prohibit gardeners and landscapers from collecting, transporting and composting or disposing of Green Waste, as long as they transport such Green Waste to an Green Waste Processing Facility, or other site permitted (or exempt from permitting) by CalRecycle, or its successor agency, in accordance with all governing laws and regulations and submit reports required by City.

(c) Sale or Gift of Recyclable Materials. This Agreement does not prohibit any person from selling Recyclable Materials or giving Recyclable Materials away to persons or entities other than Contractor; however, in either instance: (1) the Recyclable Materials must be segregated from and not mixed with Solid Waste; and (2) the seller/donor may not pay the buyer/done any consideration for collecting, processing or transporting such Recyclable Materials, or as a consultation or broker's fee for recycling services. A discount or reduction in price for collection, disposal and/or recycling services for any form of unsegregated or segregated Solid Waste is not a sale or donation of Recyclable Materials and such Solid Waste does not qualify for this exception.

(d) Self-Hauling. The City of Rosemead is currently drafting a self-hauling ordinance for consideration by the City Council to amend Chapter 8.32 of the Rosemead Municipal Code, permitting self-hauling of Solid Waste, Recyclable Materials, Bulky Waste and Green Waste by persons subject to issuance of a permit by City and compliance with the conditions imposed by such permit. This Agreement does not prohibit such self-hauling provided the material is transported personally by the owner or occupant of such premises (or by his or her full-time employees but not including construction related employees or subcontractors) to a processing or disposal facility pursuant to a valid City issued self-hauling permit.

(e) Other Services; Niche Recycling Services. City reserves the right to enter into agreements with other entities for other collection, diversion and recycling services not provided for in this Agreement, including but not limited to catch basin clean-outs, contract services and "niche" recycling services which Contractor does not currently provide. In the event the City wishes to provide a niche recycling service, e.g., collection of water heaters, in Residential or commercial areas, Contractor shall have the initial opportunity to provide such niche recycling service at an agreed upon rate by the City and the Contractor.

2. Contractor's Payments and other Considerations to City.

2.1 Contractor's Payments to City. In consideration of City's grant of the Franchise, Contractor shall pay, City in good and immediately available funds in United States Dollars:

(a) **Franchising Payments.** For the privileges granted to and conferred upon Contractor by City under the Agreement, Contractor shall pay to City the amounts set forth below ("Franchising Payments"), over the Term of this Agreement, unless the Agreement is earlier terminated or specifically amended to require otherwise:

1. **Initial Payment.** Within fifteen (15) days of the Effective Date of this Agreement, Contractor shall pay City One Million Six Hundred Thousand Dollars (\$1,600,000).
2. **Annual Payments.** Contractor shall pay to City each year the greater of Five Hundred Thousand Dollars (\$500,000) or Ten Percent (10%) of Gross Receipts. This amount shall be paid in quarterly installments of One Hundred Twenty Five Thousand (\$125,000) or more on November 1st, February 1st, May 1st, and August 1st of each year during the term of this Agreement, commencing on November 1, 2013, with the last payment due on November 1, 2023.
3. **Services.** As further consideration, Contractor shall provide to the City those services described in Section 6 below at no additional charge.

3. Term.

3.1 Effective Date. The Effective Date of this Agreement shall be the date entered on the first page of this Agreement which is the date by which Contractor and City have approved the Franchise Agreement (with all exhibits attached) and their respective authorized representatives have executed the Franchise Agreement.

3.2 Term of Agreement. The term of this Agreement ("**Term**") shall begin on the 1st day of August, 2013 ("**Service Commencement Date**") and expire on July 31, 2023, ("**Term Expiration Date**"), subject to early termination or extension as may occur pursuant to this Agreement; certain obligations of the Contractor, including the obligation to make the final franchise payment, continue after the Term Expiration Date, as set forth elsewhere in this Agreement.

3.3 Minimum Diversion and Recycling Requirements. The continued privilege of Contractor to provide Comprehensive Refuse Services to City and within City's boundaries is subject to the satisfaction of each and all of the conditions set forth below, each of which may be waived in whole or in part by City. The Contractor must achieve all of the following Minimum Requirements. Failure to meet one or more of these requirements is a material breach of this Agreement and subjects Contractor to the assessment of liquidated damages, early termination, or other remedies provided for under this Agreement.

(a) **Diversion Rate.**

1. On an annual basis, Contractor must achieve a diversion rate which meets or exceeds sixty percent (60%) for citywide diversion as calculated using the CalRecycle diversion calculation. The Maximum Permitted

Customer Rates contemplate this Minimum Diversion Rate. On or before the end of each month following the end of the previous month, Contractor shall provide all documents and information required by the Public Works Director to prove that it has complied with this Section 3.3 and all applicable laws related to recycling and diversions of municipal solid waste.

2. Contractor shall, in the event it cannot meet the City's diversion requirement after exhaustion of all feasible source reduction programs, send a minimum of seventy five percent (75%) of refuses from commercial or multifamily customers, collected by weight for processing to recover recyclables, with a minimum recovery rate of 25% in accordance with the CalRecycle diversion calculation.

(b) Change in Law. Should the law change after the Effective Date of this Agreement and require a higher Minimum Diversion Rate, then Contractor shall comply with such legally required Diversion Rates and may adjust the Maximum Customer Rates, as provided under Section 8.1 (b) "Adjustment Due to Change In Law."

(c) Calculation of Diversion Rate. The Diversion Rate will be calculated in accordance with the CalRecycle diversion calculation as the tons of materials collected by Contractor from the provision of collection services that are sold or delivered to a Material Recovery Facility or Green Waste Processing Facility, recycler or re-user, net of all residue, according to the same method used by CalRecycle.

(d) Multifamily and Commercial Recycling. Contractor must fully implement the Multifamily and Commercial recycling programs as set forth in Exhibit A in the time required by State and local law.

(e) Food Waste Diversion Program. Contractor shall fully implement the program to divert food waste collected from all commercial food-service establishments in the City as set forth in Exhibit B.

(f) Failure to Meet Minimum Requirements. Contractor's failure to meet the minimum requirements set forth in this Section 3.3 may result in the imposition of liquidated damages and City's exercise of the remedies provided in Sections 23 and 24 below. In determining the appropriate remedy, City will consider the efforts put forth by the Contractor in implementing the required programs to meet Minimum Diversion Requirements and the methods and level of effort of the Contractor to fully implement the work plans attached to and included in this Agreement as Exhibits A, B, C, G and H.

4. Definitions.

Whenever any term used in this Agreement has been defined by the Municipal Code of the City of Rosemead ("Municipal Code") or Division 30, Part 1, Chapter 2 of the California Public Resources Code, the definitions in the Municipal Code or Public

Resources Code shall apply unless the term is otherwise defined in this Agreement. For purposes of this Agreement the following definitions apply:

“Act” or “AB 939” means the California Integrated Waste Management Act of 1989, codified in part at Public Resources Code §§ 40000 *et seq.*, as it may be amended and as implemented by the regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or its successor agency.

“Agreement” or “Franchise Agreement” means this written Agreement between the City and Contractor, and all exhibits and documents incorporated by reference.

Agreement Year” means each twelve (12) month period from August 1st to July 31st each year, beginning on the Service Commencement Date.

“Alternative Fuel Vehicle” means a vehicle whose engine uses a fuel other than gasoline or diesel fuel, such as compressed natural gas (CNG) or other fuel with comparably low emissions of air pollutants regulated under the California Clean Air Act, Health and Safety Code Section 39000 *et seq.* or the South Coast Air Quality Management District’s rules and regulations including Rule 1193.

“Bin” or “Bins” means those open-top rectangular metal containers provided by Contractor, with wheels, with or without plastic or metal lids, used for collection and storage of MSW, Recyclable Materials, Green Waste, Construction and Demolition Debris, or other materials to be collected by Contractor. Typical sizes of bins include 2, 3, 4 and 6 cubic yards. Bins are collected by a front load vehicle equipped with metal forks that are inserted into metal channels on either side of the Bin in order to lift Bin, empty the contents into the body of the vehicle, and return the Bin to the ground.

“Box” means a large open-top rectangular metal containers used to store and transport MSW, Recyclable Materials, Green Waste, Construction and Demolition Debris, or other materials, collected using a special vehicle equipped with hooks and a winch to pull the box onto the flat bed of the truck for transport.

“Bulky Items” means furniture, household appliances, carpets, mattresses , automobile tires, shipping crates and containers, oversized yard waste such as tree trunks and large branches if no larger than two feet (2’) in diameter and four feet (4’) in length, and other large bulky or heavy objects not normally discarded on a regular basis at residential, commercial or business establishments. Bulky Items do not include construction/demolition debris or consumer electronics, such as televisions, radios, computers and monitors which are regarded as Universal Waste Electronic Devices, the disposal of which is governed by the Department of Toxic Substances Control.

“Business Days” means Monday through Friday, during the hours of 8:00 a.m. through 5:00 p.m., except for holidays recognized by City.

“Cart” or “Carts” means those 32, 64 or 96-gallon containers with hinged lids provided by Contractor for the collection of Municipal Solid Waste, Solid Waste, Recyclable Material, and Green Waste.

“City” means the City of Rosemead, California, and all of the territory lying within the municipal boundaries of the City as presently existing or as such boundaries may be modified during the Term.

“City Representative” means the City Manager, or the City Manager’s designee, authorized to administer and monitor the provisions of this Agreement.

“City Service Sites” means those City properties or locations as set forth in Exhibit C, “City Service Locations,” which is attached to and included in this Agreement.

“Clean Material Recovery Facility” or “Clean MRF” means a material recovery facility other than a Dirty Materials Recovery Facility.

“Collection” means the taking of physical possession of Municipal Solid Waste or Recyclable Materials from Customer premises, and their transport to the Materials Recovery Facility, Compost Facility, Construction Demolition and Debris processing facility, or Landfill.

“Commercial Customer” means all premises in the City, other than Residential, Multifamily, or City Service Sites where Solid Waste, Recyclable Materials, and Organic Waste are generated or accumulated. The term “Commercial Customer” includes, but is not limited to, stores; offices; restaurants; rooming houses; hotels; motels; industrial and manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes (non-medical waste).

“Commercial Organic Waste” means Green Waste and Food Waste separated at the source of generation for inclusion in the Commercial Organic Waste Collection Service program.

“Comprehensive Refuse Services” means the collection, transportation, processing, recycling, composting, conversion, retention and disposal of all Solid Waste, Organic Waste, (including Commercial Organic Waste, Food Waste, and Green Waste), Recyclable Materials, Construction and Demolition Materials, Bulky Item Materials, Household Hazardous Waste, and Universal Waste, all as defined in this Agreement, produced, generated and/or accumulated within the City.

“Construction and Demolition Materials” or “C&D Materials” means discarded building materials, “inert wastes” as defined in Public Resources Code § 41821.3(a)(1) (rock, concrete, brick, sand, soil ceramics and cured asphalt), recyclable construction and demolition materials, packaging, plaster, drywall, rubble resulting from construction, remodeling, repair and demolition operations,

but does not include asbestos-containing materials. Construction and Demolition Materials, but not asbestos-containing materials, are within the scope of this Agreement, subject to the licensed contractor exception in Section 1.6 above.

“Consumer Price Index” or **“CPI”** shall have the meaning set forth in Section 8 of this Agreement.

“Container” means Cart, Bin, or Debris Box.

“Contractor” means Consolidated Disposal, LLC, a California Limited Liability corporation, a party to this Agreement.

“Contamination” means materials which are not specified for collection in particular containers or for processing at either a Clean MRF or Dirty MRF and which would either interfere with such processing or reduce the quality and value of the recovered materials. For example, for purposes of collection, metals and plastics would constitute “contamination” if placed in a green waste container and tree trimmings would constitute “contamination” if placed in a recyclable materials container.

“Customer” means the owner, occupant or user of premises at which MSW or recyclable materials are generated and then collected by Contractor. Customers include Residential Customers, Multifamily Customers, and Commercial Customers. City is also a receiver of collection services but not a Customer.

“Customer with Disabilities” means a person who meets the eligibility requirements for a parking permit for a person with disabilities of the California Department of Motor Vehicles.

“Dirty Materials Recovery Facility” or **“Dirty MRF”** shall mean a facility or that certain portion of a facility that processes Municipal Solid Waste to separate Recyclable Materials, Green Waste, Construction and Demolition Debris and other materials for sale to end users. In some cases the MSW processed at a Dirty MRF may have been collected in a special manner in order to reduce contamination, such as collecting at commercial premises with relatively dry MSW and routing to avoid collecting at commercial premises where wet MSW is generated, such as restaurants.

“Disposal” means the burying of MSW at a permitted landfill or transformation at a permitted facility as further defined in Section 40192 of the California Public Resources Code.

“Disposal Site” means such place or places specifically designated by the Contractor in Exhibit D, “Recovery and Disposal Sites,” for the disposal, or processing as appropriate, of Municipal Solid Waste and other materials as appropriate.

“Diversion Rate” and **“Minimum Diversion Rate”** shall have the meaning set

forth in Section 3.3 above.

“Effective Date” means August 28, 2012, the date by which Contractor and City have approved the Franchise Agreement (including all attachments) and their respective authorized representatives have executed the Franchise.

“Franchise” means the exclusive right and privilege granted by this Agreement.

“Franchise Payment” means the negotiated payment agreed upon by the City and Contractor in consideration of City’s grant of the Franchise to Contractor and which, *inter alia*, is intended to offset the City’s expenses in administering this Franchise and to compensate City for damage to its streets, sidewalks, curbs and gutters and other infrastructure resulting from Contractor’s exercise of this Franchise, the expenses of administering the program for the Solid Waste stream, reporting requirements under the Act and other related expenses.

“Food Waste” means food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard and food contaminated paper products. Food Waste is synonymous with “garbage” as that term is defined by Section 17225.30 of Title 14, California Code of Regulations.

“Green Waste” means leaves, grass clippings, brush, branches and other forms of organic materials generated from maintenance or alteration of landscapes or gardens including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush and weeds and incidental pieces of scrap lumber, separated from the Solid Waste Stream. “Green Waste” does not include stumps or branches exceeding four inches (4”) in diameter or four feet (4’) in length, or palm fronds, or yucca, which are not suitable for composting. “Green Waste” is not a “Recyclable Material” but may be a form of Solid Waste if discarded into the waste stream.

“Gross Receipts” means all money, whether paid by cash, check, debit or credit, or other consideration collected from customers by franchisee that relates in any way to solid waste handling services, whether the solid waste handling services occur wholly or partially within the City, including, but not limited to, collection, removal, and/or disposal of garbage, solid waste, construction and demolition debris, green waste, industrial waste, roofing materials, trash, litter, refuse and/or rubbish, as well as fuel surcharges. Gross Receipts shall also include all money received by any person other than the franchisee, where the money was paid to the person to avoid the franchisee’s obligations and/or the franchise. Gross Receipts shall not include, or if included there shall be deducted (but only to the extent they have been included), the following: (1) if any sales taxes are levied on the franchisee’s solid waste handling services in the City, the amount of State sales taxes collected in connection with the solid waste handling

services in the City and remitted to the State pursuant to State law; (2) the amount of documented bad debt write-offs due to uncollectible accounts for solid waste handling services in the City, not to exceed three percent of gross receipts; and (3) revenues collected for solid waste handling services provided on behalf of the City through a written contract.

“Hazardous Waste” means any waste materials or mixture of wastes defined as a “hazardous substance” or “hazardous waste” pursuant to the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9601 *et seq.*, the Carpenter-Presley-Tanner Hazardous Substance Account Act (“HSAA”), codified at California Health & Safety Code §§ 25300 *et seq.*; the Electronic Waste Recycling Act of 2003 (SB 20, Sher, Chapter 526, Statutes of 2003; SB 50, Sher, Chapter 863, Statutes of 2004; AB 575, Wolk, Chapter 59, Statutes of 2011), laws governing Universal Waste, including, but not limited to, Universal Waste Electronics Devices (“UWED”), non-empty aerosol cans, fluorescent tubes, high-intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries, alkaline batteries, carbon-zinc batteries and any other batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, mercury-containing switches, and all future amendments to any of them, or as defined by Cal Recycle or the Department of Toxic Substances Control, or by their respective successor agencies. If there is a conflict in the definitions employed by two or more agencies having jurisdiction over hazardous or Solid Waste, the term “Hazardous Waste” shall be construed to have the broader, more encompassing definition.

“Household Hazardous Waste” means materials generated at the premises of Residential or Multifamily Customers that cannot be lawfully deposited in a Landfill, such as dry cell household batteries; cell phones and PDAs; used motor oil; used oil filters, fluorescent light bulbs; E-Waste; cleaning products, pesticides, herbicides, insecticides, and certain paints, automotive products, solvents, stripper, adhesives, and Universal Waste.

“Maximum Permitted Customer Rates” shall have the meaning set forth in Section 8.1 below.

“Material Recovery Facility” or **“MRF”** means a legally-permitted facility designated by the Contractor in Exhibit D that accepts, sorts, processes and stores MSW, single stream recyclable materials, and/or source separated Recyclable Materials in order to segregate individual commodities for sale

“Minimum Diversion Requirements” means the quantitative requirements for diversion of collected material from solid was

“Multi-Family Dwelling” or **“MFD”** means a building, dwelling unit or complex

containing multiple dwelling units that house five (5) or more residences. Apartment complexes, condominiums, townhouses and similar configured housing complexes are included.

“Municipal Solid Waste or “MSW” means all fractions of discarded solid, semi-solid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction/demolition debris, discarded home and industrial appliances, manure, vegetable or animal solid wastes, and other discarded substances or materials.

“Organic Materials” means Green Waste and, upon approval from City, Food Waste. Organic Waste is a form of Solid Waste when discarded into the waste stream.

“Organic Waste Processing Facility” means any facility designated by the Contractor in Exhibit D that is designed, operated and legally permitted for the purpose of receiving and processing Organic Waste.

“Qualifying Senior” means a Customer sixty-two years of age or older qualifying as a person of low income under qualifying guidelines as provided by the City.

“Recyclable Materials” is a part of the waste stream that can be reused or processed into a form suitable for reuse through reprocessing or remanufacture, consistent with the requirements of AB 939. The following list may be modified, by the mutual agreement of City and Contractor memorialized in writing executed by both Parties. As of the date of execution of this Agreement, Recyclable Materials includes, but is not limited to the following:

1. Aluminum cans;
2. Glass jars and bottles;
3. Steel, bi-metal and tin cans, and empty aerosol containers;
4. Plastic soft drink bottles and other Type #1 containers (PET-polyethylene terephthalate);
5. Plastic milk and water jugs and other Type #2 containers (HDPE-high density polyethylene);
6. Type #3 plastic containers (V- polyvinyl chloride);
7. Type #4 plastic containers (LDPE-low density polyethylene);
8. Type #5 plastic containers (PP- polypropylene);
9. Type #6 plastic containers (PS- polystyrene);

10. Type #7 plastic containers (other and commingled);
11. Film plastic, e.g., plastic bags, shrink wrap; plastic toys and tools, and other plastic materials (if readily identifiable as being recyclable);
12. PVC pipe;
13. Juice boxes and milk cartons (aseptic packaging, Tetra Pak®, and waxed cardboard);
14. Detergent containers;
15. Scrap metal, coat hangers and metal foil;
16. Newspapers and telephone books;
17. Mixed paper (e.g., ledger, computer, junk mail, magazines, paperback books, cereal boxes, envelopes, paper shopping bags and non-metallic wrapping paper);
18. Corrugated cardboard and chipboard;
19. Chlorofluorocarbons (when collected as Bulky Items);
20. Tires (when collected as Bulky Items;) and
21. Wood (incidental scrap pieces if set out for collection with Green Waste, and larger quantities when collected as Bulky Items).

“Residential Customer” generally means a Customer at a detached dwelling, or each unit of a duplex, triplex, or quadplex, a townhouse, a condominium unit or a mobile home of permanent character placed in a permanent location.

“Scavenging” means the unauthorized removal of Recyclable Materials. Scavenging is prohibited by Public Resources Code § 41950.

“Service Commencement Date” means August 1, 2013, the date upon which Contractor becomes solely responsible for providing Comprehensive Refuse Services to City and within City’s boundaries.

“Solid Waste” means and includes any materials defined as “solid waste” by Section 40191 of the California Public Resources Code, and specifically includes, without limitation, Recyclable Materials, Organic Waste, Bulky Items, and all other non-hazardous materials, excluding Universal Waste, that are discarded into the waste stream by the generator, or collected in exchange for a fee or any other consideration, regardless of form or amount.

“Streets” shall mean all dedicated public rights-of-way within the existing or future corporate limits of the City.

“Term” means the operative life of this Agreement as provided in Section 3.

“Transition Period” mean the period of time between the Effective Date and the Service Commencement Date.

“Universal Waste” means and includes, but is not limited to, Universal Waste Electronic Devices” or “UWEDs,” (i.e., electronic devices subject to the regulation of the Department of Toxic Substances Control, 23 CCR §§ 66273.1, *et seq.*), and other Universal Wastes, including, but not limited to non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries [burglar alarm and emergency light batteries] alkaline batteries, carbon-zinc batteries and any other batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, and mercury-containing switches. Also see Section 15 of this Agreement.

“Work Days” means the days Monday through Friday, during the hours of 7:00 a.m. to 5:00 p.m., which is the general period Contractor provides regular collection services.

5. Compliance with Laws and Regulations. Contractor warrants that it will comply with all applicable laws, including implementing regulations, as they may be amended, specifically including, but not limited to RCRA, CERCLA, the Act, the Electronic Waste Recycling Act of 2003, laws governing Universal Waste, including, but not limited to, Universal Waste Electronics Devices, mercury thermometers, mercury-containing switches, regulations and orders of the California Department of Toxic Substances Control, the California Air Resources Board, CalRecycle, and their respective successor agencies, and all other applicable laws of the United States, the State of California, the County of Los Angeles, ordinances of the City, the requirements of Local Enforcement Agencies and all other agencies with jurisdiction.

6. Community Work to be Done.

As part of the consideration for the grant of an exclusive franchise, Contractor shall provide the following services at no charge to City:

6.1 Collection from City Facilities. Contractor shall collect and dispose of all Solid Waste, Recyclable Materials, and Organic Waste generated at City facilities and at City-owned bus stops/public trash receptacles. Contractor shall also provide City with additional containers as needed in conjunction with City special events and City projects. Such locations, events, and projects are fully described in City Service Locations List (Exhibit C).

6.2 Collection of Abandoned Property. Contractor shall collect and remove abandon items dropped in City public right-of-way areas, at City parks, and other public locations. Collection shall be with a flatbed truck, or other comparable vehicle approved in writing by the Public Works Director, of the type used for Bulky Item collection.

Schedule and route shall be directed by the City and take place Monday through Friday, between 6:00 a.m. and noon, with no service on holidays.

6.3 Development Review. Contractor, upon City's request, shall assist the City in the review of applicants' plans for projects covered by Public Resources Code § 42911, including commercial and multi-family projects, to provide for effective and economical accumulation and collection of Solid Waste, Organic Waste and Recyclable Materials.

6.4 Communication with City; Emergency Service. Contractor shall establish and maintain an office and have an authorized supervisor as the point of contact for communications with the City. Contractor will provide cell phone numbers and/or other required contact information to City Staff to be used in case of an emergency. These emergency numbers can be used outside normal business hours and will be kept confidential. The Contractor's office shall have a twenty-four (24) hour telephone service and a responsible person in charge seven (7) days a week to receive all requests for emergency service which are forwarded by the City. Contractor shall respond and provide emergency service within two (2) hours from the time a call is placed by the City. Requests for routine service or complaint issues shall be resolved expeditiously within the following twenty-four (24) hour period.

6.5 Good Corporate Citizenship. Contractor's commitment to good corporate citizenship as the holder of an exclusive franchise in the City is set forth in Exhibit F.

7. Customer Service.

7.1 Regular Office Hours, Telephone Access, and Website

- (a) Local Office. Contractor shall maintain an office within the City, located at 3953 Muscatel Avenue, Rosemead, CA 91770, staffed for a minimum of twenty (20) hours per week throughout the term of this Agreement, commencing at least two (2) weeks before the Service Commencement Date. Contractor shall make a request to the City, if necessary, in order to change local office location.
- (b) Customer Calls. The Contractor shall have at all times during the hours between 7:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. and 12:00 p.m. Saturday an employee available at Contractor's office to promptly answer inquiries and to receive and respond to complaints. Contractor's name shall be listed in Rosemead -area telephone directories under Contractor's name, at Contractor's expense.

7.2 Emergency / After Hours Telephone Number. Contractor shall have an after-hours message center where customers can leave messages. Contractor will retrieve all voice and email messages the following business day.

7.3 Multilingual Service. Contractor shall provide customer service by telephone and on its website in English, Spanish, Mandarin, Vietnamese and such other languages that City reasonably determines to be necessary for communication with customers.

7.4 Accessible Customer Service. Customer service shall be provided in a manner that is accessible to persons with disabilities as required by the Americans With Disabilities Act and any other applicable law.

7.5 Customer Service and Complaint Logs. Contractor shall update customer records with any inquiries, service requests and complaints into a customer data base which shall be maintained in a manner that is reasonably available for inspection and review by City upon request. All calls shall be recorded. Contractor shall note the name and address of the complainant, the date and time of the complaint, the nature of the complaint, the name of the Contractor's employee taking the complaint, and the nature and date of Contractor's resolution of the complaint. Contractor shall inform all service recipients that all complaints shall be directed to Contractor. The complaint log shall be maintained on a computerized database format. The complaint log shall be available for inspection and review by City upon request. Contractor shall provide a summary of the complaint log to City monthly during the first (1st) year of service and then quarterly thereafter for the duration of the Term at the City's request.

7.6 Service Responses. City and Contractor agree that the protection of public health, safety and well-being require that service complaints be acted on promptly. Contractor shall be responsible for the prompt and courteous attention to, and prompt and reasonable resolution of, all service recipient complaints.

(a) Missed Pick-Ups. In the case of a complaint of a missed collection, Contractor shall make the collection on the date of the call if the call is received by 10:00 a.m. and before noon the following collection day if the complaint is received after 10:00 a.m.

(b) Other Complaints. Contractor will respond to all complaints from service recipients, other than missed-pickups, within one (1) working day of receiving the complaint.

7.7 Overflowing Containers/Bins. In the event that Customers regularly produce more refuse that their current service level allows, Contractor may initiate a process to increase service levels. In such case, Contractor shall document the incident with a photograph, date, time, and send notice to the Customer. Upon three (3) such incidents in a six (6) month period, the Contractor shall notify the City. If, upon further review, such overflow persists, Contractor may increase service levels to the customer.

7.8 Contaminated Containers/Bins. If Customers dispose of improper materials in recycling containers, Contractor may initiate a process to remove recycling containers. In such case, Contractor shall document the incident with a photograph,

date, time and send notice to the customer. Upon three (3) such incidents in a six (6) month period, the Contractor shall notify the City. If, upon further review, such contamination persists, Contractor shall be allowed to remove recycling containers that were provided to the customer.

8. Customer Rates and Billing Procedures.

8.1 Rates for Service.

(a) Maximum Permitted Customer Rates. Contractor shall not charge rates (or additional charges, fees, or penalties) in excess of the Maximum Permitted Customer Rates specified on Exhibit E attached to this Agreement, including the Qualifying Senior and Customers with Disabilities discounts.

(b) Adjustments To Maximum Permissible Service Rates; Five Percent Annual Maximum. On August 1, 2014 and annually thereafter, the Maximum Permissible Rates shall be adjusted by the lesser of Five Percent (5%) or the "Cost Increase Percentage."

1. Cost Increase Percentage shall mean:

[.70(Percentage Change in CPI) + .30 (Percentage Change in Disposal/Tipping Fee.)]

2. "Percentage Change in CPI" shall mean the percentage change in the All Urban Customers, Los Angeles, Riverside, Orange County index, for the previous 12-Month period ending in May. (For instance, an August 1, 2014, Percentage Change in CPI would be the change between the CPI index in May 2014 and the CPI index in May 2013.)

3. "Percentage Change in Disposal/Tipping Fee" shall mean the Average Municipal Disposal Fee charged at landfills within a fifty (50) mile radius of the City, calculated during the previous year.

4. Adjustment Due to Change In Law. As used herein, "Change in Law" means the enactment, issuance, adoption, repeal, amendment or modification of any federal, state or local statute, ordinance or regulation, or a regulatory agency or other administrative agency interpreting a regulation or statute, or a judicial decision interpreting a law, statute, ordinance or regulation, in a manner different than relied upon by municipalities and the solid waste and collection industry. Contractor may adjust the Maximum Customer Rates by an amount equal to the increase or incremental increase, as the case may be, in the reasonable costs (i.e. on any direct or indirect cost, whether fixed or variable) of Contractor's provision of services under this Agreement that are caused by the Change in Law. Contractor shall provide to the City and the public detailed information supporting the proposed increase in Maximum Customer Rates, which may not be retroactive. If within sixty days after receiving

the notice of adjustment and supporting documents, or upon failure to receive adequate supporting documents, the City concludes that the increase exceeds the reasonable increased costs for providing the new service, City may notify the Contractor that it is in default under this Agreement.

8.2 Contractor to Bill. The Contractor shall be solely responsible for the billing and collection of payments from Customers. Quarterly customer bills for services shall be submitted and collected by the Contractor in advance of the quarter's service. A thirty-day grace period shall be allowed prior to the charge of any late fee or penalty.

8.3 City Provided Billing Inserts. City may provide educational and other material to Contractor for inclusion in the invoices mailed by Contractor to Residential, Multifamily and Commercial Customers for collection services. Contractor shall not charge the City for the inclusion of additional educational or other materials in the invoices provided the inclusion of such City requested materials does not exceed the cost for standard postage for any mailing.

8.4 Delinquent Service Accounts.

(a) Residential Accounts. Contractor agrees not to discontinue service to Residential customers. Residential Customers (owners or tenants) who have not remitted required payment within one hundred twenty (120) days after the date of billing shall be notified by Contractor on forms that contain a statement that if payment is not received within fifteen (15) days from the date of the notice, the delinquent and unpaid charges, including a 1.5% monthly interest charge.

(b) Commercial and Other Accounts. Contractor agrees to not discontinue service to a commercial or debris box customer until customer's account has been delinquent for a period of at least sixty (60) days. If the Contractor terminates service to any non-paying person, corporation or entity, such person, corporation, or entity as a condition precedent to re-establishment of such service, shall comply fully with all of the then billing policies and practices of the Contractor, including, but not limited to, requirement of payment by cash or cash equivalent, prepayment of one full billing cycle, a security deposit, payment of all costs of collection of monies owed to Contractor, and payment of a reinstatement fee. In addition, delinquent accounts shall be charged a 1.5% monthly late fee on the delinquent balance. If the Contractor discontinues service for non-payment, Contractor shall, upon City request, give written notice to the City Manager of any discontinuance of service for nonpayment, giving the name and address of the customer(s).

9. Residential Services.

Contractor shall provide refuse collection service to Residential Customers as set forth in this Section 9 and Exhibit G, "Residential Services."

9.1 Weekly Service. Contractor shall provide refuse collection service at an interval not less than once per week to all Residential Customers' properties in the City.

Contractor will provide fully automated Solid Waste, Recyclable Material and Green Waste containers for residential customers. The standard Cart is 96-gallons, but Residential Customers may request a smaller size container, which the Contractor will provide within fourteen (14) days. Extra recycling and green waste containers shall be provided at Residential Customers' request.

9.2 Temporary Bin and Box Service. Contractor shall provide temporary Bin and Box service, including Construction and Demolition Debris Bins, to Residential Customers. Contractor shall deliver such Bin or Box within 24 (twenty-four) hours of request (not including weekends or holidays).

9.3 Bulky Items Service. Contractor shall provide Bulky Items collection to all residential customers upon requests. A Customer shall have the right to twenty-five (25) Bulky Items pickups per year, with up to five (5) items per pickup. Such pickup shall take place on the regularly scheduled collection day. Customers must call in at least forty-eight (48) hours prior to scheduling a pickup.

9.4 Holiday Tree Collection. Contractor shall collect all holiday trees discarded by any residential customer on the first two regularly scheduled collection days after Christmas Day.

9.5 Backyard/Off-Street Collection Option. Contractor shall provide a backyard/off-street collection service to residential customers that request such service. Contractor shall remove all Carts and place them out for collection service and return Carts to the storage area after collection. Contractor may charge Customers for this service up to the amounts set forth in Exhibit F, which includes a discount program for Qualifying Seniors or Customers with Disabilities set forth in that exhibit. This service shall be provided at no additional charge to the extent necessary to comply with the provisions of the Americans with Disabilities Act or any similar state law.

10. Multifamily and Commercial Services.

Contractor shall provide refuse collection service to Multi-Family and Commercial Customers as set forth in this Section 10 and Exhibit H, "Commercial and Multi-Family Services."

10.1 Regular Service. Contractor shall provide refuse collection service at an interval of at least once per week to all customers at multi-family/commercial properties in the City. Contractor will provide 1.5, 2, 3, 4 and 6 cubic yard Bins upon request. As an alternative to Multifamily or Commercial Customers that do not have adequate space or generate enough waste to necessitate a Bin, Contractor shall offer customers automated 96-gallon Carts for Solid Waste, Recycling and Green Waste. Such service shall be billed based on the number of Solid Waste containers provided and number of pickups per week. After completion of a waste audit, the City shall make the final determination as to whether a customer will receive an automated collection container.

10.2 Bulky Item Service. Contractor shall provide Bulky Item collection to all Multi-family Customers in the City without any additional charge. Such collection will be

limited at four (4) items per pickup, with up to four (4) pickups that may be scheduled each year. Such pickup shall take place on the regularly scheduled collection day. Multi-family Customers must schedule a pickup at least forty-eight (48) hours in advance, excluding weekends and holidays. Other Commercial customers, including the managers of multi-family properties, may participate in this collection program described in Exhibit H, "Commercial and Multi-family Services," paying no more than the Maximum Permitted Customer Rates in Exhibit F.

10.3 Recycling. In compliance with State law, Contractor shall provide recycling collection services to Commercial customers, in compliance with provisions included in Assembly Bill 341 and the City's local commercial solid waste recycling ordinance. Such recycling services will be directed at Commercial customers that generate 4 cubic yards of solid waste per week or multi-family dwellings with 5 or more units. Further, the Contractor shall meet provisions listed in Public Resources Code Section 42649, which include developing a source separation or mixed waste processing program for recyclable materials. Such programs will be established between Commercial customers and Contractor and include outreach programs, reporting requirements, enforcement provisions for meeting requirements established related to commercial recycling. In addition, in the event Contractor cannot meet the City's diversion requirement after exhaustion of all feasible source reduction programs, Contractor shall send a minimum of 75% of commercial or multifamily refuse collected by weight for processing to recover recyclables, with a minimum recovery rate of 25%. Contractor shall provide City with written documentation to confirm materials processed.

10.4 Waste to Energy. Contractor shall send a sufficient amount of refuse from which recyclable materials have been removed to a waste-to-energy facility for the City to receive diversion credit for ten percent (10%) of the total solid waste collected by Contractor per year. Such credit should not be less than five thousand (5,000) tons of diversion credit per year. The City reserves the right to request that additional refuse materials be sent to a waste-to-energy facility if it is necessary to meet Minimum Diversion Requirement.

10.5 Repositioning of Bins. Contractor may not charge additional fees for "scout" or "swamper" services required to position bins for proper collection. If positioning a bin is required, the bin shall not be left in a location that will obstruct traffic or access through the public right-of-way.

11. Collection Routes.

11.1 Collection Routes. The schedule of collections shall be subject to the approval of the Public Works Director. The Contractor shall prepare and file with the Public Works Director a collection schedule, together with a composite map of the routes and a list of all addresses in each route, indicating the collection days for each area.

11.2 Subsequent Collection Route Changes. The Contractor shall submit to the Public Works Director, in writing, any proposed route change (including maps

thereof) not less than thirty (30) calendar days before the proposed date of implementation. If the route change will change the collection day for a Customer, the Contractor shall, at its expense, provide written notice with postage prepaid and forwarded through the United States mail or by personal service, notify each Customer of the day or days of the week on which service will be provided. The notice shall contain the day or days of the week upon which the collection will be made, the name, address and telephone number of the Contractor, and other information deemed necessary by the Public Works Director. The notice shall be paid or personally served not less than fourteen (14) days before the change. If the Public Works Director so directs, the Contractor shall also publish a notice with the same information in a newspaper of local circulation once each week for two successive weeks immediately prior to the change in the collection schedule.

11.3 Collection Route Audits. The City reserves the right to conduct audits of Contractor's collection routes. The Contractor shall cooperate with the City in connection therewith, including permitting City employees or agents, designated by the City Representative, to follow behind the collection vehicles in order to conduct the audits. The Contractor shall have no responsibility or liability for the salary, wages, benefits or worker compensation claims of any person designated by the City Representative to conduct such audits.

12. Public Outreach Services.

12.1 General. Contractor shall be responsible for providing outreach bill inserts describing programs, services, and events. Contractor shall include such program inserts at least twice annually with the approval of City prior to distribution.

12.2 Waste Generation and Characterization Studies. Contractor acknowledges that City must perform Solid Waste generation and characterization studies periodically to comply with AB 939 requirements. Contractor agrees to participate and cooperate with City and its agents and to perform studies and data collection exercises, as needed, to determine weights, volumes and composition of Solid Waste generated, disposed, transformed, diverted or otherwise processed to comply with AB 939.

13. Collection Equipment.

13.1 General. Contractor warrants that it shall provide adequate numbers of vehicles and equipment for the collection, transportation, recycling and disposal services for which it is responsible under this Agreement. All collection vehicles used by Contractor in the performance of services under this Agreement shall be of a high quality. The vehicles and equipment to be used are specified in Exhibit I.

13.2 Identification. The vehicles used pursuant to this Contract shall have the name of the Contractor, the Contractor's local telephone number, and a unique vehicle identification number for each vehicle prominently displayed on all collection vehicles. The vehicles shall also display a statement as to the type of alternative fuel being used.

13.3 Alternative Fuels. The Contractor shall use alternative fuel vehicles approved by the South Coast Air Quality Management District for fully automated refuse collection services. Vehicles shall meet all requirements specified per AQMD Rule 1193 as it may be amended from time to time.

13.4 Fully Automated Residential Collection. Vehicles used for Residential collection services shall be fully automated side-loading refuse trucks, using a fully mechanized arm to pick up and dump automated waste collection containers. Drivers shall not be required to exit the vehicle to assist with securing the containers to, or lifting the containers into, the refuse collection truck.

13.5 Registration and Inspection. All vehicles utilized by Contractor in the performance of this Agreement shall be registered with the California Department of Motor Vehicles. All vehicles shall pass the required periodic California Highway Patrol biennial inspection of the terminals ("BIT"). Within fifteen (15) days of the BIT inspection, Contractor shall provide records from all of the terminal(s) responsible for the maintenance and repair of equipment used in the City. All vehicles and equipment used by Contractor in the performance of this Contract shall be subject to inspection by the City upon twenty-four (24) hours notice by the Public Works Director.

13.6 Drivers and Operators. All drivers employed by Contractor and operating equipment in the City shall be properly licensed for the class of vehicle they drive, enrolled in the Department of Motor Vehicles Employee Pull Notice (EPN) program, and abide by all State and federal regulations for driver hours and alcohol and controlled substances testing.

13.7 Litter, Spills. Each of Contractor's vehicles shall be constructed and used in a manner so that no part of the waste stream will blow, fall, or leak out of the vehicle. All waste shall be transported by means of vehicles which are covered in such a manner as to securely contain all waste and to prevent such waste from projecting, blowing, falling or leaking out of the vehicles. Any waste dropped or spilled in collection, transfer or transportation shall be immediately cleaned up by Contractor. A broom and a shovel shall be carried at all times on each vehicle for this purpose.

13.8 Avoiding Damage to Streets. Contractor shall use commercially reasonable efforts to prevent damage to all streets over which its collection equipment may be operated, and Contractor shall obtain all required approvals for operation of its Collection vehicles on private streets and parking lots. Contractor shall use commercially reasonable efforts to prevent spills of fuel, fluids (such as oil, hydraulic fluid, brake fluid, etc.) on streets, and if such a spill occurs, Contractor shall within 1 hour notify the City (including the Public Works Director or his/her designee) and all proper regulatory authorities of said spill and release of fluids, and shall clean, at Contractor's expense, the spilled fluids in coordination with, and to the satisfaction of, City and applicable regulatory agencies. Upon a release of such fluids, the driver shall immediately park the vehicle and it shall remain parked until the leak is repaired. In such event Contractor shall not park the leaking vehicle within two hundred (200) feet of a storm drain and shall utilize absorbent, sand bags or other appropriate means to

prevent leaking fluids from entering storm drains. In the event of any type of spill or other emergency, Contractor shall be responsible for securing the immediate safety of the vehicle driver, all other employees of Contractor and all persons and property in the surrounding vicinity. Contractor shall not transfer loads from one vehicle to another on any public street or private roadway, unless it is necessary to do so because of mechanical failure or damage to a collection vehicle which renders it inoperable and the vehicle cannot be towed. In addition, each collection vehicle shall be equipped with trash bags, masking tape and notice of non-collection tags for the purpose of separating hazardous waste for return to the generator.

13.9 Communications. A communications device such as a two-way radio or a cellular telephone shall also be maintained on each vehicle at all times.

13.10 Equipment Storage. Contractor shall not store any vehicle or equipment on any public street, public right-of-way or other public property in the City without obtaining a Encroachment Permit from the Public Works Department and prior written consent of the Public Works Director.

13.11 Equipment Removal. Should the Public Works Director at any time give written notification to Contractor that any vehicle does not comply with the standards in this Agreement, the vehicle shall be promptly removed from service by Contractor and not used again until inspected and authorized in writing by the Public Works Director.

13.12 Equipment Maintenance. All vehicles shall be properly maintained, kept clean and in good repair, and shall be uniformly painted. All vehicles used in performance of this Contract shall be maintained and operated in conformance with all applicable laws, statutes, rules and regulations. In performance of this Contract, the issuance of four (4) or more vehicle, driver/operator or other citations that relate in any way to this Contract within a 12 month period shall be deemed to be breach of this Contract. Quarterly reports setting forth information regarding Contractor's vehicles and equipment shall be prepared on such form as required by the Public Works Director. Each quarterly report shall be submitted on or before the 15th day of the month following the end of the previous calendar quarter.

13.13 Compliance. Contractor warrants that it will comply with all measures and procedures promulgated by all agencies with jurisdiction over the safe and sanitary operation of all its equipment.

13.14 Private Streets, Alleys and Parking Lots. Contractor agrees to use its best efforts to prevent damage to private streets, alleys and parking lots over which its collection equipment may be operated, to obtain all required approvals for operation of its collection vehicles on private streets, alleys and parking lots.

13.15 Safety Equipment. All collection equipment used by Contractor shall have appropriate safety markings including, but not limited to, highway lighting, flashing and warning lights, clearance lights, and warning flags. All such safety markings shall be subject to the approval of the City and shall be in accordance with the requirements

of the California Vehicle Code, as may be amended from time to time. All collection vehicles shall be equipped with audible back-up warning devices.

13.16 Vehicle Signage and Painting. Collection vehicles shall have the Contractor's name, Contractor's customer service telephone number, and a vehicle identification number on each side of the vehicle in type that is easily read by the public.

13.17 Maintenance Log. Contractor shall maintain a maintenance log for each collection vehicle. The log shall at all times be accessible to City upon request of City Representative, and shall show, at a minimum, each vehicle's Contractor-assigned identification number, date purchased or initially leased, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

13.18 Equipment Inventory. On or before the Service Commencement Date and upon City's request thereafter, Contractor shall provide to City an inventory of collection vehicles and major equipment used by Contractor for collection or transportation and performance of services under this Agreement. The inventory shall indicate each collection vehicle by Contractor assigned identification number, DMV license number, the age of the chassis and body, type of fuel used, the type and capacity of each vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the maintenance status. Upon City request, Contractor shall submit to the City Representative, either by Fax or e-mail, an updated inventory annually to the City or more often at the request of the City Representative. Each vehicle inventory shall be accompanied by a certification signed by Contractor that all collection vehicles meet the requirements of this Agreement. Vehicles and equipment shall be not more than three years old.

13.19 Reserve Equipment. The Contractor shall have available to it, at all times, reserve collection equipment which can be put into service and operation within one (1) hour of any breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used by the Contractor to perform the contractual duties.

13.20 Containers.

(a) Containers (Carts, Bins, and Boxes) provided to Customers of Contractor for storage, collection or transportation of solid wastes shall meet the requirements designated by the Public Works Director as well as State of California minimum standards for solid waste handling established under Public Resources Code Section 43020 and applicable health requirements. The Public Works Director shall have the right to approve the color of containers, manufacturer of containers, and lettering and decals used on containers. Contractor shall repair or replace any container which is damaged, broken, lost or stolen with a container approved by the Public Works Director at no cost.

(b) All containers used by Contractor in the performance of solid waste handling services shall be marked with Contractor's name and telephone number in

letters which are easily read by the general public. All solid waste containers used in the performance of this Contract shall be kept clean and in good repair to the satisfaction of the Public Works Director. Contractor shall also regularly inspect containers and bins and be responsible for the prompt removal of graffiti from such containers/bins.

14. Privacy.

14.1 General. Contractor shall observe and protect the rights of privacy of service recipients. Information identifying individual service recipients, or the composition or contents of a service recipient's Solid Waste, Recyclable Materials, or Organic Waste shall not be revealed to any person, governmental unit, private agency or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the service recipient. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by the Act, or preparing and distributing public awareness materials to service recipients.

14.2 Mailing Lists. Contractor shall not market or distribute mailing lists with the names and addresses of service recipients.

14.3 Privacy Rights Cumulative. The rights accorded service recipients pursuant to this Section shall be in addition to any other privacy rights accorded service recipients pursuant to federal or state law.

15. Service Exceptions; Hazardous and Universal Waste.

15.1 Hazardous Waste Inspection, Diversion and Reporting. Contractor reserves the right and has the duty to inspect Solid Waste put out for collection and to reject Solid Waste observed to be contaminated with Hazardous Waste. Should Contractor find or observe reportable quantities of Hazardous Waste put out for collection with Solid Waste, Contractor shall notify all agencies with jurisdiction, including the California Department of Toxic Substances Control and Local Emergency Response Providers and, if appropriate, the National Response Center, of reportable quantities of Hazardous Waste, found or observed in Solid Waste observed or collected anywhere within the City. In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on City property, including storm drains, streets or other public rights of way, Contractor shall notify the Public Works Director, or the Public Works Director's designee immediately.

15.2 Universal Waste Handling. Contractor shall handle Universal Waste Electronic Devices (UWEDs) and cathode ray tubes (CRTs) and other Universal Wastes, including, but not limited to non-empty aerosol cans, fluorescent tubes, high intensity discharge lamps, sodium vapor lamps, and any other lamp exhibiting a characteristic of a hazardous waste, batteries (rechargeable nickel-cadmium batteries, silver button batteries, mercury batteries, small sealed lead acid batteries [burglar alarm and emergency light batteries] alkaline batteries, carbon-zinc batteries and any other

batteries which exhibit the characteristic of a hazardous waste), mercury thermometers, mercury-containing switches, and any other Universal Wastes disposed of improperly into the Solid Waste stream in a manner consistent with the applicable regulations of the Department of Toxic Substances Control, or its successor agency.

15.3 Hazardous and Universal Waste Diversion Records. Contractor shall maintain records showing the types and quantities, if any, of Hazardous and Universal Wastes found in Solid Waste and which was collected from service recipients within the City, but diverted from land filling, and the diversion addresses.

16. Ownership of Solid Waste, Recyclable Materials, Organic Waste and Construction and Demolition Materials.

Ownership of Solid Waste, Organic Waste, and Recyclable Materials shall pass, by operation of law, to Contractor at such time as said materials are placed for collection in Containers for collection by Contractor. Ownership and the right to possession of Solid Waste, Recyclable Material, Organic Waste and Construction and Demolition Materials placed for collection shall transfer directly from the service recipient to Contractor, by operation of law and not by virtue of this Agreement. At no time does the City obtain any right of ownership or possession of Solid Waste or any Hazardous Waste illicitly placed for collection in a Solid Waste Container, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights.

17. Marketing and Diversion of Recyclable Materials

Contractor agrees to divert all Mixed Recyclable Material/Solid Waste, Recyclable Materials and Organic Waste from disposal in landfills or transformation facilities, to the extent feasible, and to obtain maximum diversion credit.

18. Contractor's Books and Records; Audits

18.1 Record Retention. In addition to the requirements set forth elsewhere in this Agreement, Contractor shall maintain all records relating to the services provided hereunder during the Term and an additional period of not less than three years, or any longer period required by law. The City shall have the right, upon five business days advance notice, to inspect, copy and audit all records relating to this Agreement, including, but not limited to, service recipient lists, billing records, maps, and customer complaints. Such records shall be made available to City at Contractor's regular place of business, or other place agreed to by City and Contractor, within the County of Los Angeles.

18.2 Underpayment. Should any examination or audit of Contractor records reveal an underpayment of any payment required to be paid to City under this Agreement, the amount of such underpayment, plus interest at the maximum rate permitted under California law, shall become due and payable to City not later than thirty days after written notice of such underpayment is provided to Contractor by City.

Should an underpayment of more than five percent (5%) be discovered, Contractor shall bear the entire cost of the examination or audit.

19. Integrated Waste Management Act; Reporting Requirements.

Contractor shall cooperate with City in Solid Waste disposal characterization studies and waste stream audits and shall implement measures adequate to achieve the diversion goals set forth in this Agreement. During the Term of this Agreement, Contractor, at no expense to City, shall submit to City all relevant information and reports required to meet the reporting obligations imposed by CalRecycle under the Act, as amended. Contractor agrees to submit such reports and information by email or on computer discs, in a format acceptable to City at no additional charge, if requested by City.

20. Reports.

20.1 Periodic Reports. Contractor shall submit to City monthly reports setting forth any complaints (e.g. written or oral comments received by Contractor expressing dissatisfaction with Contractor or any services provided by Contractor that relate in any manner to this Contract); the total amount (in tons) of solid waste which Contractor collected in the City of Rosemead during the reportable month; the total weight (in tons) of solid waste disposed of by Contractor at landfills and transfer stations which Contractor collected in the City of Rosemead during the reportable month; the total weight and the weight by material category (in tons) of solid waste disposed of by Contractor at recycling and materials recovery facilities during the reportable month which Contractor collected in the City; the name and location of all solid waste and recycling facilities where City materials were delivered; and such other tonnage or other information as requested by the Public Works Director including, but not limited to, weigh tickets and recycling records. Such monthly reports shall be prepared on such form as required by the Public Works Director. In addition, on a quarterly basis, the Contractor shall submit to the City any equipment, terminal safety, employee safety and inspection reports, citations, records and other documents for all Contractor's operations and activities that relate in any way to this Contract including, but not limited to, periodic California Highway Patrol biennial terminal inspection reports; vehicle citations; California Highway Patrol Incident reports; citations issued to drivers/operators; other citations issued to the Contractor or its employees; California Occupational Safety and Health Administration 300 reports; and Lead Environmental Agency inspection/compliance reports. Each quarterly report and accompanying reports/citations shall be submitted on or before the 15th day of the month following the end of the quarter (i.e. report due January 15 for first quarter after the Effective Date) and submitted to:

Public Works Director
City of Rosemead
8838 East Valley Blvd
Rosemead, CA 91770

Contractor shall comply with all recycling and diversion requirements imposed by law, ordinance, or regulation on the City. Monthly reports stating the total amount (in tons) of solid waste which Contractor landfilled, recycled and collected should accurately reflect a sixty percent (60%) diversion rate as required by the City. At the end of each quarter, monthly reports will be evaluated for AB939 compliance. Failure to comply with the recycling and diversion requirements shall be a material breach of this Contract.

20.2 Reporting Additional Matters. Contractor shall provide City two copies (one to the City Representative, one to the City Attorney) of all correspondence, reports, pleadings, applications, notifications, notices of violation, communications or other material relating specifically to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, CalRecycle, or its successor agency, the California Department of Toxic Substances Control, or its successor, the Fair Political Practices Commission, the cognizant Local Enforcement Agency, or its successor, the Securities and Exchange Commission or any other federal, state or county agency, including any federal or state court. Copies shall be submitted to City within a reasonable time subsequent to Contractor's filing or submission of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to City, but shall be made available to City upon written request.

20.3 CERCLA Defense Records. City views the ability to defend against CERCLA and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where its Solid Waste was taken, as well as where it was not taken, to be matters of concern. Contractor shall maintain data retention and preservation systems, which can establish where Solid Waste collected in the City was landfilled (and therefore establish where it was not landfilled) and a copy or summary of the reports required by Section 15.3 for fifty years after the Term during which collection services are to be provided pursuant to this Agreement and to notify City's Risk Manager and City Attorney before destroying such records. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement.

21. Indemnification and Insurance.

21.1 Indemnification re Certain Challenges to Agreement. Contractor, upon demand of the City, made by and through the City Attorney, shall indemnify, hold harmless, protect City and appear in and defend the City and its elected officials, officers, employees and agents, ("**Indemnitees**") in any claims or actions by third parties, whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," asserting rights under the dormant Commerce Clause or any other federal or state law, including, but not limited to the anti-trust laws with respect to the provision of Comprehensive Refuse Services in the City, and challenges to the certification or implementation, imposition, adjustment or collection of any rate, interest, penalty or other fee under the Agreement. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement. City and

Contractor agree to confer following any trial to decide jointly whether to appeal or to oppose any appeal. In the event City and Contractor agree to appeal, or to oppose any appeal, City and Contractor agree to share equally the costs of appeals. Should either City or Contractor decide to appeal, or to oppose an appeal, and the other decide not to appeal, or to oppose an appeal, the party which decides to appeal, or to oppose an appeal, shall bear all fees and costs of the appeal or the opposition to the appeal.

21.2 Indemnification Regarding Article XIII C and XIII D. City intends to comply with all applicable laws concerning the Maximum Permitted Customer Rates provided under this Agreement. Upon thorough analysis, the Parties have determined and agree that the Maximum Permitted Customer Rates for the Solid Waste Handling Services provided under this Agreement are not subject to California Constitution Articles XIIC and XIID because, among other reasons, such services are provided by a private corporation and not by City, Contractor independently establishes, charges and collects the compensation for said services within the limits established in this Agreement, the receipt of said services is voluntary and not required of any property within City, and any owner or occupant of property within City has the opportunity to avoid the services provided under this Agreement either through self-hauling or use of property in such a manner that Solid Waste is not generated as set forth in pursuant to Section 1. Nevertheless, this is a legal determination which is subject to changes in the law and further interpretations of the law.

Accordingly, Contractor shall defend, indemnify and hold harmless the Indemnities from and against any and all Claims of any kind whatsoever paid, imposed upon, endured or suffered by or assessed against the Indemnitees resulting in any form from the Maximum Permitted Customer Rates provided for the Solid Waste Handling Services under this Agreement, or the rates actually charged by the Contractor for its services, or from the consideration received by City for the grant of an exclusive franchise. Nothing herein is intended to imply that California Constitution Articles XIIC and XIID apply to the provision of Maximum Rates for the Solid Waste Handling Services provided under this Agreement or the Customer Rates, rather this section is provided merely to allocate risk of loss as between the Parties.

21.3 Environmental Indemnification and Compliance. Contractor shall indemnify, defend, protect and hold harmless City, its elected officials, officers, employees, volunteers, agents, assigns and any successor or successors to City's interest from and against all claims, actual damages (including, but not limited to special and consequential damages), natural resource damages, punitive damages, injuries, costs, response, remediation and removal costs, losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, City or its elected officials, officers, employees, volunteers or agents arising from or attributable to any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any

Hazardous Waste (including Household Hazardous Waste and Universal Waste) in any Solid Waste, Recyclable Material or Organic Waste collected by Contractor pursuant to this Agreement, which is or has been transported, transferred, processed, stored, disposed of or which has otherwise been located by Contractor, or its activities pursuant to this Agreement resulting in a release of a Hazardous Waste (including Household Hazardous Waste and Universal Waste) into the environment.

21.4 General Indemnification. Contractor further agrees to indemnify, defend, protect and hold harmless City, its elected officials, officers, employees, volunteers, agents, assigns, and any successor or successors to City's interest from and against all losses, liabilities, claims, actual damages (including but not limited to special and consequential damages), demands, debts, liens, causes of action, suits, legal or administrative proceedings, interest, fines, charges, penalties and expenses (including but not limited to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity) of any kind whatsoever paid, incurred or suffered by, or asserted against, City or its elected officials, officers, employees, volunteers or agents arising from or attributable to any act or omission of Contractor or its officers, employees or agents in the performance or failure to perform the services required under this Agreement, and/or failure by Contractor to fully comply with all applicable laws and regulations with respect to the operation of its collection vehicles, including, but not limited to applicable rules governing clean-burning and alternative fuel vehicles.

21.5 Effect of Environmental Indemnification. This indemnity is intended to operate as an agreement pursuant to § 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA," 42 U.S.C. § 9607(e), and California Health and Safety Code § 25364, to defend, protect, hold harmless and indemnify City from all forms of liability under CERCLA, RCRA, other statutes or common law for any and all matters addressed in Subsection 21.3. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement.

21.6 Compliance with Laws. Contractor warrants that it will comply with all applicable laws and implementing regulations, as they may be amended, specifically including, but not limited to RCRA, CERCLA, AB 939, the Electronic Waste Recycling Act of 2003, and all other applicable laws and regulations of the U.S. Environmental Protection Agency, the State of California, the County of Los Angeles, the California Air Resources Board, CalRecycle, the South Coast Air Quality Management District, the California Department of Toxic Substances Control, ordinances of the City and the requirements of Local Enforcement Agencies and all other agencies with jurisdiction.

21.7 Workers' Compensation Insurance. Contractor shall obtain and maintain in full force and effect throughout the entire Term of this Agreement full workers' compensation insurance in accord with the provisions and requirements of the Labor Code of the State of California. Copies of policies and endorsements that implement the required coverage shall be filed and maintained with the City Clerk throughout the term of this Agreement. The policy providing coverage shall be amended

to provide that the insurance shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty days' prior written notice by certified mail, return receipt requested, has been given to the City. The policy shall also be amended to waive all rights of subrogation against the City, its elected or appointed officials, employees, or agents for losses that arise from work performed by the named insured for the City.

21.8 Liability and Vehicle Insurance. Contractor shall obtain and maintain, in full force and effect throughout the entire Term of this Agreement, a Broad Form Comprehensive General Liability (occurrence) policy (form CG 0001) and an Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, Code 1 (any auto) policy with minimum limits of Ten Million Dollars (\$10,000,000.00) aggregate and Five Million Dollars (\$5,000,000.00) per occurrence, per year. Coverage over One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate may be provided through an excess or umbrella policy. Said insurance shall protect Contractor and City from any claims for damages for bodily injury, including accidental death, as well as from any claims for property damage which may arise from this Agreement. Copies of the policies and endorsements evidencing the above required insurance coverage shall be filed with the City Clerk.

21.9 Required Language In Policies. The following language is required to be made a part of all of the insurance policies (except for Workers Compensation Insurance) required by this Section:

"The City of Rosemead, its employees, agents, franchisees and officers, are hereby added as additional insured's as respects to liability arising out of activities performed by or on behalf of Contractor. This policy shall be considered primary insurance with respect to any other valid and collectible insurance the City may possess including any self-insured retention the City may have and any other insurance the City does possess shall be considered excess insurance and shall not contribute with it."

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

"Thirty days' prior written notice by certified mail, return receipt requested, shall be given to the City in the event of suspension, cancellation, reduction in coverage or in limits or non-renewal of this policy for whatever reason. Such notice shall be sent to the City Manager, City Attorney and City Clerk."

21.10 Pollution and/or Environmental Impairment Liability Insurance. Contractor shall obtain and maintain in full force and effect for the entire Term of this Agreement, a Pollution and/or Environmental Impairment Liability policy covering liability arising from the release of Hazardous Waste, or other contaminants, pollutants or

irritants with minimum limits of Ten Million Dollars (\$10,000,000.00) aggregate and Five Million Dollars (\$5,000,000.00) per occurrence, per year. Contractor shall ensure that such coverage shall automatically broaden in its form of coverage to include legislated changes in the definition of Hazardous Waste. The policy shall stipulate that this insurance is primary and no other insurance carried by City will be called upon to contribute to a loss suffered by Contractor hereunder and shall waive subrogation against City and other additional insureds.

21.11 Required Rating. The insurance required by this Agreement shall be with insurers which are Best A: VII-rated and which are California-admitted. The limits of such insurance coverage, and companies, shall be subject to review and approval by the City's Risk Manager every year and may be increased at that time and match the coverage provided by the City's own liability insurance policy. The City shall be included as a named insured on each of the policies. The insurance required by this Agreement is in addition to and not in lieu or limitation of the indemnification provisions above.

21.12 Evidence of Insurance Coverage; Insurance Repository. Contemporaneously with the execution of this Agreement, Contractor shall file copies of the policies or executed endorsements evidencing the above required insurance coverage with the City Clerk. In addition, City shall have the right of inspection of all insurance policies required by this Agreement. Contractor also agrees to maintain copies of insurance policies required pursuant to this Agreement for one hundred years (100 years) after the end of the Term during which collection services were provided pursuant to this Agreement. Contractor shall notify City's Risk Manager and City Attorney before destroying copies of such policies. This provision shall survive the expiration of the period during which collection services are to be provided under this Agreement.

21.13 Self-Insurance. To the extent provided by law, all or any part of any required insurance may be provided under a plan of self-insurance approved by the State of California.

21.14 Reduction of CERCLA and Other Liability. City and Contractor agree to meet annually in the fourth calendar quarter of each year to discuss ways to reduce potential CERCLA and other liabilities to third parties.

21.15 Performance Bonds. Concurrent with the execution of this Agreement, Contractor shall deposit with City a performance bond or an irrevocable letter of credit or other such document ("**Performance Bond**") in the amount of One Million Dollars (\$1,000,000), from an institution satisfactory to City, in a form satisfactory to City's Risk Manager and City Attorney, evidencing an irrevocable commitment to City guaranteeing Contractor's faithful performance of the terms of this Agreement. Such Performance Bond shall be maintained in effect throughout the period during which collection services are to be provided pursuant to this Agreement. Upon Contractor's failure to pay the City an amount owing under this Agreement, the Performance Bond may be assessed by the City, for purposes including, but not limited to:

- (a) Failure of Contractor to pay the City sums due under the terms of the Agreement;
- (b) Reimbursement of costs borne by the City to correct breaches not corrected by Contractor, after due notice;
- (c) Monetary remedies or damages assessed against Contractor due to breach of this Agreement; or
- (d) To satisfy an order of the referee.

Contractor shall deposit a sum of money or a replacement instrument sufficient to restore the Performance Bond to the original amount within thirty days after notice from the City of any amount has been withdrawn from the Performance Bond. All of City's costs of collection and enforcement of the provisions relating to the Performance Bond called for by this section, including City's attorneys' fees and costs, shall be paid by Contractor.

22. Emergency Service.

22.1 Contractor's Inability to Provide Service. Should Contractor, for any reason whatsoever, except the occurrence or existence of any of the events or conditions set forth in "*Force Majeure*," below, refuse or be unable for a period of more than forty-eight (48) hours; to collect a material portion or all of the Solid Waste which it is obligated under this Agreement to collect, and as a result, Solid Waste should accumulate in City to such an extent, in such a manner, or for such a time that the City Manager, in the exercise of the City Manager's sole discretion, should find that such accumulation results in any imminent and substantial threat to the public health, safety or welfare, then City shall have the right to contract with another solid waste enterprise to collect and transport any or all Solid Waste which Contractor is obligated to collect and transport pursuant to this Agreement. City shall provide twenty-four (24) hours prior written notice to Contractor during the period of such emergency, before contracting with another solid waste enterprise to collect and transport any or all Solid Waste which Contractor would otherwise collect and transport pursuant to this Agreement, for the duration of period during which Contractor is unable to provide such services. In such event Contractor shall identify sources from which such substitute Solid Waste services are immediately available, and shall reimburse City for all of its expenses for such substitute services during the period in which Contractor is unable to provide collection and transportation services required by this Agreement.

22.2 Assistance in Case of Disaster. Contractor shall assist City in the event of terrorist attack or major disaster, such as an earthquake, storm, riot or civil disturbance, by providing collection vehicles and drivers normally assigned to the City, at Contractor's actual costs. Contractor shall cooperate with City, county, state and federal officials in filing information related to a regional, state or federally-declared state of emergency or disaster or terrorist attack as to which Contractor has provided equipment and drivers pursuant to this Agreement.

23. Administrative Remedies; Imposition of Damages; Termination.

23.1 Notice of Deficiencies; Response. If the Director of Public Works (or other individual designated by the City Manager to perform the duties of the Director under this Section 23) determines that Contractor's performance pursuant to this Agreement may not be in conformity with the provisions of this Agreement, the California Integrated Waste Management Act (including, but not limited to, requirements for diversion, source reduction and recycling as to the waste stream subject to this Agreement) or any other applicable federal, state or local law or regulation, including but not limited to, the laws governing transfer, storage or disposal of solid and Hazardous Waste, the Director may advise Contractor in writing of such suspected deficiencies, specifying the deficiency in reasonable detail. The Director shall set a reasonable time within which Contractor is to respond. Unless the circumstances necessitate correction and response within a shorter period of time, Contractor shall correct any deficiencies it agrees have occurred and in any event shall respond to the written notification of deficiencies within thirty days from the receipt by Contractor of such written notice. Contractor may request additional time to correct deficiencies. City shall approve reasonable requests for additional time.

23.2 Review by Public Works Director; Notice of Appeal. The Public Works Director shall review any written response from Contractor and decide the matter. If the Public Works Director's decision is adverse to Contractor, the Public Works Director may order remedial actions to cure any deficiencies, assess the Performance Bond or invoke any other remedy in accordance with this Agreement and, in the event the Public Works Director determines that there has been a material breach and that termination is the appropriate remedy, terminate the Agreement. The Public Works Director shall promptly inform Contractor of the Public Works Director's decision. In the event the decision is adverse to Contractor, the Public Works Director shall inform Contractor, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of the Agreement or other laws for the Public Works Director's decision and any remedial action taken or ordered. An adverse decision by the City Representative shall be final and conclusive unless Contractor files a "Notice of Appeal" with the City Clerk (with copies to the City Manager and City Attorney) within 30 days of receipt of the notification of the adverse decision by the Public Works Director.

In any "Notice of Appeal," Contractor shall state its factual contentions and include all relevant affidavits, documents, photographs and videotapes which Contractor desires to have considered by City. In addition, Contractor shall include all of its legal contentions, citing provisions of the Agreement or other laws to support its contentions.

23.3 Review by City Manager; Appeal.

1. Within thirty days of receipt by the City Clerk of a Notice of Appeal, the City Manager shall decide the matter. If the City Manager's decision is adverse to Contractor, the City Manager may order remedial actions to cure any deficiencies, assess the Performance Bond or invoke any other remedy in accordance with this Agreement and, in the event the City Manager determines that there has been a material breach and that termination is the appropriate remedy, terminate the Agreement. In addition to the foregoing actions, the City Manager may refer the matter to the City Council for proceedings as described below. The City Manager shall promptly inform Contractor of the City Manager's decision. In the event the City Manager's decision is adverse to Contractor, the City Manager shall inform Contractor, in writing, of the specific facts found and evidence relied on, and the legal basis in provisions of the Agreement or other laws for the City Manager's decision and any remedial action taken or ordered.

2. An adverse decision by the City Manager shall be final and conclusive unless Contractor files a "Notice of Appeal to the City Council" with the City Clerk (and serves a copy, by mail, on the City Manager and the City Attorney) within 10 calendar days of receipt of the decision of the City Manager. A "Notice of Appeal to the City Council" shall state the factual basis, the evidence relied on and all legal contentions that Contractor may choose to submit. No new evidence not previously submitted may be submitted.

23.4 City Council Hearing. If a matter is referred by the City Manager to the City Council, or an adverse decision of the City Manager is appealed to the City Council by Contractor, the City Council will set the matter for an administrative hearing and act on the matter. The City Clerk shall give Contractor fourteen (14) days written notice of the time and place of the administrative hearing. At the hearing, the City Council shall consider the administrative record, consisting of the following:

- (a) A Staff Report by the City Manager, summarizing the proceedings to date and outlining the City Council's options;
- (b) The Public Works Director's written Notification of Deficiencies;
- (c) Contractor's response to the Notification of Deficiencies;
- (d) The Public Works Director's written notification to Contractor of adverse decision;
- (e) Contractor's Notice of Appeal to the City Manager;
- (f) The City Manager's written notification to Contractor of adverse decision; and
- (g) Contractor's Notice of Appeal to the City Council.

No new legal issues may be raised, nor may new evidence be submitted by Contractor at this or at any further point in the proceedings, absent a showing of good cause. Contractor's representatives and other interested persons shall have a reasonable opportunity to be heard.

23.5 City Council Determination. Based on the administrative record, the Council shall determine by resolution whether the decision or order of the City Manager should be upheld. If, based upon the administrative record, the City Council determines that Contractor is in breach of any term of this Agreement or any provision of any applicable federal, state or local statute or regulation, the City Council, in the exercise of its discretion, may order Contractor to take remedial actions to cure the breach or impose any other remedy in accordance with this Agreement. The City Council may not terminate the Agreement unless it determines that Contractor is in material breach of a material term of this Agreement or any material provision of any applicable federal, state or local statute or regulation. Contractor's performance under the Agreement is not excused during the period of time prior to a final determination as to whether or not Contractor's performance is in material breach of this Agreement, or the time set by City for Contractor to discontinue a portion or all of its services pursuant to this Agreement. The decision or order of the City Council shall be final.

23.6 Reservation of Rights by City. City further reserves the right to terminate this Agreement in the event of any material breach of this Agreement, including, but not limited to any of the following:

If Contractor practices, or attempts to practice, any fraud or deceit upon the City, or practiced any fraud or deceit or made any intentional misrepresentations in the negotiations which preceded the execution of this Agreement provided that City has provided Contractor with written notice of the alleged fraud or deceit and afforded Contractor a reasonable opportunity to refute and defend itself against such charge or claim.

If Contractor is convicted of, or pleads guilty, no contest, or *nolo contendere* to a felony related to this Agreement.

As used in this Section, the term "Contractor" shall mean only the following: (a) the owner(s) of Contractor (whether shareholders, partners, or otherwise), (b) the members of Contractor's Board of Directors; and (c) Contractor's President, Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, and/or Secretary.

23.7 Cumulative Rights. City's rights of termination are in addition to any other rights of City upon a failure of Contractor to perform its obligations under this Agreement.

24. City's Additional Remedies.

In addition to the remedies set forth above, City shall have the following rights:

24.1 Contracts with Others. The right to contract with others to perform the services otherwise to be performed by Contractor, in the event Contractor should be in material breach of its duties to provide those services, or is otherwise unable to provide the services addressed by this Agreement .

24.2 Damages and/or Injunctive Relief. Both parties recognize and agree that in the event of a breach under the terms of this Agreement by one Party, the other Party may suffer irreparable injury and incalculable damages sufficient to support injunctive relief to enforce the provisions of this Agreement and to enjoin the breach.

24.3 City's Damages for Failure to Achieve Diversion Goals. Contractor agrees that its failure to achieve the diversion goals set forth in this Agreement, arising from failure to make reasonable efforts to maximize diversion in accordance with the terms and conditions of this Agreement, related to waste diversion, shall be a material breach of this Agreement. If CalRecycle, or its successor agency, were to impose administrative civil penalties against City, then the City's damages for Contractor's material breach in its failure to achieve the diversion goals for the City as required by this Agreement, shall include, but not be limited to such administrative civil penalties, attorneys' costs and fees and City's staff time devoted to the resolution of the administrative civil penalties against City.

24.4 Liquidated Damages. The Parties further acknowledge that consistent and reliable collection 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, or fails to submit required documents in a timely manner, City, and City's residents and businesses will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages. Therefore, in addition to City's right to treat such non-performance as a breach of this Agreement, the Parties agree that any violation of the terms and conditions of this Agreement shall be corrected within the time frame as set forth by the City, in its sole discretion, in the City's written Notice of Deficiency." For each and every violation noted in the Notice of Deficiency that is not corrected within the time frame set forth in the Notice of Deficiency, Contractor shall pay to the City the sum of \$250 per calendar day. Execution of this Agreement shall constitute agreement by the Contractor and City that \$250 per calendar day is the minimum value of the cost and actual damage caused by the failure of the Contractor to comply with any term or condition of this Agreement, that such sum is liquidated damages and shall not be construed as a penalty, and that sum shall be remitted to the City within thirty (30) days of the City's delivery of a Notice of Uncorrected Deficiency. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Contractor: KS JA

City: MA

25. Franchise Transfer; City Consent; Fees

25.1 No transfer without City Consent. Contractor may not convey, assign, sublet, license, hypothecate, encumber or otherwise transfer or dispose of (collectively "Transfer"), this Agreement, the Franchise granted under it or any rights or duties under it, in whole or in part, whether voluntarily or involuntarily, without the City's prior written consent as expressed by written resolution of the City Council. Any dissolution, merger, consolidation, or other reorganization of Contractor, except as provided in Section 25.3 below, any sale or other transfer or change in ownership or control of any of the capital stock or other capital or equity interests, or any sale or transfer of fifty percent (50%) or more of the value of the assets shall be deemed a Transfer of this Agreement, the Franchise granted under it or any rights or duties under it. Any Transfer or attempted Transfer of this Agreement, the Franchise granted under it or any rights or duties under it made without the City's consent will be a material breach of this Agreement and, at the City's option, may be voided.

25.2 Consent not Unreasonably Withheld. The City will not unreasonably withhold its consent to a Transfer of the Franchise granted by this Agreement. The prospective transferee shall have the burden of demonstrating that it has the financial and technical ability to provide the services required under this Agreement. The City may also require the prospective transferee to demonstrate that it, and its officers and managers do not have criminal records for environmental or public integrity offenses. If the City gives its consent, it may impose conditions, including, without limitation, requiring acceptance of amendments to this Agreement. Without obligating the City to give its consent, the proposed transferee must demonstrate to the City's satisfaction that it has the operational and financial ability to perform the terms of this Agreement.

25.3 Internal Reorganization. Contractor's internal reorganization shall not constitute a Transfer provided that City's consent to the reorganization is sought and received prior to any internal reorganization. An internal reorganization includes any change in control of any of the voting stock through its conveyance to an affiliate of Contractor, or by operation of law. Any request for an internal reorganization must be submitted in writing to the City Manager, no less than one hundred and twenty days prior to the proposed effective date of the internal reorganization. Contractor shall reimburse City for all of its costs to review the request and to determine if it is an internal reorganization. City's expenses may include, but are not limited to, Staff, City Attorney's and Special Counsel's fees and costs and Accountants' fees and costs. Determination by the City Manager shall be final. Any attempt to implement an internal reorganization without the consent of City shall constitute a material breach of this Agreement.

25.4 Deposit for Costs of Review. Any application for a Franchise Transfer shall be made in a manner prescribed by the City Manager. The application shall include a deposit of \$150,000 to cover the estimated cost of all direct and indirect expenses, including City staff, consultants' and attorneys' fees, incurred by City to

adequately analyze the application and the qualifications of the prospective transferee. Any costs incurred by the City in excess of \$150,000 shall be reimbursed by Contractor prior to submission of the proposed Transfer to the City Council. In the event that the City's costs are less than \$150,000, City shall refund remaining deposit to Contractor. Upon approval of Transfer, the transferee shall pay to City a Transfer fee in the amount of \$150,000.

26. General Provisions.

26.1 Force Majeure. Contractor shall not be in breach of this Agreement if the collection, transportation and/or disposal services of Contractor are interrupted temporarily or permanently for any of the following reasons: riots; war or national emergency declared by the President or Congress and affecting the City; acts of terrorists; sabotage; civil disturbance; insurrection; explosion; natural disasters such as floods, earthquakes, landslides and fires; or other catastrophic events which are beyond the reasonable control of Contractor. "Other catastrophic events" does not include the financial inability of Contractor to perform or failure of Contractor to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public agency where such failure occurs despite the exercise of reasonable diligence by Contractor. In the event a labor disturbance interrupts collection and transportation of Solid Waste and/or disposal of Solid Waste by Contractor as required under this Agreement, City may elect to exercise its rights under Section 23 and Section 24 of this Agreement. Failure by City to exercise its rights under this Section 26 shall be deemed a waiver of its rights.

26.2 Extraordinary Circumstances. Notwithstanding any other term of provision hereof, nothing in this Agreement is intended, nor shall it be interpreted, to prevent or preclude Contractor from contacting City's officials, officers and representatives to request an amendment to, or other modification of, this Agreement due to the occurrence of an event or circumstance that substantially increases Contractor's cost of service, or otherwise substantially and negatively impacts Contractor's provision of services, under this Agreement.

26.3 Pavement Damage. Contractor shall be responsible for any extraordinary damage to City's driving surfaces, whether or not paved, resulting from the weight of vehicles providing refuse collection services when it can be demonstrated that such damage is caused by vehicles exceeding the legal maximum weight limits of the State of California or the willful or negligent operation of the vehicle by Contractor's employees. Disputes between Contractor and its service recipients as to damage to private pavement are civil matters and complaints of damage will be referred to Contractor as matters within its sole responsibility and as a matter within the scope of this Agreement.

26.4 Property Damage. Any physical damage caused by the negligent or willful acts or omissions of employees of Contractor to City or private property shall be repaired or replaced by Contractor at Contractor's sole expense. This Agreement does

not purport to relieve, diminish, reduce, create or increase in any way, Contractor's civil liability to any third parties.

26.5 Law to Govern; Venue. The law of the State of California shall govern this Agreement without regard to any otherwise governing principles of conflicts or choice of laws. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

26.6 Fees and Gratuities. Contractor shall not permit any officer, agent or employee to request, solicit, or demand, either directly or indirectly, any gratuity for the collection of Solid Waste, Recyclable Materials, or Organic Waste otherwise required to be collected under this Agreement.

26.7 Amendments. Except as otherwise provided in this Agreement, no other amendment of this Agreement shall be valid unless in writing duly executed by the parties, approved by the City Council by written resolution. Purported oral amendments shall be void and of no force or effect.

26.8 Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by telecopy or United States certified mail, postage prepaid, return receipt requested, and by email, addressed as follows:

To City: City Manager
 City of Rosemead
 8838 E. Valley Blvd.
 Rosemead, California 91770
 And by email to: jallred@cityofrosemead.org

Copy to: Director of Public Works
 City of Rosemead
 8838 E. Valley Blvd.
 Rosemead, California 91770
 And by email to: cmarcarello@cityofrosemead.org

And to: City Attorney
 City of Rosemead
 Burke Williams & Sorensen LLP
 444 South Flower Street, Suite 2400
 Los Angeles, CA 90071-2953
 And by email to: r-richman@bwslaw.com

And to: Consolidated Disposal Service, LLC.
 Kurt Bratton, President
 2531 67th Street
 Long Beach, CA 90805

And by email to: KBratton@republicservices.com

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

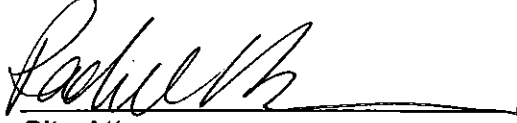
26.9 Savings Clause and Entirety. If any non-material provision of this Agreement for any reason shall be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the validity and enforceability of any of the remaining provisions of this Agreement.

26.10 Transition to Next Solid Waste Enterprise. If, in the final 12 months of the period during which Contractor is to provide collection services under this Agreement, Contractor and City have not entered into a succeeding agreement, Contractor shall cooperate fully with City and all prospective subsequent Solid Waste enterprise(s), franchisee(s), licensee(s), permittee(s) or other persons seeking to provide services similar to the services so as to assure an efficient, orderly, timely and effective transition. In that regard, Contractor agrees to make available to City and to prospective proposers, in any competitive process used by the City to select a successor, route maps, customer lists, and all other records requested by City.

26.11 Incorporation by Reference. Contractor's Proposal, dated January 18, 2012, and the Exhibits are incorporated into this Agreement by this reference. Where Contractor's Proposal conflicts with this Agreement, this Agreement shall prevail.]

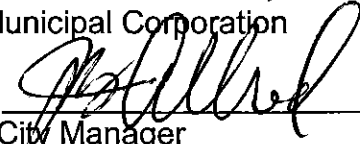
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first written above.

APPROVED AS TO FORM:



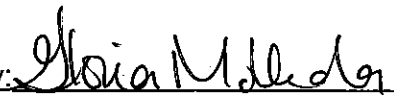
City Attorney
for the City of Rosemead

CITY OF ROSEMEAD,
A Municipal Corporation

By: 

City Manager
for the City of Rosemead

ATTEST:

By: 

City Clerk
for the City of Rosemead

CONSOLIDATED DISPOSAL SERVICES:

By: 

(Corporate Officer)

Title: PRESIDENT

Print Name: JEFF ANDREWS

By: 

(Corporate Officer)

Title: VICE PRESIDENT

Print Name: KURT BRATTON

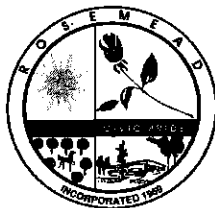
Table of Exhibits.

Exhibit A	Multifamily and Commercial Recycling Program
Exhibit B	Commercial Food Waste Program
Exhibit C	City Service Locations
Exhibit D	Recovery and Disposal Sites
Exhibit E	Corporate Good Citizenship
Exhibit F	Maximum Permitted Customer Rates
Exhibit G	Residential Services
Exhibit H	Commercial and Multi-Family Services
Exhibit I	Equipment

MAYOR:
POLLY LOW

MAYOR PRO TEM:
WILLIAM ALARCON

COUNCIL MEMBERS:
SANDRA ARMENTA
MARGARET CLARK
STEVEN LY



City of Rosemead

8838 E. VALLEY BOULEVARD P.O BOX 399
ROSEMEAD, CALIFORNIA 91770
TELEPHONE (626) 569-2100
FAX (626) 307-9218

August 12, 2013

Mr. James Castro
General Manager
Consolidated Disposal Services
2395 E. 68th Street
Long Beach, CA 90805

Dear James:

Side Letter of Agreement for Comprehensive Refuse Services

This letter shall be our Side Letter Agreement regarding the comprehensive refuse services described below ("Services") to be provided by Consolidated Disposal Services ("Contractor") as an independent contractor to the City of Rosemead ("City").

The Services to be provided include the following: Comprehensive Refuse Services. The Services will be conducted in accordance with the terms and conditions listed in the Franchise Agreement executed by City and Contractor dated August 28, 2012. The services to be provided are more particularly described in the document attached hereto as Exhibit A and incorporated herein by reference.

City and Contractor agree to establish a Side Letter of Agreement for the first year of the Franchise Agreement, from August 1, 2013 to July 31, 2014. The Side Letter of Agreement shall modify the Franchise Agreement as follows:

1. In Year 1 (August 1, 2013 – July 31, 2014) of the Franchise Agreement, Contractor will guarantee the City a minimum franchise fee revenue of \$600,000 or 10% of gross receipts, whichever is greater, revised from the amount stated in the franchise agreement of \$500,000. This amount shall be disbursed to the City as indicated in the Franchise Agreement.
2. In Years 2 through 10 (August 1, 2014 – July 31, 2023), Contractor will continue to guarantee a minimum franchise fee revenue of \$500,000 or 10% of gross receipts, whichever is greater, as described in the Franchise Agreement.
3. Contractor will not provide each residential customer in the City with new automated containers for recyclable materials at the franchise agreement start date of August 1, 2013.


4. Contractor will make available automated containers for recyclable materials at the franchise agreement start date of August 1, 2013 and make them available to residential customers upon request. There shall be no limit to the total number of containers that may be replaced.

All other terms and provisions of the Franchise Agreement shall continue to remain in effect, unless otherwise agreed upon by both the City and Contractor. This Side Letter of Agreement constitutes a binding written modification to the Agreement, signed by both parties. City and Contractor agree that Contractor is in compliance with the terms and conditions of the Franchise Agreement as of the date of this Side Letter of Agreement.

City and Contractor warrant that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind the City and Contractor, respectively, hereto. Contractor's agreement to the terms of this Side Letter of Agreement is indicated by signing and dating three (3) original copies where indicated below and returning both to the undersigned. Once the documents are fully executed, one original will be returned to you for your records.

CITY OF ROSEMEAD

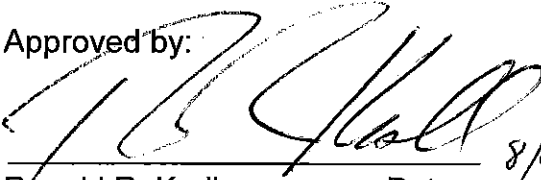
Approved by:



Jeff Allred Date 9/4/13
City Manager

CONSOLIDATED DISPOSAL SERVICES

Approved by:



Ronald R. Krall Date 8/29/13
Area President

Exhibit A: Franchise Agreement for Comprehensive Refuse Services

FIRST AMENDMENT

City

**FIRST AMENDMENT TO
EXCLUSIVE FRANCHISE AGREEMENT
FOR COMPREHENSIVE REFUSE SERVICES**

THIS FIRST AMENDMENT TO THE EXCLUSIVE FRANCHISE AGREEMENT FOR COMPREHENSIVE REFUSE SERVICES originally entered into on August 28, 2012, is made and entered into effective the 1st day of December 2018, by and between the City of Rosemead, a municipal corporation, hereinafter referred to as City, and Consolidated Disposal Service, L.L.C., a Limited Liability company DBA Republic Services, hereinafter referred to as Contractor.

The City and Contractor agree to amend the Agreement based on the Recitals provided for below.

WHEREAS the Contractor has made outreach and presentations to the City Council explaining the major shift over the past year relating to recycling markets as a result of the Chinese Government's policy known as "China Sword".

WHEREAS this policy change has significantly reduced China's importation of recyclable materials and created a substantial increase in processing costs and decrease in prices paid for recyclables to Contractor.

WHEREAS due to the China Sword Policy's impact on the cost of operations, the Contractor has approached the City to ask for a one time recycling rate adjustment of a not to exceed amount \$.62 to residential users per month.

WHEREAS pursuant to Section 26.2 of the Agreement the Contractor is permitted to ask for an increase due to the occurrence of an extraordinary event or circumstance that substantially increases Contractor's cost of service, or otherwise substantially and negatively impacts Contractor's provision of services.

WHEREAS the City Council is permitted to approve amendments to the Agreement.

Now therefore the following amendment is made to the Agreement:

In addition to the existing Rates for Service increases provided for in Section 8.1, the City and Contractor agree to a one-time not to exceed rate adjustment on residential accounts as follows:

- A recycling rate adjustment of up to \$.62 per residential account per month;
- The above adjustments will be effective no earlier than December 1, 2018

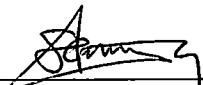
All other terms of the Agreement remain unchanged.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as of the date first indicated above.

City

CITY OF ROSEMEAD

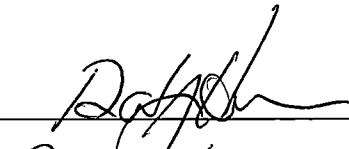
A Municipal Corporation

By: 
Steven Ly, Mayor


CONTRACTOR

CONSOLIDATED DISPOSAL
SERVICE, L.L.C.

Approved by:

By: 
David Hauser - Market-UP
Print name and Title of Officer

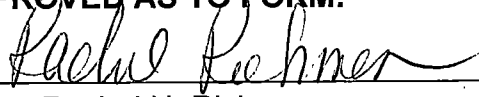
ATTEST:

By: 
Ericka Hernandez
City Clerk

By: _____

Print Name and Title of Officer

APPROVED AS TO FORM:

By: 
Rachel H. Richman
City Attorney

CERTIFICATE OF SECRETARY

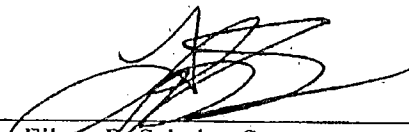
**RELATING TO THE FIRST AMENDMENT TO THE
EXCLUSIVE FRANCHISE AGREEMENT FOR
COMPREHENSIVE REFUSE SERVICES
FOR THE CITY OF ROSEMEAD
IN THE STATE OF CALIFORNIA**

The undersigned, Secretary of **CONSOLIDATED DISPOSAL SERVICE, L.L.C.**, a Delaware limited liability company (the "Company"), hereby certifies that the following is a true and correct copy of the resolution which was duly adopted by **REPUBLIC SERVICES, INC.**, a Delaware corporation, the sole member of the Company (the "Member") by written consent of the Member on February 24, 2016, that such resolution has not been rescinded, amended or modified in any respect, and is in full force and effect on the date hereof:

RESOLVED, that (i) any individual at the time holding the position of General Manager or Area Director, Finance be, and each of them hereby is, appointed as an Authorized Agent, to act in the name and on behalf of the Company and to include the execution of related documents, in connection with the day-to-day business activities of the Company, and further, that (ii) in addition to the General Manager or Area Director, Finance, any individual at the time holding the position of Area Director, Business Development; Area Director, Operations; or Market Vice President be, and each of them hereby is, appointed as an Authorized Agent to execute any bid and proposal, and if awarded, any related contract for services to be performed by the Company and any bond required by such bid, proposal or contract, all in accordance with the existing Levels of Authority and other relevant policies and procedures.

I further certify that **DAVE HAUSER** holds the title of Market Vice President and in such capacity has full authority to act in the name and on behalf of the Company as set forth in the foregoing resolution.

WITNESS MY HAND, this 18th day of February, 2019.



Eileen B. Schuler, Secretary

SECOND AMENDMENT

**SECOND AMENDMENT TO
THE EXCLUSIVE FRANCHISE AGREEMENT
FOR COMPREHENSIVE REFUSE SERVICES
(CONSOLIDATED DISPOSAL SERVICE, L.L.C)**

THIS SECOND AMENDMENT TO THE EXCLUSIVE FRANCHISE AGREEMENT FOR COMPREHENSIVE REFUSE SERVICES originally entered into on August 1, 2013, is made and entered into effective the 12th day of January 2022, by and between the City of Rosemead, a municipal corporation, hereinafter referred to as City, and Consolidated Disposal Service, L.L.C., a Limited Liability company DBA Republic Services, hereinafter referred to as Contractor.

The City and Contractor agree to amend the Agreement based on the Recitals provided below.

WHEREAS, Article XI, Section 7 of the California Constitution authorizes cities to protect public health and safety by taking measures in furtherance of their authority over the police and sanitary matters; and

WHEREAS, California Public Resources Code 40059 provides that aspects of Solid Waste handling of local concern include but are not limited to the frequency of collection, means of collection and transportation, level of services, fees, and nature, location, and extent of providing solid waste services, and whether the services are to be provided by means of nonexclusive, partially exclusive or wholly exclusive franchise, contract, license or otherwise which may be granted by a local government under terms and conditions prescribed by the governing body of the local agency; and.

WHEREAS, the Rosemead Municipal Code Chapter 8.32 implements Article XI, Section 7 of the California Constitution and California Public Resources Code 40059 in the City; and

WHEREAS, Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016 (SB 1383), requires CalRecycle to develop regulations to reduce organics in landfills as a source of methane. The regulations place requirements on multiple entities including the City of Rosemead and the Contractor to support the achievement of Statewide Organic Waste disposal reduction targets; and

WHEREAS, the SB 1383 regulations adopted in 2016 that created 14 California Code of Regulations (CCR), Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR require City to implement mandatory Organic Waste reduction programs within the City effective January 12, 2022, and further require amendments to the City's Agreement and the Municipal Code to implement the requirements of SB 1383; and

WHEREAS, the current term of the Agreement is ten (10) years from August 1, 2013, through and including July 31, 2023; and

WHEREAS, with this Second Amendment, the City will amend the Contractor's Franchise Agreement for comprehensive refuse services to provide additional services to meet the requirements of SB 1383 within the current term of the Agreement.

Now therefore, the following Amendment is made to the Agreement:

SECTION 1. Section 4, Definitions, is hereby amended by adding the following:

“**AB 341**” means the Assembly Bill approved by the Governor of the State of California on October 5, 2011, which amended Sections 41730, 41731, 41734, 41735, 41736, 41800, 42926, 44004, and 50001 of, and added Sections 40004, 41734.5, and 41780.01 and Chapter 12.8 (commencing with Section 42649) to Part 3 of Division 30 of, and added and repealed Section 41780.02 of, the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded and replaced from time to time.

“**AB 827**” means the Assembly Bill approved by the Governor of the State of California on October 2, 2019, which amended Sections 42649.2, 42649.2, 42649.8, and 42649.81 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

“**AB 1594**” means the Assembly Bill approved by the Governor of the State of California on September 28, 2014, which amended Sections 40507 and 41781.3 of the Public Resources Code, relating to Solid Waste, as amended, supplemented, superseded, and replaced from time to time.

“**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.

“**Blue Container**” has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of Source Separated Recyclable Materials or SSBCOW.

“**Brown Container**” has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of Source Separated Food Waste.

“**Commercial Edible Food Generators**” includes Tier One Commercial Edible Food Generators and Tier Two Commercial Edible Food Generators, or as otherwise defined in 14 CCR Section 18982(a)(7). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators.

“**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.

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

“Food Recovery Organization” means an entity that primarily engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities, including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization; and,
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code. If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this Agreement.

“Food Recovery Service” means a Person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery; or as otherwise defined in 14 CCR Section 18982(a)(26).

“Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

“Food-Soiled Paper” means compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.

“Food Waste” means Source Separated Food Scraps, and Food-Soiled Paper. Food Waste is a subset of Source Separated Green Container Organic Waste (SSGCOW).

“Gray/Black Container” has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of Gray/Black Container Waste or Mixed Waste.

“Gray/Black Container Waste” means Solid Waste that is collected in a Gray/Black Container that is part of a three-Container Organic Waste Collection service that prohibits the placement of Organic Waste in the Gray/Black Container as specified in 14 CCR Sections 18984.1(a) and (b) or as otherwise defined in 14 CCR Section 17402(a)(6.6). For the purposes of this Agreement, Gray/Black Container Waste includes carpet and textiles.

“Green Container” has the same meaning as in 14 CCR Section 18982.2(a) and shall be used for the purpose of storage and Collection of SSGCOW.

“Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, Yard Waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges, or as otherwise defined in 14 CCR Section 18982(a)(46).

“SB 1383” means the Short-Lived Climate Pollutants Act of 2016 (an act to add Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and to add Chapter 13.1

[commencing with Section 42652] to Part 3 of Division 30 of the Public Resources Code, relating to methane emissions), also commonly referred to as "SB 1383," as amended, supplemented, superseded, and replaced from time to time.

“Source Separated Blue Container Organic Waste” or **“SSBCOW”** means Source Separated Organic Waste that can be placed in a Blue Container that is limited to the Collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR Section 18982(a)(43); or as otherwise defined by 14 CCR Section 17402(a)(18.7). SSBCOW is a subset of Organic Waste.

“Source Separated Green Container Organic Waste” or **“SSGCOW”** means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding SSBCOW, carpets, Non-Compostable Paper, and textiles. SSGCOW is a subset of Organic Waste.

“Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and SSBCOW.

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Supermarket
- B. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- C. Food Service Provider.
- D. Food Distributor.
- E. Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this Agreement.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following, each as defined in 14 CCR Section 18982:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large Venue.
- E. Large Event.
- F. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency with an on-site food facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this Agreement.

SECTION 2. Section 7.8.1, 7.8.2, 7.8.3, and 7.8.4 are hereby added to Section 7.8

7.8.1 SB 1383 Contamination Monitoring and Enforcement.

- (a) Contractor shall institute a contamination minimization program which will include:
 1. Route Reviews/Container Inspections: Carts shall be randomly selected and inspected along each route on a periodic basis;
 2. Notifications to Customers: Cart tags will be issued to inform Customers of proper material separation requirements and observed contamination;
 3. Contamination Fee: A Contamination Fee will be charged to Customers with contaminated carts identified through routine periodic monitoring.

- (b) Inspection Program. Contractor shall implement a container inspection program in compliance with the requirements of SB 1383. Contractor shall perform contamination inspections with Contractor's personnel on Collection vehicles, and periodic route reviews. Collection vehicle personnel may conduct contamination inspections lifting the Container lid and observing the contents. Additionally, route reviews will be conducted by a dedicated Recycling Coordinator and a dedicated Route Auditor who will perform contamination monitoring, lifting Container lids and observing Container contents for evidence of contamination.

- (c) Record Keeping. The driver or other Contractor representative shall record each event of identification of Prohibited Container Contaminants in a written log or in the on-board computer system including date, time, Customer's address, type of Container (Blue, Green, or Gray or Black Container); and maintain photographic evidence, if required. Contractor shall submit this record to the Contractor's Customer service department, and Contractor's Customer service department shall update the Customer's account record to note the event, if the documentation of the on-board computer system did not automatically update the Customer's account record.

- (d) Identification of Excluded Waste. If Contractor's personnel observe Excluded Waste in an uncollected Container, the Contractor's personnel shall record that observation and immediately inform their route supervisor. The route supervisor shall investigate and initiate applicable action within one (1) Business Day or sooner if the Hazardous Waste may cause immediate danger.

- (e) Courtesy Pick-Up Notices. Upon identification of Prohibited Container Contaminants in a Customer's Container, Contractor shall provide the Customer with a courtesy pick-up notice. The courtesy pick-up notification shall: (i) inform the Customer of the observed presence of Contaminants; (ii) include the date and time the Prohibited Container Contaminants were observed; (iii) include information on the Customer's requirement to properly separate materials into the appropriate Containers, and the accepted and prohibited materials for Containers; (iv) inform the Customer of the courtesy pick-up of the contaminated materials on this occasion with information that on any subsequent instances, Contractor may assess Contamination fees. Contractor shall collect the contaminated Container contents for transport to the appropriate Approved/Designated Facility for Disposal/ Processing.

- (f) Notice of Assessment of Contamination Fees. On the third issuance of a courtesy notice as

set forth in section (e) above, the Contractor may impose a contamination fee. Contractor shall leave a contamination fee notice attached to or adhered to the Generators' contaminated Containers; at the Premises' door or gate; or, may deliver the notice by mail, e-mail or text message. The contamination fee notice shall describe the specific material(s) of issue, explain how to correct future set outs, and indicate that the Customer will be charged a contamination fee on its next bill.

7.8.2 On-going Contamination Monitoring by Route Personnel

Contractor shall assist on an on-going basis in minimizing contamination by helping to educate Customers on acceptable and non-acceptable materials through ongoing education and outreach efforts and through on-going monitoring of the contents of Collection Containers. Contractor shall provide education and outreach materials in English, Vietnamese, Chinese, and Spanish languages. The on-going Container monitoring shall be performed by Contractor using the method described in Section 7.8.3.

7.8.3 Prescribed Contamination Monitoring

Contractor will implement Physical Container Inspections to comply with the requirements of this Section.

- (a) Methodology and Frequency. Commencing on or after January 12, 2022, the Contractor shall, at its sole expense, conduct hauler route reviews for Prohibited Container Contaminants in Containers in a manner that is deemed safe by the Contractor; is approved by the City; and is conducted in a manner that results in all hauler routes being reviewed annually or more frequently. The Contractor shall conduct hauler route reviews that include inspection of the contents of Blue, Green, and Gray/Black Containers for Prohibited Container Contaminants in a manner that a minimum of five percent (5%) of accounts on each and every hauler route are randomly inspected annually. Contractor shall develop a hauler route review methodology to accomplish the above Container inspection requirements and such methodology shall comply with the requirements of 14 CCR Section 18984.5(b).
- (b) Noticing of Generators with Contamination, and Disposal of Materials. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures and contaminated Container handling protocols set forth in Section 7.8.1.

7.8.4 Inspection and Enforcement

(a) Annual Compliance Reviews

1. General. Contractor shall perform compliance reviews described in this Section commencing January 12, 2022, and at least annually thereafter, unless otherwise noted.
2. Commercial Generator Compliance Reviews. The Contractor shall complete a compliance review of all Multi-Family and Commercial Customers that generate two (2) cubic yards or more per week of Solid Waste, including Organic Waste to determine their compliance with: (i) Generator requirements under the City's Collection program; and, (ii) if applicable for the Generator, Self-Hauling requirements per 14 CCR Section 18988.3 and Chapter 8.32 of the Rosemead

Municipal Code, including whether a Commercial Business is complying through Self-hauling of SSBCOW and SSGCOW. The compliance review shall mean a “desk” review of records to determine Customers’ compliance with the above requirements and does not necessarily require on-site observation of service; however, the City may request that the Contractor perform an on-site observation of service in addition to or in lieu of the desk review if needed to obtain the required information.

3. Annual Hauler Route Review. Beginning April 1, 2022, and annually thereafter, the Contractor shall conduct annual hauler route reviews of Commercial, Multi-Family, and Single Family Generators for compliance with the City’s Organic Waste collection program and Container contamination monitoring. These hauler route reviews may be performed concurrently with the contamination monitoring hauler route reviews, provided that Contractor documents a reasonable sampling of Generators for which compliance with the City’s Organic Waste collection program during the hauler route review was assessed.
4. Food Recovery Compliance Reviews. Commencing January 12, 2022, and at least annually thereafter, Contractor shall conduct inspections of Tier One Commercial Edible Food Generators, Food Recovery Organizations, and Food Recovery Services to assess compliance with the requirements of 14 CCR Chapter 12 Article 10.

(b) Generator Waiver Inspections. Contractor shall verify Commercial Generator de minimis and physical space constraint waivers, if applicable, at least once every five (5) years from the date of issuance of the waiver.

(c) Compliance Review Process

1. Number of Reviews. The Contractor shall conduct a sufficient number of compliance reviews, hauler route reviews, and inspections of entities to adequately determine the entities’ overall compliance with SB 1383, AB 1826, AB 341, and Chapter 8.32 of the Rosemead Municipal Code. The City reserves the right to require additional inspections, if the City determines that the amount of inspections conducted by the Contractor is insufficient. City may require the Contractor to prioritize inspections of entities that the City determines are more likely to be out of compliance
2. Non-Compliant Entities. From January 12, 2022, through July 31, 2023, when compliance reviews are performed by Contractor, Contractor shall provide educational materials in response to violations. Contractor shall provide these educational materials to the non-compliant Customers and Generators within five (5) working days of determination of non-compliance or immediately upon determination of non-compliance if such non-compliance is determined during an inspection or hauler route review. Contractor shall document the non-compliant Customers and Generators and the date and type of education materials provided

and report such information to the City.

3. Documentation of Inspection Actions. The Contractor shall generate a written and/or electronic record and maintain documentation for each inspection, hauler route review, and compliance review conducted.

SECTION 3. Section 9 is here by amended and restated as follows:

Contractor shall provide refuse collection service to Residential Customers, including Multi-Family Residential Dwellings as set forth in this Section 9 and Exhibit G, "Residential Services."

SECTION 4. Section 9.6 is hereby added to Section 9

9.6 SB 1383 Services

- (a) Containers. Contractor shall provide SB 1383 compliant three (3) container Residential collection services as follows:
 1. A Green Container for organic waste (only food waste, yard waste, green waste, and other organic materials). A Blue Container for recyclables (non-organic recyclables, such as bottles, cans, and plastic, and organic waste such as paper and cardboard.) A Gray or Black Container for non-organic waste only (Items that cannot be recycled or composted).
 2. Effective January 1, 2022, all Residential customers will maintain their existing containers. Replacement of Residential containers shall be made from existing containers purchased prior to January 1, 2022 until such time as the Contractor's existing inventory of such containers is exhausted. New or replacement containers requested will be SB 1383 color and compliant. New containers purchased by Contractor after January 1, 2022, are required to meet SB 1383 container colorization (Gray/Black, Blue and Green) and labelling requirements. New containers purchased after January 1, 2022, will require SB 1383 compliant graphic-based labels identifying the acceptable materials permitted within each source-separated cart.
- (b) Outreach. Contractor will implement the following targeted education and outreach efforts to Residential customers regarding SB 1383 required programs. Contractor shall develop educational material to explain program changes and new program implementation. A welcome outreach package for new SB 1383 programs will be sent to all Residential customers after January 1, 2022, and Contractor will also provide Residential customers with four (4) quarterly direct mailed newsletters with SB 1383 program implementation information, in addition to the four Quarterly newsletters to Customers. Contractor shall provide education and outreach materials in English, Vietnamese, Chinese, and Spanish languages.

- (c) Contractor and City shall annually review the outreach effort and determine if changes to the outreach program may be required, by mutual agreement.

SECTION 5. Section 10.4 Waste to Energy is deleted in its entirety.

SECTION 6. Section 10.6 is hereby added to Section 10

10.6 SB 1383 Services

- (a) Containers. Contractor shall provide SB 1383 compliant three (3) container Multi Family and Commercial collection services as follows:

1. A Green Container for organic waste (only food waste, yard waste, green waste, and other organic materials.) A Blue Container for recyclables (non-organic recyclables, such as bottles, cans, and plastic, and organic waste such as paper and cardboard.) A Gray or Black Container for non- organic waste only (Items that cannot be recycled or composted.)
2. Effective January 1, 2022, all Commercial and Multi Family customers will maintain their existing containers. Replacement of Commercial and Multi Family containers shall be made from existing containers purchased prior to January 1, 2022, until such time as the Contractor's existing inventory of such containers is exhausted. New or replacement containers requested will be SB 1383 color and compliant. New containers purchased by Contractor after January 1, 2022, are required to meet SB 1383 container colorization (Gray/Black, Blue and Green) and labelling requirements. New containers purchased after January 1, 2022, will require SB 1383 compliant graphic-based labels identifying the acceptable materials permitted within each source-separated cart.

- (b) Commercial and Multi Family customers will have options for various sizes of metal bins and carts depending on space restrictions and material types.

- (c) Outreach. Contractor will implement the following targeted education and outreach efforts to Residential customers regarding SB 1383 required programs. Contractor shall develop educational material to explain SB 1383 program changes and new program implementation. A welcome outreach package for new SB 1383 programs will be sent to all Commercial and Multi Family customers after January 1, 2022, and Contractor will also provide Commercial and Multi Family customers with two (2) direct outreach newsletters with SB 1383 program implementation information. Contractor shall provide education and outreach materials in English, Vietnamese, Chinese, and Spanish languages.

- (d) Compliance Review. Contractor shall conduct a review of all Commercial businesses that generate 2 cubic yards or more per week of Solid Waste.

(e) Physical Space and De Minimis Waivers. Contractor shall assist City in connection with Commercial Customer applications for Physical Space Waivers and De Minimis Quantity Waivers applied for in compliance with the applicable provisions of the Municipal Code. Contractor shall assist City with development of application requirements and protocols, evaluation, and verification of the details in the Customer waiver applications, and provide assistance with preparation of City's written determinations on Customer waiver applications

(f) Edible Food Recovery.

1. No later than January 12, 2022, Contractor shall identify all Commercial Customers that meet the definition of Tier One and Tier Two Commercial Edible Food Generators and provide a list of such Customers to the City, which shall include: Customer name; service address; contact information; Tier One or Tier Two classification; and, type of business (as it relates to the Tier One and Tier Two Commercial Edible Food Generator definitions).
2. Commencing January 12, 2022. and at least annually thereafter, Contractor shall cooperate with City and/or its consultants to conduct inspections of Tier One Commercial Edible Food Generators, Food Recovery Organizations, and Food Recovery Services to assess compliance with the requirements of 14 CCR Chapter 12 Article 10.
3. At least annually, the Contractor shall provide Commercial Edible Food Generators with the following information:
 - i. Information about the Contractor's and/or City's Edible Food Recovery program;
 - ii. Information about the Commercial Edible Food Generator requirements under 14 CCR Chapter 12 Article 10;
 - iii. Information about Food Recovery Organizations and Food Recovery Services operating within the City, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
 - iv. Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.
4. The Contractor may provide the education information required by this section by including it with regularly scheduled notices, education materials, billing inserts, or other information disseminated to Commercial Businesses.
5. Contractor shall cooperate with the implementation, expansion, or operation of Food Recovery efforts in the City, Food Recovery Organizations, and/or Food Recovery Services.

(g) Site Visits and Waste Assessments.

1. Contractor will include an outreach and technical assistance plan in the AB 341, AB 827, AB 1826, and SB 1383 Implementation Plan identifying the site visit schedule for which to send a Contractor representative to visit each Multi-

Family and Commercial Generator's Premises for the purpose of assessing how much Source Separated Recyclable Materials and SSGCOW is being Disposed; assessing Source Separated Recyclable Materials and SSGCOW Collection service level needed to meet the requirements of SB 1383, and encouraging all Generators to establish Source Separated Recyclable Materials and SSGCOW Collection service in advance of January 12, 2022, when mandatory service is required. Contractor shall also notify Customers of opportunities to reduce costs by enrolling in Source Separated Recyclable Materials and SSGCOW Collection service and reducing Gray/Black Container Waste/Mixed Waste Collection service. Contractor shall contact Multi-Family and Commercial Customers and provide site visits according to the City-approved schedule. Contractor will also provide a site visit to any Multi-Family and Commercial Generator that requests a site visit, even if it is ahead of schedule. Any internal Recycling programs or third-party Recycling programs that the Contractor encounters while conducting Customer site visits shall be documented using a City-approved electronic reporting form and provided in an electronic format such as a cloud-based file-sharing system that can be accessed by the City or its representatives.

2. Beginning July 1, 2022, and annually thereafter, Contractor representative shall follow-up with Multi-Family and Commercial Generators who are required to participate in Source Separated Recyclable Materials and SSGCOW Collection service under Applicable Law, including but not limited to AB 341, AB 1826, and SB 1383. The Contractor shall ensure that these Generators are participating in the Source Separated Recyclable Materials and SSGCOW Collection Service. If the Generator is not in compliance or not participating, the representative shall assist the Customers with selecting appropriate Containers and Container sizing, identifying acceptable Organic Waste collection services as set forth, and attempt to resolve any logistical barriers to providing Source Separated Recyclable Materials and SSGCOW Collection service.
3. Contractor shall provide ongoing, on-site training for Commercial Generators' staff, including, but not limited to: management, kitchen staff, service employees, and janitorial staff; and Multi-Family Customers' staff, including but not limited to: the property manager, janitorial staff, maintenance, and any other on-site staff members or contractors that handle discarded materials processes.
4. For each on-site waste assessment conducted by Contractor, Contractor shall include documentation of the items listed below. City reserves the right to request Contractor's documentation of additional information, and shall authorize the format for required information.
 - i. Pictures of material in all Containers
 - ii. Characteristics of the property, business, and Generator type
 - iii. Written recommendations for the appropriate service Level for each

- material type
- iv. Provision of outreach and education materials appropriate to the Generator type
- v. Determination of signage placement
- vi. Determination of any on-going training needs
- vii. Determination of any access needs
- viii. Documentation of any special service needs, (such as, but not limited to, seasonal, automated on-call compactor, etc.)
- ix. Documentation of records of communications with the Generator

SECTION 7. Section 18.1.1 and 18.1.2 is hereby added to Section 18.

18.1.1 SB 1383 Customer Compliance Enforcement Data

Contractor shall keep and maintain SB 1383 customer compliance enforcement records within a cloud-based system format, and City will be provided access credential to access the customer enforcement action data as may be required for purposes of CalRecycle requests made pursuant to 14 CCR 18995.2.

18.1.2 SB 1383 Customer Outreach Records

Contractor shall keep and maintain SB 1383 customer outreach records within a cloud-based system format, and City will be provided access credential to access the customer outreach data as may be required for purposes of CalRecycle requests made pursuant to 14 CCR 18988.4.

SECTION 8. Section 19, Integrated waste management Act; Reporting Requirements is amended and restated as follows:

Contractor shall cooperate with City in Solid Waste disposal characterization studies and waste stream audits and shall implement measures adequate to achieve the diversion goals set forth in this Agreement utilizing the CalRecycle per capita disposal and goal measurement system, expressed as pounds per person per day. The emphasis will be on program implementation, actual recycling, and other diversion programs in lieu of estimated diversion percentages. During the Term of this Agreement, Contractor, at no expense to City, shall submit to City all relevant information and reports required to meet the reporting obligations imposed by CalRecycle under the Act, as amended. Contractor agrees to submit such reports and information by email or on computer discs, in a format acceptable to City at no additional charge, if requested by City. Contractor shall maintain adequate records, and corresponding documentation, of information required by this Agreement, 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 901, SB 1383, and other current or future federal, State, or local 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.

SECTION 9. Section 19.1 is here by added to Section 19.

19.1 SB 1383 Data Reporting.

- (a) Contractor shall assist City with SB 1383 initial CalRecycle compliance reporting by providing compliance data needed for City generated reports to CalRecycle in accordance with 14 CCR 18994.2.
- (b) Contractor shall assist City with SB 1383 annual CalRecycle compliance reporting by providing compliance data needed for the City-generated Annual compliance report to CalRecycle in accordance with 14 CCR 18994.2.

SECTION 10. Exhibit F, Maximum Rate Schedule, is hereby deleted in its entirety and replaced with a revised Exhibit F, Maximum Rate Schedule, attached hereto and incorporated by reference as though fully set forth herein.

SECTION 11. Interpretation. In the event of any conflict between this Second Amendment and the Agreement, this Amendment shall govern. Section headings in this Amendment are for convenience only and shall not be used in the interpretation of this Amendment. This Amendment may be executed in counterparts and/or by electronic signature (e.g. DocuSign). As used in this Amendment, “including” and its variants mean “including without limitation.”

SECTION 12. Future Changes. The parties acknowledge that future changes to this Second Amendment or the Agreement may be desirable to assist the parties with their respective compliance obligations under the SB 1383 Regulations or subsequent amendments thereto or interpretations thereof. The parties agree to negotiate any such proposed changes in good faith. The foregoing shall not be deemed to limit either party’s rights or remedies under the Agreement.

SECTION 13. Continuing Effect of Agreement. Except as amended by this Second Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Second Amendment to the Agreement.

SECTION 14. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation. Contractor represents and warrants to City that, as of the date of this Second Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the going of notice, or both, would constitute a material default under the Agreement. City represents and warrants to Contractor that, as of the date of this Second Amendment, Contractor is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

SECTION 15. Adequate Consideration. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Second Amendment.

SECTION 16. Authority. The persons executing this Second Amendment on behalf of the respective Parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment No. 1 on behalf of said party, (iii) by so executing this Second Amendment, such party is formally bound to the provisions of the Agreement as amended, and (iv) the entering into this Second Amendment does not violate any provision of any other agreement to which said party is bound.

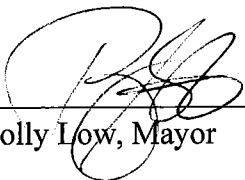
SECTION 17. Recitals Material. The Parties agree that the Recitals above are material and are incorporated herein as part of this Second Amendment.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as of the date first indicated above.

City

CITY OF ROSEMEAD

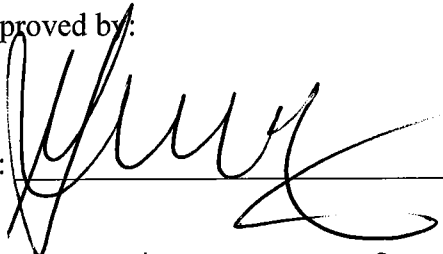
A Municipal Corporation

By: 
Polly Low, Mayor

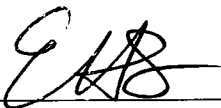
CONTRACTOR

CONSOLIDATED DISPOSAL
SERVICE, L.L.C.

Approved by:

By: 
GERMAN HERNANDEZ, GENERAL MANAGER
Print name and Title of Officer

ATTEST:

By: 
Ericka Hernandez
City Clerk

By: _____

Print Name and Title of Officer

APPROVED AS TO FORM:

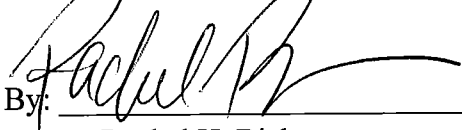
By: 
Rachel H. Richman
City Attorney

Exhibit F - Maximum Rate Schedule

Rosemead

Residential	
Residential (carts) 96 Gallons	\$ 22.61
Senior/Disabled Service	\$ 18.34
Backyard Service	\$ 25.85
Extra Carts	\$ 6.59
Contamination Fee (per cart)	\$ 12.00

Commercial MSW							
Pick Up/Week	1.5 YARD	2 YARD	3 YARD	4 YARD	6 YARD	64 GAL	96 GAL
1	\$ 146.81	\$ 146.81	\$ 207.34	\$ 276.45	\$ 442.68	\$ 66.00	\$ 66.00
2	\$ 213.24	NA	\$ 333.63	\$ 401.45	\$ 657.38	NA	\$ 132.00
3	NA	NA	\$ 449.26	\$ 560.37	\$ 881.67	NA	NA
4	NA	NA	\$ 568.22	\$ 688.86	\$ 1,097.59	NA	NA
5	NA	NA	\$ 702.06	\$ 851.09	\$ 1,359.33	NA	NA
6	NA	NA	\$ 804.16	\$ 978.72	\$ 1,563.19	NA	NA
EXTRA PICK UP	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37
LOCK LIDS	\$ 11.10	\$ 11.10	\$ 11.10	\$ 11.10	\$ 11.10	\$ 11.10	-
OVER THE TOP (EXY)	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32

3 YARD Temp or COD	
HAUL & RETURN W/ 1 DUMP	\$ 196.44
TRIP CHARGE	\$ 37.87
EXTRA PICK UP	\$ 67.54
DAILY RENTAL 7 DAYS W/O DUN	\$ 18.25

Commercial REC					
Pick Up/Week	1.5 YARD	3 YARD	4 YARD	6 YARD	96 GAL
1	\$ 117.45	\$ 165.87	\$ 221.16	\$ 354.14	\$ 52.80
2	\$ 170.59	\$ 266.91	\$ 321.16	\$ 525.90	\$ 105.60
3	NA	\$ 359.41	\$ 448.30	\$ 705.33	NA
4	NA	\$ 454.57	\$ 551.09	\$ 878.07	NA
5	NA	\$ 561.65	\$ 680.87	\$ 1,087.46	NA
6	NA	\$ 643.33	\$ 782.98	\$ 1,250.56	NA
EXTRA PICK UP	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37	\$ 39.37
LOCK LIDS	\$ 11.10	\$ 11.10	\$ 11.10	\$ 11.10	\$ 11.10
OVER THE TOP (EXY)	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32	\$ 41.32
*CONTAMINATION FEE	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00

Commercial Organics				
Pick Up/Week	1 YARD	1.5 YARD	2 YARD	64 GAL
1	\$ 146.81	\$ 146.81	\$ 146.81	\$ 66.00
2	\$ 213.24	\$ 213.24	\$ 213.24	\$ 132.00
3	NA	NA	NA	\$ 198.00
*CONTAMINATION FEE	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00

Industrial Services			
	10 YD BOX W 7 TONS	40 YD BOX W 7 TONS	COMPACTOR W 9 TONS
Haul Rate-Del/Removal	\$ 775.76	\$ 836.39	\$ 1,037.61
Additional Tons Charge	\$ 83.37	\$ 83.37	\$ 87.54
Trip Charge	\$ 124.88	\$ 124.88	\$ 131.12
Daily Rental 7 Days or 7 Tons	\$ 24.98	\$ 24.98	\$ 26.23
WAS	131.23	131.23	NA