

# LOS ALAMITOS SOLID WASTE SERVICES CONTRACT



## **CONTRACT FOR THE PROVISION OF SOLID WASTE SERVICES**

**Executed Between the  
City of Los Alamitos and  
Consolidated Disposal Service**

**This 21st day of June, 2010.**

LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

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# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

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# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

This Solid Waste Services Contract ("Contract") made and entered into this 21<sup>st</sup> day of June, 2010, by and between the **City of Los Alamitos**, hereinafter referred to as "City" and Consolidated Disposal Service, LLC, a California limited liability corporation, hereinafter referred to as "Contractor".

Now, therefore, in consideration of the mutual covenants, Contracts and consideration contained herein, the City and Contractor hereby agree as hereinafter set forth:

## **ARTICLE 1. DEFINITIONS**

For the purpose of this Contract, the definitions contained in this Article shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender. The meaning of terms or words not defined herein shall be as commonly understood in the solid waste Collection Services industry when the common understanding is uncertain.

### **1.01 ACT**

"Act" means the California Integrated Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

### **1.02 AFFILIATE**

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Contract, shall apply.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.03 ANNUAL DIVERSION REPORT**

"Annual Diversion Report" means the annual report submitted by the Contractor to the City describing the previous year's diversion activities, diversion percentages and associated calculations and the description of the diversion activity planned for the upcoming year, if applicable. The Annual Diversion Report shall be prepared in a manner that directly corresponds to the reporting requirements of the CIWMB and the CIWMB Act, as amended.

## **1.04 BILLINGS**

"Billings" or "Billing" or "Bill" means the statement(s) of charges provided to Customers for services rendered by Contractor.

## **1.05 BIN**

"Bin" means a detachable metal container with a capacity of less than ten (10) cubic yards, equipped with a lid, and designed for mechanical pick-up by collection vehicles.

## **1.06 BIN SERVICE**

"Bin Service" means Solid Waste Services in which a Bin is used for the Collection of Solid Waste.

## **1.07 BIOHAZARDOUS OR BIOMEDICAL WASTE**

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

## **1.08 BROWN GOODS**

"Brown Goods" means electronic equipment such as stereos, televisions, computers, VCRs and other similar items.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.09 BULKY WASTE**

"Bulky Waste" means Solid Waste that cannot and/or would not typically be accommodated within a Cart including specifically furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); electronic equipment (including stereos, television, computers, VCRs and other similar items commonly known as "brown goods"); residential wastes (including wood waste, tree trunks and large branches if no larger than two feet (2') in diameter and four feet (4') in length, scrap wood, debris from building remodeling, rocks, sod and earth, in the aggregate not exceeding one cubic yard per collection); clothing and tires. Bulky Waste does not include car bodies, Construction and Demolition Debris or items requiring more than two persons to remove. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Waste, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties. Bulky Waste does not include items herein defined as Exempt Waste. Bulky Waste must have been generated on the Customer's Premises in order to qualify for removal.

## **1.10 CART**

"Cart" means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 30- and no greater than 101-gallons.

## **1.11 CELL PHONES**

"Cell Phones" means all telephones used for mobile or cellular communications including batteries used to power cell phones.

## **1.12 CITY**

"City" means the City of Los Alamitos, California.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.13 CITY COUNCIL**

“City Council” means the City Council of the City of Los Alamitos, California.

## **1.14 CITY FACILITIES**

“City Facilities” means those City properties listed in Exhibit 4 which is attached to and included in this Contract, as such Exhibit 4 now exists or may subsequently be amended by City.

## **1.15 CITY MANAGER**

“City Manager” means the City Manager of the City of Los Alamitos or the City Manager’s designee.

## **1.16 CIWMB**

CIWMB is the California Integrated Waste Management Board.

## **1.17 COLLECTION**

“Collection” means the process whereby Solid Waste is removed and transported from within the City.

## **1.18 COMMERCIAL PREMISES**

“Commercial Premises” means all premises in the City, other than Residential Premises, where solid waste is generated or accumulated. The term “Commercial Premises” includes, but is not limited to, Multi-Family Premises, stores; offices; industrial plants; federal facilities, including the Joint Forces Training Base; private schools; school district offices, special districts and water districts (to the extent permitted by law); restaurants; rooming houses; hotels; motels; manufacturing, processing, or assembly shops or plants; hospitals, clinics, convalescent centers and nursing homes (non-medical waste only).

## **1.19 COMMERCIAL SERVICE**

“Commercial Service” means Solid Waste Services performed at or for Commercial Premises.

LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

**1.20 COMPACTOR**

“Compactor” refers to any mechanical apparatus that serves to compact the content of a refuse or recycling collection bin, regardless of size, whether stationary or mobile.

**1.21 CONSTRUCTION AND DEMOLITION DEBRIS**

“Construction and Demolition Debris” means Solid Waste generated at a Premises that is directly related to construction, remodeling, repair or demolition activities occurring thereon.

**1.22 CONTAINER**

“Container” means any and all types of Solid Waste receptacles, including Carts, Bins and Roll-Off Boxes.

**1.23 CONTRACT**

“Contract” means this Solid Waste Services Contract and all amendments hereto.

**1.24 CONTRACT ADMINISTRATOR**

“Contract Administrator” means the person, or his designee, designated by the City to administer and monitor the provisions of this Contract.

**1.25 CONTRACT YEAR**

“Contract Year” means each twelve (12) month period from January 1 to December 31, beginning January 1, 2011.

**1.26 CONTRACTOR**

“Contractor” means the person or entity entering into this Contract with the City, as identified in the introductory paragraph of this Contract.

**1.27 COUNTY**

“County” means Orange County, California.

**1.28 CPI**

“CPI” means the Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles – Riverside – Orange County, all items index.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.29 CUSTOMER**

"Customer" means a Person receiving Solid Waste Services from Contractor pursuant to the terms of this Contract.

## **1.30 DISPOSAL**

"Disposal" means the ultimate disposition of Solid Waste Collected by Contractor at a landfill or otherwise in full regulatory compliance. The Orange County Landfill System is the designated Disposal Site as of the effective date of this Contract.

## **1.31 DISPOSAL SITE(S)**

"Disposal Site(s)" means the Solid Waste Handling Facility or Facilities utilized for the ultimate Disposal of Solid Waste Collected by Contractor.

## **1.32 ELECTRONIC WASTE**

"Electronic Waste" means "Covered Electronic Wastes" as defined in the Act (Section 42463 of Public Resources Code) including discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer keyboards, computer mice, and computer printers), and other similar items commonly known as "brown goods" and "e-waste".

## **1.33 EXEMPT WASTE**

"Exempt Waste" means Biohazardous or Biomedical Waste, Hazardous Waste, Sludge, Stable Matter, Green Waste or lumber that is more than four (4) feet in length in its longest dimension or two (2) feet in diameter, automobiles, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, and those wastes under the control of the Nuclear Regulatory Commission.

## **1.34 FRANCHISE**

"Franchise" means the exclusive right and privilege granted by this Contract.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **1.35 FRANCHISE FEE**

“Franchise Fee” means the fee imposed by the City on the Contractor and which, *inter alia*, is intended to provide funding necessary for planning, implementing, administering, and enforcing the franchise agreements, as well as implementing additional waste management programs serving the franchise areas, including waste reduction and public outreach programs, special collection services, community cleanup activities, and illegal dumping prevention activities.

### **1.36 GREEN WASTE OR YARD WASTE**

“Green Waste” or “Yard Waste” means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than four (4) feet in its longest dimension or two (2) feet in diameter. Green Waste includes plant debris, such as grass clippings, leaves, pruning, weeds, branches, brush, Holiday trees, and other forms of organic waste that is generated at the Premises wherein the Green Waste is collected. Green Waste excludes yucca and palm fronds, which should be collected as Refuse. Green Waste does not include items herein defined as Exempt Waste or materials not normally produced from gardens or landscape areas, such as brick, rock, gravel, large quantities of dirt, concrete, sod, non-organic wastes, oil, and painted or treated wood products.

### **1.37 GROSS REVENUES**

“Gross Revenues” means any and all revenue or compensation in any form derived directly or indirectly by a Solid Waste Collector, its affiliates, subsidiaries, parents and any person or entity in which a Solid Waste Collector has a financial interest, from the collection, transportation, processing, disposal and other services with respect to solid waste collected within the City of Los Alamitos, including Recyclable Materials and Green Waste pursuant to a franchise, permit, or license. “Gross Revenues” include, but are not limited to, monthly customer fees for collection of solid waste, and recyclable materials, special pick-up fees, Commercial Bin and Drop Box rental and collection fees and fees for redelivery of Commercial Bins and drop boxes without subtracting Franchise Fees or any other cost of doing business, but excluding revenues from the sale of Recyclable materials.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.38 HAZARDOUS WASTE**

“Hazardous Waste” is any material which is defined as a hazardous waste under California or United States law or any regulations promulgated pursuant to such law, as such law or regulations may be amended from time to time.

## **1.39 HOUSEHOLD BATTERIES**

“Household Batteries” means disposable or rechargeable dry cells (e.g., A, AA, AAA, B, C, D, 9-volt, button-type) commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, nickel metal hydride, alkaline, mercury, mercuric oxide, silver oxide, zinc oxide, nickel-zinc, nickel iron, lithium, lithium ion, magnesium, manganese, and carbon-zinc batteries, but excluding automotive lead acid batteries.

## **1.40 HOUSEHOLD HAZARDOUS WASTE (HHW)**

“Household Hazardous Waste” means hazardous waste generated at a residential property.

## **1.41 MATERIALS RECOVERY FACILITY (“MRF”)**

“Materials Recycling Facility” or “MRF” means a fully permitted facility where Solid Waste, Recyclable Materials, and other materials are processed, sorted or separated for the purposes of recovering reusable or Recyclable Materials, processing or composting.

## **1.42 MULTI-FAMILY PREMISES**

“Multi-Family Premises” or “Multi-Family Units” means those residential units such as apartments, condominiums and town homes, each with separate cooking and bathing facilities, with five (5) or more units.

## **1.43 NON-COLLECTION NOTICE**

“Non-Collection Notice” is a form developed and used by the Contractor, as approved by the City, to notify Customers of the reason for non-collection of materials set out by the Customer for Collection by Contractor pursuant to this Contract.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **1.44 OCCUPANT**

“Occupant” refers to a person who occupies Premises.

### **1.45 ON-CALL SERVICE**

“On-Call Service” means Collection Service provided by Contractor that is not regularly scheduled or is scheduled more than twenty-four (24) hours in advance. On-Call Service is initiated by a Customer by calling, emailing, or requesting the service in person at Contractor’s office.

### **1.46 ORANGE COUNTY LANDFILL SYSTEM**

“Orange County Landfill System” means any landfill owned or operated by the County of Orange, currently including landfills known as Brea Olinda, Frank R. Bowerman, and Prima Deshecha.

### **1.47 OWNER**

“Owner” means the Person holding legal title to the real property constituting the Premises to which Solid Waste service is to be provided under this Contract.

### **1.48 PERSON**

“Person” means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of Orange, cities, and special purpose districts.

### **1.49 PREMISES**

“Premises” means any land or building where Solid Waste is generated or accumulated.

### **1.50 REBUILT VEHICLE**

For purposes of this Contract, “rebuilt” means, at a minimum, replacement of worn parts and reconditioning or replacement of hydraulic systems, transmissions, differentials, electrical systems, engines, and brake systems. In addition, the rebuilt vehicle must be repainted and its tires must have at least eighty-five percent (85%) of tread remaining.

# LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

## **1.51 RECYCLING**

“Recycling” means the processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy.

## **1.52 RECYCLABLE MATERIALS**

“Recyclable Materials” means those materials that are capable of being recycled. These materials will be as defined by the City. Recyclable Materials include: newsprint (including inserts); mixed paper (including magazines, catalogs, envelopes, junk mail, corrugated cardboard, Kraft brown bags and paper, paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers; aluminum beverage containers; small scrap and cast aluminum (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); steel including “tin” cans and small scrap (not exceeding ten (10) pounds in weight nor two (2) feet in any dimension for any single item); bimetal containers; mixed plastics such as plastic containers (1-7), and bottles including containers made of HDPE, LDPE, PET, or PVC; and aseptic containers. Polystyrene foam and film plastic, including plastic bags are specifically excluded from collection and processing.

## **1.53 RECYCLING BIN**

“Recycling Bin” means a plastic or metal container, with a capacity of two (2) cubic yards up to and including six (6) cubic yards, designed or intended to be mechanically dumped into a loader packer-type recycling truck, that is approved for such purpose by the City and is appropriately labeled as a Recycling Bin.

## **1.54 RECYCLING CART**

“Recycling Cart” is a heavy-plastic receptacle with a rated capacity of at least thirty (30) gallons and not more than one-hundred one (101) gallons, having a hinged, tight-fitting

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

lid, and wheels, that is approved for such purpose by the City and is appropriately labeled as a Recycling Cart.

### **1.55 REFUSE**

“Refuse” means putrescible and non-putrescible Solid Waste.

### **1.56 RESIDENTIAL PREMISES**

“Residential Premises” means a detached building, or each unit of multi-family dwelling of four (4) or fewer units, with separate bathing and cooking facilities.

### **1.57 RESIDENTIAL SERVICE**

“Residential Service” means services performed at and for Residential Premises.

### **1.58 ROLL-OFF BOX**

“Roll-Off Box” means a metal container with a capacity of (10) or more cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility.

### **1.59 SERVICE AREA**

“Service Area” means the corporate limits of the City of Los Alamitos.

### **1.60 SOLID WASTE**

“Solid Waste” means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including Refuse, Construction and Demolition Debris, Bulky Waste, Recyclable Materials, and Green Waste, or any combination thereof which are permitted to be disposed of in a Class III landfill, and which are included in the definition of “Non-Hazardous Solid Waste” set forth in the California Code of Regulations.

### **1.61 SOLID WASTE SERVICES**

“Solid Waste Services” means the Collection, transfer, transport, Recycling, processing and Disposal of Solid Waste.

### **1.62 SOURCE SEPARATED**

“Source Separated” means the segregation by the Waste Generator of materials that would otherwise become Solid Waste (such as glass bottles, metal cans, newspapers,

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cardboard, plastic containers, etc.) into separate Containers(s) for the purpose of allowing the Recycling of such materials.

### **1.63 SPECIAL ITEMS**

“Special Items” means any bulky or heavy objects that require bin service and are not Bulky Waste, including, but not limited to, dirt, sod, brick, manure, waste from any poultry yard or stable, and Construction and Demolition Waste.

### **1.64 TRANSFORMATION**

“Transformation” means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting.

### **1.65 TRANSFER STATION**

“Transfer Station” means a Facility that receives Solid Waste from collection vehicles and transfers the material to larger vehicles for transport to landfills and other destinations. Transfer Stations may or may not also include MRFs, transferring residual Refuse (Refuse left after the sorting of Recyclable Materials) to landfills and Recyclable Materials, including Green Waste and/or Construction and Demolition debris, to processors, brokers or end-users.

### **1.66 UNIVERSAL WASTE OR U-WASTE**

“Universal Waste” or “U-Waste” means all waste defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

### **1.67 WASTE GENERATOR**

“Waste Generator” means any Person as defined by the Public Resources Code, whose act or process produced Solid Waste as defined in the Public Resources Code.

### **1.68 WHITE GOODS**

“White Goods” means inoperative and discarded refrigerators, microwave ovens, ranges, water heaters, freezers, and other similar household appliances.

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## **1.69 WORK DAY**

"Work Day" means any day, Monday through Saturday that is not a holiday as set forth in Section 7.01.2 of this Contract.

## **ARTICLE 2. TERM OF CONTRACT**

### **2.01 EFFECTIVE DATE; COMMENCEMENT OF SERVICES**

This Contract shall become effective at the date first set forth above (the "Effective Date"). Except where specified, the obligations of the parties hereunder, and the provision of Solid Waste Services and other services by Contractor, shall commence on January 1, 2011. Contractor understands and agrees that the time between the Effective Date and January 1, 2011, is intended to provide Contractor with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, obtain required service agreements, and begin the public awareness campaign as part of Contractor's transition program as specified in this Contract.

### **2.02 TERM**

The initial term of this Contract shall be for a period beginning January 1, 2011, and terminating on December 31, 2016. The contract may be renewed for an additional term of up to five (5) years at City's sole option.

## **ARTICLE 3. SCOPE OF CONTRACT**

### **3.01 GRANT OF CONTRACT**

Except as otherwise provided in this Contract, the Contractor is herein granted the exclusive right to provide Residential Services and Commercial Services in the Service Area. No other solid waste or recycling services shall be exclusive to the Contractor.

### **3.02 LIMITATIONS ON SCOPE OF GRANT TO CONTRACTOR**

The right granted to the Contractor is exclusive, except for the categories of solid waste listed below. The granting of this right does not preclude the categories of solid waste

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listed below from being delivered to, collected by, and transported by others, provided that no person is excused from obtaining from the City any authorization that is required by law. Contractor may, but is not obligated to, provide the services described below on a non-exclusive basis.

- a) Source-separated Recyclable Materials that the Waste Generator sells to, or otherwise receives compensation from, other persons in a manner resulting in a net payment to the customer after consideration of collection, handling, or processing costs;
- b) Solid Waste, including Recyclable Materials, Green Waste and Bulky Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by its full-time employees) to a processing or disposal facility in a manner consistent with all applicable laws and regulations;
- c) The donation of source-separated materials to any Person or entity;
- d) Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, Sections 14500, et seq., California Public Resources Code;
- e) Green Waste removed from premises by a gardening, landscaping, or tree trimming company using its own equipment and employees as an incidental part of a total service offered by the company, as opposed to a hauling service;
- f) Construction and Demolition Waste that is incidentally removed by a duly-licensed construction or demolition company, as part of a total service offered by such licensed company or by the City, and where the licensed company uses its own equipment and employees;
- g) The collection, transfer, transport, Recycling, processing, and disposal of waste from residential roll-off and temporary bins by a duly-licensed waste-hauler who has been lawfully awarded a non-exclusive franchise with the City pursuant to the Los Alamitos Municipal Code.
- h) The collection, transfer, transport, Recycling, processing, and disposal of animal waste and remains from slaughterhouse or butcher shops for use as tallow;

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- i) The collection, transfer, transport, Recycling, processing, and disposal of Hazardous Substances, Hazardous Waste, and radioactive waste regardless of its source;
- j) The collection, transfer, transport, Recycling, processing, and disposal of Solid Waste by City through City officers or employees in the normal course of their employment; and,
- k) Solid Waste Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste.

### **3.03 RECYCLABLE MATERIALS AND BULKY WASTE DISPOSAL BY WASTE GENERATOR**

Nothing in this Contract shall be construed as requiring Customers to set out Recyclable Materials or Bulky Waste for Collection by Contractor. Customers may dispose of Recyclable Materials and Bulky Waste by other appropriate means, including but not limited to, taking Recyclable Materials or Bulky Waste to drop-off facilities and donating or selling such items to private or public entities.

## **ARTICLE 4. COLLECTION SERVICES**

### **4.01 GENERAL**

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

The work to be done by Contractor pursuant to this Contract shall be accomplished in a thorough and professional manner so that all Customers are provided reliable, courteous and high-quality Solid Waste Services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve

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Contractor of the duty of accomplishing all other aspects in the manner provided in this section, whether such other aspects are enumerated elsewhere in the Contract or not.

### **4.02 SOLID WASTE COLLECTION**

#### **4.02.1 Residential Premises Solid Waste Collection**

Contractor shall collect and remove Solid Waste from all Residential Premises once per week from Contractor-provided Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a sixty-four (64) gallon or a thirty-two (32) gallon Cart. No discount will be given for using smaller carts.

Customers that regularly require more than 96 gallons of Refuse Cart capacity may request additional Solid Waste Carts for an additional charge per Cart per month in accordance with the applicable rate schedule.

Contractor shall Collect Carts curbside unless the Customer has requested Cart Roll-Out Service and has agreed to pay the applicable premium service Rate. In such case, Contractor shall Collect Carts from and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

Collection of Green Waste, Recyclable Materials, and Solid Waste from the Residential Premises shall occur on the same day each week.

#### **4.02.2 Multi-Family Premises Solid Waste Collection**

Contractor shall collect Solid Waste from Multi-Family Premises as frequently as scheduled by Customer, but not less than once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. The Contractor shall provide containers as part of the Collection Service at rates set forth in Exhibit 1. The size of the container and the frequency (above the minimum) of Collection shall be determined between the Customer and the Contractor. Size and frequency shall be sufficient to provide that no Solid Waste need be placed outside the Bin. In special circumstances, Carts may be used for Multi-Family Premises service by arrangement between the Contractor and Customer.

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Contractor shall allow Multi-Family Customers to use Carts or Bins for Solid Waste Collection that are shared by the Occupants of the Premises. Contractor shall provide one or more Cart(s) or Bin(s) to such Customers as requested by Customer, provided that capacity shall be sufficient to provide that no Solid Waste need be placed outside the Container(s). City shall make final determination as to the number and size of Containers, and frequency of Collection to be provided to Customers.

Contractor shall give special consideration when determining the Collection location for Multi-Family buildings to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated Collection location, if disputed by Customer or Contractor, shall be determined by the City. Additionally, if in the City's opinion the location of an existing Collection location is inappropriate, City may require the Customer or Contractor to relocate the Collection Containers. Contractor shall provide "Roll-Out" Services as requested by the Customer. Roll-Out Services shall include, but not be limited to moving manually or by specialized "scout" truck the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location.

### **4.02.3 Commercial Premises Solid Waste Collection**

Contractor shall collect Solid Waste from Commercial Premises as frequently as scheduled by Customer, but not less than once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. The Contractor shall provide containers as part of the Collection Service at rates set forth in Exhibit 1. The size of the container and the frequency (above the minimum) of Collection shall be determined between the Customer and the Contractor. Size and frequency shall be sufficient to provide that no Solid Waste need be placed outside the Bin.

Specifically, the Contractor shall offer the following Collection Service methodologies to Commercial Customers:

1. Individual Bin Service. Contractor shall allow each Commercial Premises to use Bins, Compactors, or Roll-Off Boxes for Solid Waste Collection. In special

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circumstances, Carts may be used for Commercial Service by special arrangement between the Contractor and Customer.

2. Centralized Bin or Cart Service. Contractor shall allow each Commercial Premises to use Bins (or Carts, if special arrangements are made per paragraph 1) for Solid Waste Collection that are shared by the Occupants of two or more adjacent Commercial Premises. In such case, Contractor shall provide one or more Carts or Bins as requested by the Customer(s) provided that capacity shall be sufficient to provide that no Solid Waste need be placed outside the Container(s).
3. Permanent Roll-Off Boxes and Compactors. Contractor shall allow a Customer to use a Roll-Off Box or Compactor for Solid Waste Collection to meet the Customer's permanent Disposal needs. In such case, Contractor shall provide Customer with a choice of Container capacities including ten (10), twenty (20), thirty (30) and forty (40) cubic yards. Contractor shall offer Customers the option to purchase or lease Compactors through either the Contractor or an outside vendor. Regular maintenance of Compactors shall be provided by Contractor (or outside vendor) as frequently as needed to keep the Compactors in good working order and functioning at high compaction levels.
4. Roll-Out (Scout) Services. Contractor shall provide "Roll-Out" Services as requested by the Customer. Roll-Out Services shall include, but not be limited to moving manually or by a specialized "scout" truck the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location.

### **4.02.4 City Facilities Solid Waste Collection**

Contractor shall collect Solid Waste from City Facilities as frequently as scheduled by the City, but not less than once per week. City Facilities will be provided Collection Services at "no charge". Contractor shall allow each City Facility to use Carts, Bins, Compactors, or Roll-Off Boxes for Solid Waste Collection, as determined by City.

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Contractor shall allow Multi-Family Customers to use Carts or Bins for Solid Waste Collection that are shared by the Occupants of the Premises. Contractor shall provide one or more Cart(s) or Bin(s) to such Customers as requested by Customer, provided that capacity shall be sufficient to provide that no Solid Waste need be placed outside the Container(s). City shall make final determination as to the number and size of Containers, and frequency of Collection to be provided to Customers.

Contractor shall give special consideration when determining the Collection location for Multi-Family buildings to ensure that the flow of traffic is not impeded and that it does not result in aesthetic degradation of an area. The designated Collection location, if disputed by Customer or Contractor, shall be determined by the City. Additionally, if in the City's opinion the location of an existing Collection location is inappropriate, City may require the Customer or Contractor to relocate the Collection Containers. Contractor shall provide "Roll-Out" Services as requested by the Customer. Roll-Out Services shall include, but not be limited to moving manually or by specialized "scout" truck the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location.

### **4.02.3 Commercial Premises Solid Waste Collection**

Contractor shall collect Solid Waste from Commercial Premises as frequently as scheduled by Customer, but not less than once per week and more frequently if required to handle the waste generated at the Premises where the Bins are located. The Contractor shall provide containers as part of the Collection Service at rates set forth in Exhibit 1. The size of the container and the frequency (above the minimum) of Collection shall be determined between the Customer and the Contractor. Size and frequency shall be sufficient to provide that no Solid Waste need be placed outside the Bin.

Specifically, the Contractor shall offer the following Collection Service methodologies to Commercial Customers:

1. Individual Bin Service. Contractor shall allow each Commercial Premises to use Bins, Compactors, or Roll-Off Boxes for Solid Waste Collection. In special

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circumstances, Carts may be used for Commercial Service by special arrangement between the Contractor and Customer.

2. Centralized Bin or Cart Service. Contractor shall allow each Commercial Premises to use Bins (or Carts, if special arrangements are made per paragraph 1) for Solid Waste Collection that are shared by the Occupants of two or more adjacent Commercial Premises. In such case, Contractor shall provide one or more Carts or Bins as requested by the Customer(s) provided that capacity shall be sufficient to provide that no Solid Waste need be placed outside the Container(s).
3. Permanent Roll-Off Boxes and Compactors. Contractor shall allow a Customer to use a Roll-Off Box or Compactor for Solid Waste Collection to meet the Customer's permanent Disposal needs. In such case, Contractor shall provide Customer with a choice of Container capacities including ten (10), twenty (20), thirty (30) and forty (40) cubic yards. Contractor shall offer Customers the option to purchase or lease Compactors through either the Contractor or an outside vendor. Regular maintenance of Compactors shall be provided by Contractor (or outside vendor) as frequently as needed to keep the Compactors in good working order and functioning at high compaction levels.
4. Roll-Out (Scout) Services. Contractor shall provide "Roll-Out" Services as requested by the Customer. Roll-Out Services shall include, but not be limited to moving manually or by a specialized "scout" truck the Bins or Carts from their storage location for Collection and returning the Bins or Carts to their storage location.

### **4.02.4 City Facilities Solid Waste Collection**

Contractor shall collect Solid Waste from City Facilities as frequently as scheduled by the City, but not less than once per week. City Facilities will be provided Collection Services at "no charge". Contractor shall allow each City Facility to use Carts, Bins, Compactors, or Roll-Off Boxes for Solid Waste Collection, as determined by City.

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## **4.03 RECYCLING COLLECTION**

### **4.03.1 Residential Premises Recycling Collection**

Contractor shall collect and remove Source-Separated Recyclable Materials from Residential Premises once per week from Contractor-provided Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a thirty-two (32) gallon or a sixty-four (64) gallon Cart. Customers that regularly require more than 96 gallons of Recycling Cart capacity may request additional Recycling Carts. No extra fee may be charged for recycling service or additional Recycling Carts, and no discounts given for using smaller or not carts.

Contractor shall collect Carts curbside unless the Customer has requested Cart Roll-Out Service and has agreed to pay the premium service rate approved by the City. In such case, Contractor shall collect Carts from and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

### **4.03.2 Marketing and Sale of Recyclable Materials**

Contractor shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Contract. Contractor may retain revenue from the sale of Recyclable Materials.

## **4.04 GREEN WASTE RECYCLING COLLECTION**

### **4.04.1 Residential Premises Green Waste Collection**

Contractor shall collect Source-Separated Green Waste from Residential Premises once per week from Contractor-provided Carts. Contractor shall provide each Customer with a ninety-six (96) gallon Cart as the default service. Customers may request to substitute the ninety-six (96) gallon Cart with either a thirty-two (32) gallon or a sixty-four (64) gallon Cart. No discounts will be given for using smaller carts. Customers that regularly require more than 96 gallons of Green Waste Cart capacity may request additional Green Waste Carts at an additional charge per cart per month.

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Contractor shall collect Carts curbside unless the Customer has requested Roll-Out Service and has agreed to pay the applicable premium service rate. In such case, Contractor shall collect Carts from and return Carts to the alternative service location (such as the side yard or back yard) specified by the Customer.

### **4.04.2 Multi-Family and Commercial Premises Green Waste Collection**

Multi-Family and Commercial Customers shall have the option of voluntarily subscribing to Green Waste Collection Services and shall pay Contractor for such service in accordance with applicable Rates. Contractor shall collect Source-Separated Green Waste from Multi-Family Residential Complexes and Commercial Premises that have subscribed to Green Waste Collection Service as frequently as scheduled by Customer, but not less than once per week. Contractor shall allow Multi-Family and Commercial Customers to select a Collection Service method that best suits the needs of its Premises. Specifically, the Contractor shall offer the Containers and service choices that are similar to that offered for Commercial Solid Waste Collection pursuant to Section 4.02.3. Contractor shall collect Green Waste at the location agreed upon by Contractor and Customer. The designated collection location, if disputed by Customer or Contractor, shall be determined by the City.

### **4.04.3 Annual Holiday Tree Recycling Collection**

Annually, commencing the day after December 25 and ending the second Saturday in January, the Contractor shall collect Holiday Trees from Residential and Multi-Family Premises. Residential Customers are required to place the Holiday Trees curbside on the scheduled Collection day for Solid Waste. Holiday Trees must be cut into lengths no longer than six feet (6'), be free of ornaments, garlands, tinsel and flocking, and stands must be removed. Holiday Trees from Multi-Family Premises will be collected on Customer's normal collection days at Customer's collection location for Solid Waste. Contractor shall deliver the collected Holiday Trees to an appropriate facility for processing. This annual service shall be provided at no additional charge.

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### **4.05 ON-CALL BULKY WASTE COLLECTION SERVICE**

#### **4.05.1 Residential and Multi-Family Premises On-Call Bulky Waste Collection**

The Contractor shall provide Bulky Waste Collection Service to all Residential and Multi-Family Customers in the Service Area whose Bulky Waste have been placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Contractor and Customer, that will provide safe and efficient accessibility to the Contractor's Collection crew and vehicle.

Contractor may instruct Customers to provide Contractor with a minimum of forty-eight (48) hours' notice of the need for Bulky Waste Collection Service, which shall take place on the Customer's regular Collection day.

Customers are entitled to set out two (2) items per dwelling per year at no additional charge.

#### **4.05.2 Commercial On-Call Bulky Waste Collection**

Contractor shall provide Bulky Waste Pickup service for Commercial Customers and may charge a fee for service.

#### **4.05.3 Bulky Waste Collection Restrictions**

The following applies to items Collected under this Section:

- No single item that cannot be handled by two workers will be accepted.
- The following items will not be picked up: Hazardous Substances and Hazardous Waste. Waste oil, antifreeze and Electronic Waste shall be collected and disposed of in accordance with subsection 4.06.
- Vehicles used for Collection of Bulky Waste shall not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.

#### **4.05.4 Bulky Waste Containing Freon**

In the event Contractor Collects Bulky Waste that contains Freon, Contractor shall handle such Bulky Waste in a manner such that the Bulky Waste is not subject to regulation as hazardous waste under applicable state and federal laws or regulations.

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### **4.05.5 Maximum Reuse and Recycling**

Contractor shall dispose of Bulky Waste collected from Customers pursuant to this Contract in accordance with the following hierarchy:

- Reuse as is (where energy efficiency is not compromised)
- Disassemble for reuse or Recycling
- Recycle
- Disposal

Contractor shall not landfill such Bulky Waste unless the Bulky Waste cannot be reused or recycled. Contractor shall record by class and weight (in tons) the Solid Waste Collected under this Section 4.05, and shall record the kinds and weights (in tons) of Solid Waste diverted, if any, from landfilling through Recycling, reuse, Transformation or other means of diversion.

### **4.05.6 City Direction of Bulky Waste**

City reserves the right to direct Contractor to take Bulky Waste collected pursuant to this Section to a designated site or sites for the purpose of permitting persons who will reuse or recycle such Bulky Waste to obtain the Bulky Waste at no cost. Contractor shall have no obligation to dispose of the Bulky Waste or Bulky Waste residue remaining at the directed site or sites after reusers and recyclers have removed reusable or recyclable Bulky Waste.

## **4.06 HOUSEHOLD HAZARDOUS WASTE, UNIVERSAL WASTE & ELECTRONIC WASTE**

### **4.06.1 Household Hazardous Waste Collection from Residential and Multi-Family Premises**

Contractor will provide, either directly, or through a City-approved subcontractor, an on-call, citywide door-to-door Household Hazardous Waste Collection Service to Residential and Multi-Family Premises at rates set forth in Exhibit 1. Los Alamitos residents will be allowed to call for the service as often as needed and the program will include, at minimum, the items that are listed on the following page:

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**4.06.2 On-Call Electronic Waste and Universal Waste Collection from Commercial Premises and City Facilities**

Contractor will provide, either directly, or through a City-approved subcontractor, an on-call Electronic Waste and Universal Waste Collection Service to Commercial Premises and City Facilities at rates set forth in Exhibit 1.

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**ACCEPTABLE WASTE:**

**Garden Chemicals**

Insect sprays  
Weed killers  
Other poisons  
Fertilizer

**Swimming Pool Chemicals**

Pool acid  
Chlorine: tablets, liquid

**Automotive Waste**

Motor oil  
Antifreeze  
Waxes  
Polishes  
Cleaners  
Brake fluid  
Gasoline  
Used oil filters  
Oily rags  
Transmission fluid  
Windshield washer fluid  
Hydraulic fluid  
Automotive batteries

**Paint Products**

Oil-based paint  
Latex paint  
Spray paint  
Stripper  
Stains  
Caulking  
Wood preservative  
Glue  
Thinner

**Household Cleaners**

Bleach  
Cleaning compounds  
Floor stripper  
Drain cleaner  
Tile remover  
Tile cleaners  
Rust remover

**Misc. Household**

Household batteries-thermometers  
Electronics, TV, CRT, consumer items  
Fluorescent tubes  
Thermometers  
Hobby glue  
Artist's paint  
Medicines (pills-capsules loose)  
Sharps

**UNACCEPTABLE WASTE:**

Biological waste  
Radioactive materials  
Smoke detectors  
Ammunition  
Explosives  
Leaking containers  
Unknowns (must be tested)  
Fire extinguishers  
Pressurized cylinders  
Tires  
Appliances (larger than microwave)  
Waste in 6-gallon or larger container  
Commercial chemicals (for business use)  
Asbestos  
Trash  
Construction materials  
Not more than five gallons of driveway  
sealer  
Liquid mercury

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## **4.07 CITY-SPONSORED EVENTS**

Contractor shall provide Solid Waste and Recycling Collection and Disposal/processing service for all City-sponsored events at no additional charge. Customers will be provided Solid Waste, Recycling and Green Waste capacity at the appropriate service levels for each venue or event, as determined by City. When requested by event organizers, Solid Waste and Recycling Collection Service, special event boxes and liners will be provided for each venue or event. Available cart sizes include 64 and 96 gallons. Available bin sizes include 2, 3, 4, 6 cubic yards. Available Roll-Off Box sizes include 10, 20, 30 and 40 cubic yards. Collection frequency will be provided as needed by the Customer.

The following is a list of some events for which services will be provided:

- Race on the Base
- 4th of July Fireworks Display and related events
- Summer Park Events (e.g., Band in the Park). Limit of five (5) events.
- Wings, Wheels and Rotors at JFTB

## **ARTICLE 5. DISPOSAL, PROCESSING, AND DIVERSION REQUIREMENTS**

### **5.01 TRANSPORTATION OF SOLID WASTE**

Contractor shall transport all Refuse Collected to the Transfer Station, MRF, Transformation Facility or Disposal Site. Contractor agrees to make all reasonable efforts to separate Recyclable Materials from Refuse for diversion from landfill Disposal. Contractor shall maintain accurate records of the quantities of Solid Waste transported to the Transfer Station, MRF, Transformation Facility or Disposal Site and will cooperate with City in any audits or investigations of such quantities.

Contractor shall cooperate with the operator of any Transfer Station, MRF, Transformation Facility or Disposal Site with regard to operations therein, including, for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating to maintenance operations and construction of new facilities, cooperating with its Hazardous Waste exclusion program, and so forth.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **5.02 DISPOSAL OF REFUSE**

The Contractor shall dispose of Refuse Collected, but not sent to a processing or Transformation Facility, at the Disposal Site.

### **5.03 STATUS OF DISPOSAL SITE**

Any Disposal Site utilized by Contractor shall be designed and constructed in accordance with 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15"). Any such Disposal Facility shall have been issued all permits from federal, state, regional, county and city agencies necessary for it to operate as a Class III Sanitary Landfill and be in full regulatory compliance with all such permits. The Orange County Landfill System is the designated Disposal Site as of the effective date of this Contract.

### **5.04 GREEN WASTE PROCESSING SERVICES**

Contractor shall deliver all Collected Green Waste to a fully permitted Green Waste Processing Facility or a fully permitted Green Waste transfer station. All expenses related to Green Waste processing and marketing will be the sole responsibility of Contractor. Contractor shall ensure that all Green Waste collected pursuant to this Contract are diverted from the landfill in accordance with the Act and any subsequent or other applicable legislation and regulations. Contractor shall ensure that the Green Waste collected pursuant to this Contract is not disposed of in a landfill, except as a residue resulting from processing. Contractor must provide end uses for Green Waste that maximize diversion credits for City according to regulations established by the California Integrated Waste Management Board. Green Waste may be used as Alternative Daily Cover to the extent that the City will get full diversion credit for its use. Contractor is responsible for monitoring how the Green Waste will be diverted at selected facilities and for selecting alternative facilities if necessary to ensure full diversion credit. Failure to do so places the Contractor in default. City has the option, but not obligation, to direct Contractor where to deliver the material.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **5.05 MINIMUM RECYCLING REQUIREMENTS**

Contractor shall recycle or divert from landfilling sufficient waste to ensure that the City meets current state law requirements for diversion Citywide. For calendar year 2011, Contractor shall be considered to have met this requirement under this Contract if the City's annual report to the California Integrated Waste Management Board (CIWMB) shows a greater than 50% diversion rate and if the CIWMB approves the City's reports as having a greater than 50% diversion rate in connection with efforts to meet City's the Act diversion mandate.

Beginning with calendar year 2012, if the annual report the City submits to the CIWMB reflects a diversion rate of less than the State-mandated rate, or if such a report is later revised to reflect a rate less than the State-mandated rate, the Contractor shall be liable for liquidated damages in accordance with Section 13.06 for failure to meet this mandate. If a report is revised and approved by the CIWMB to reflect a diversion rate higher than the State-mandated rate of diversion, City will reimburse Contractor any liquidated damages that had been submitted based upon that year's report. As reports to the CIWMB lag the actual collection period reported on, this requirement and liability for liquidated damages will extend beyond Contractor's provision of Collection Services under this Contract.

If the State increases waste diversion requirements, or the City increases waste diversion requirements, Contractor may request a rate adjustment pursuant to 14.07.3 for the additional waste diversion requirements services that may be required, and the provisions of this Section will apply using the higher diversion rate.

### **5.06 FAILURE TO MEET MINIMUM REQUIREMENTS**

Upon Contractor's failure to meet the minimum waste diversion requirements set forth above in Section 5.05, and if the City determines that the Contractor has not met waste diversion from the services and programs contemplated under this Contract, the Contractor agrees to implement programs and provide equipment necessary in order for the City to meet State-mandated diversion requirements. Such programs and equipment may include additional public education efforts, on-site business waste audits, additional recycling carts or bins at multi-family complexes, high grading of

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

commercial loads, secondary processing of commercial solid waste, and processing of Construction and Demolition Waste from Roll-Off Boxes.

### **5.07 OWNERSHIP OF SOLID WASTE**

City and Contractor understand and agree that it is Contractor, and not City, who will arrange to collect Solid Waste, that City has not, and, by this Contract does not, instruct Contractor on its Collection methods, nor supervise the Collection process; nor do the Parties intend to place title to Solid Waste collected by Contractor in City. Rather, the Parties intend that whatever, if any, title in and to the Solid Waste that is collected by Contractor which otherwise might exist in or with City in the absence of this Contract is hereby transferred to Contractor; and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Contract. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclable Materials placed for Collection, and nothing in this Contract shall be construed as giving rise to any inference that City has any such rights. City and Contractor agree that, for the purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Contractor, and not City which is to be considered the merchant of goods recycled pursuant to this Contract. Subject to the provisions of this Contract, and unless City exercises its rights to direct the location for Disposal and processing of Solid Waste, Contractor shall have the right to retain, Recycle, process, dispose of, and otherwise use Solid Waste collected pursuant to the terms hereof in any lawful fashion or for any lawful purpose; and, further, shall have the right to retain any benefit resulting from its right to retain, Recycle, process, dispose of, or reuse the Solid Waste which it collects.

### **5.08 FLOW CONTROL – RESERVATION OF RIGHTS**

City reserves whatever, if any, right it might have or receive to exercise "flow control" i.e., the right to select disposal facilities and materials recovery facilities to which the Solid Waste to be collected pursuant to this Contract is to be taken. In the event City directs Contractor to transport Solid Waste to a particular disposal or other facility, City and Contractor agree to use their best efforts to obtain indemnification against CERCLA, RCRA and related claims from the operator of the landfill or other destination

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

to which Solid Waste collected pursuant to this Contract is taken for disposal. In the event that City selects a transfer or disposal facility, Contractor shall be entitled to a rate adjustment to offset for any substantiated increase in expenses resulting from the City's exercise of flow control.

### **ARTICLE 6. OTHER SERVICES**

#### **6.01 RESPONSIBILITY FOR SERVICE BILLING AND COLLECTION**

The Contractor shall be responsible for the billing and collection of payments for Collection Services within the Service Area. Notwithstanding the proceeding provision, the Contractor shall not bill for Collection Services provided to City Facilities.

##### **6.01.1 Billing Service Requirements**

###### **Annual Billing Audits**

The Collector will be required to conduct annual billing audits of Collector's records regarding all Residential, Multi-Family and Commercial customers with the City maintaining the right to engage a third party for an independent audit of the results of the billing audit.

###### **Records**

Contractor shall maintain, for inspection by the City, copies of all billings and receipts, in chronological order, for a period of four (4) years after the date of service. Contractor shall maintain those records in electronic format. City staff or representatives shall be given access to such records upon one (1) Business Day notice.

###### **Annual Rate Notification**

Collector must annually, within 60 days prior to the effective date of a rate change, prepare and distribute a notice to each customer setting forth the Collector's rates, annual holiday schedule, recycling programs offered, and a general summary of services required to be provided and optional services that may be furnished by Collector. Notice may be included with billings or may be included as part of the Collector's public education plan described in Section 6.03.

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### **Residential Premises Billing**

The Collector will bill all Residential Premises directly on a quarterly basis, in advance. All bills must carry a due date, not "due upon receipt." Bill must be itemized, but may not designate that portion of a customer's bill attributable to the franchise fee as a separate item. Customers may, on an individual basis, request annual payment schedules, and Collector will work in good faith with individual customers to reasonably satisfy such requests. Collector will have the right to bill and collect for its services in advance of the rendition of services but shall refund any unused portion equal to two months or more of the amount collected in the event of disruption, revision, or termination of the services, or when residential premises are vacant for at least a two-month period and prior written notice of such vacancy has been given to the Collector. Collector shall not charge customers for the provision of a direct bill or for any other billing service provided to residential customers.

### **Multi-Family and Commercial Billing**

Bills must be itemized by type of service, but may not designate that portion of a customer's bill attributable to the franchise fee as a separate line item. All bills must carry a due date, not "due upon receipt." Collector will bill all customers directly on a monthly basis, 30 days in advance. To start service, new customers will pay a pro-rated first month's service in advance.

### **Roll-Off Box and Temporary Bin Customers**

For individually serviced Customers who request Roll-Off Box (including temporary bin) service, the Collector will accept major credit cards for payment. Individually serviced customers who do not use credit cards may be required to post a security deposit or to pay on a "Cash on Delivery" (C.O.D.) basis. For all other Roll-Off Box customers, the Collector will invoice monthly or semi-monthly in arrears with payment due within 15 days from the invoice date.

### **Automated Billing Payment**

In an effort to reduce paper waste, Contractor shall make available to all Customers an automated billing and payment system at no additional charge. This system will be

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website based and allow customers to view and pay bills through Contractor's website. Through the Contractor's website, Customers may request to cease paper billing and receive all bills through e-mail and/or Contractor's website. Contractor will ensure that the electronic billing and payment website conforms to industry-standard practices for electronic commerce security. Contractor must ensure that these customers are compiled in a list to ensure that billing inserts are mailed directly. Contractor shall promote the website-based billing and payment system on all paper bills sent to Customers.

### **Rates**

The maximum rates for the types of services provided shall be as described in Exhibit 1 and as adjusted annually pursuant to Section 9. Contractor shall bill and collect at rates that do not exceed the maximum rates established by this Agreement.

### **Partial Month Service for Multi-Family and Commercial Premises**

If, during a month, service is added to or deleted from a multi-family or a commercial premises, the Contractor's Billing shall be pro-rated based on the weekly service rate [weekly service rate shall be the monthly service rate divided by four (4)] times the number of actual weeks in the month that service was provided to the Customer.

### **Temporary Service Stop**

Residential Customers may request a temporary service stop and will not be charged for Collection Services during the temporary service stop if such service is stopped for a minimum of one continuous month due to extended vacation, home remodeling/home construction. Contractor shall provide notice to City of a request for a temporary service stop within 3 working days. Contractor shall resume service to the prior established service level within five (5) days' notice of a request by the Residential Customer to resume service. At any time during the temporary service stop, if a Residential Customer places Refuse, Recycling, or Green Waste Carts out for Collection, then Contractor shall resume regular service and charge the Residential Customer at the rates established in Exhibit 1, as adjusted.

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## **Delinquent Service Accounts**

Contractor may pursue collection of delinquent accounts by every means reasonably available to Contractor, including delinquency letters, telephone calls, employment of collection agencies, and small claims court.

Once payment is 30 days past due, Contractor must send to the Customer a notice that service will be suspended if payment is not made within an additional 30 days. Contractor may charge a late fee for delinquent accounts. Service may only be suspended after these minimum time periods and notice. City will not be responsible for or assist with the collection of delinquent accounts.

## **6.02 CUSTOMER SERVICE**

All service inquiries and complaints shall be directed to the Contractor. A representative of the Contractor shall be available to receive the complaints during normal business hours. All service complaints will be handled by the Contractor in a prompt and efficient manner. In the case of a dispute between the Contractor and a Customer, the matter will be reviewed and a decision made by the Contract Administrator.

- For those complaints related to missed Collections that are received by 12:00 noon, the Contractor will return to the Customer address and collect the missed materials before the end of the same business day. For those complaints related to missed Collections that are received after 12:01 p.m. on a Work Day, the Contractor shall have until the end of the following Work Day to resolve the complaint. For those complaints related to repair or replacement of carts or bins, the appropriate Sections of this Contract shall apply.
- Contractor agrees that it is in the best interest of the City that all Residential Waste and Recyclable Materials be collected on the scheduled Collection Day. Accordingly, missed Collections will normally be collected as set forth above regardless of the reason that the Collection was missed. In the event a Customer requests missed Collection Service more than two (2) times in any consecutive two (2) month period, the Contract Administrator will work with the Contractor to determine an appropriate resolution to that situation. In the event the Contractor believes any complaint to be without merit, Contractor shall notify the Contract Administrator, either by Fax or e-

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mail. The Contract Administrator will consider all disputed complaints and render a decision.

- Contractor's service and emergency telephone numbers shall be accessible by a local (Los Alamitos) telephone number. The telephone number(s) shall be listed in the area's telephone directories under the Contractor's name in the White Pages and Yellow Pages and available on the Contractor's website. Contractor shall also provide a toll-free number.

### 6.02.1

#### **Complaint Documentation**

Service complaints received by City shall be directed to Contractor. Contractor shall keep daily logs of complaints forwarded to it for a minimum of three (3) years.

Contractor shall log all complaints received, including the date and time the complaint was received, the name, address and telephone number of the caller/complainant, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. Log shall also include each instance that Solid Waste and/or Recyclables are not collected and the form of notification used to inform the participants of the reasons of non-Collection and the end result or means of resolution of the incident.

All written Customer complaints and inquiries shall be date-stamped when received. All oral Customer complaints shall be recorded in a logbook. Receipt of all complaints, both written and oral shall be acknowledged to Customer within one (1) business day of receipt. Contractor shall use best efforts to resolve complaints within two (2) business days and must respond in writing to all complaints within five (5) business days of receipt. Contractor shall log action taken by Contractor to respond to and remedy the complaint.

All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's customer service department for purposes that may include monitoring the quality of customer service or researching Customer complaints.

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### **6.02.2 Resolution of Customer Complaints**

Should Contractor and Customers not be able to resolve a complaint, not be able to establish a mutually acceptable fee to be charged for services not included on the approved rate schedule, or otherwise disagree, the matter shall be determined by the City, whose decision shall be final.

Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this section is intended to affect the remedies of third parties against Contractor.

### **6.02.3 Emergency Contact**

The Contractor shall provide the Contract Administrator with an emergency phone number where the Contractor can be reached in person, not by voice-mail, at all times, twenty-four (24) hours per day.

### **6.02.4 Multilingual/TDD Service**

Contractor shall at all times maintain the capability of responding to telephone calls in English, Spanish and other languages necessary for communication between Contractor and its service recipients. Contractor shall at all times maintain the capability or responding to telephone calls through Telecommunications Device for the Deaf (TDD) Services.

### **6.02.5 Customer Calls**

During office hours, Contractor shall maintain a telephone answering system capable of accepting multiple incoming calls at one time. Contractor shall record all calls including any inquiries, service requests and complaints into a customer service log. All incoming calls will be answered within five (5) rings. Contractor's customer service representative shall return Customer calls. For all messages left before 3:00 p.m., all "call backs" shall be attempted a minimum of one time prior to 6:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs" shall be attempted a minimum of one time prior to noon the next Work Day. Contractor shall make a minimum of three (3) attempts within twenty-four (24) hours of the receipt of the call. If Contractor is unable to reach the Customer on the next Work Day, Contractor shall leave a voice message,

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and if no voice recording is available shall send a postcard to the Customer on the second Work Day after the call was received.

### **6.02.6 Contract Liaison**

Contractor shall designate in writing a "Contract Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Contract-related issues. The Contractor must respond to all inquiries from the City within twenty-four (24) hours from the time of the inquiry. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Contract Liaison.

### **6.02.7 Service Liaison**

Contractor shall designate in writing a field supervisor as "Service Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer Service-related complaints. City shall have the right to approve the Contractor's choice for a liaison. City shall be notified in advance of any change in Service Liaison.

## **6.03 PUBLIC OUTREACH AND EDUCATION SERVICES**

Contractor, at their own expense, shall prepare, submit and implement an annual (calendar year) Public Education and Outreach Program beyond the City's Public Education and Outreach Program. The proposed Program, including a budget, must be submitted annually for City approval no later than September 30 for the next calendar year. The Public Education and Outreach Program budget shall be no less than \$80,000 in the first year of service, and \$50,000 per year thereafter. Any amounts not actually expended in a given service year shall be carried over to, and expended in, the following year and shall be in addition to the minimum budget amount for the year in which they are expended. The program must include a minimum of four campaigns per calendar year, designed to increase diversion and resident participation. Campaigns should target certain Recyclable Materials or "problem" areas of the Service Area where improvements can be maximized. Targets of outreach should be based on local trends

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and recycling patterns based on information obtained by both the Contract Administrator and Contractor staff.

### **6.03.1 Implementation and Ongoing Education Services**

In order to promote public education, in addition to any other materials it develops, Contractor shall create the following public education materials and programs at its expense, which will be distributed as indicated below. All brochures, mailings, and other educational materials are to be approved by City in advance of distribution.

- **Initial Mailing/Cart Options** – Contractor will prepare and mail (or be responsible for seeing that the City has mailed) an initial information packet to all Customers explaining the transition from the existing Solid Waste Handling Service program to the new program as defined by this Contract. The mailing will describe program changes, route changes, dates of program implementation, Recycling and diversion programs available, and other pertinent information.

Contractor will provide a reply card on which Customers may select the size Carts which they will be distributed.

- **Instructional “How-to” Packets** – An information packet shall be provided to each Customer at the start of service under this Contract and to each new Customer throughout the Contract term. Contractor may attach these packets to the Carts upon initial Cart distribution. This packet shall: describe available services, including available Recycling and diversion programs; provide instructions for proper use of the Carts and Bins provided (such as how to place Carts or other permitted items for Collection, the types of materials to be placed in each Cart); detail holiday Collection schedules; and provide billing and customer service telephone numbers. This packet will contain updated information on how to use Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or billing questions, and for Bulky Item Collection.

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The packet should also clearly indicate what materials, such as syringes and other Household Hazardous Wastes (HHW), should not be disposed of in these Containers. This brochure shall include instructions on how Customers should dispose of HHW, such as information on the HHW drop-off facilities and other available programs.

- **LATV and Television Programming** – Contractor shall work with Los Alamitos Television (LATV) to prepare and air appropriate service announcements and programming on LATV to inform residents of available services, changes in service and the need for proper waste disposal, diversion and recycling. Prior to December 31, 2011, Contractor shall produce at least one (1) half hour television program promoting proper solid waste disposal and recycling to be aired on LATV. The Public Education and Outreach Program budget for the first service year shall include a payment to City of \$20,000 for the purchase of cameras and equipment for the local LATV studio, which payment shall be made on January 1, 2011. The equipment purchased shall be available to Contractor for use in preparing programming on LATV.
- **Container Labels and Hot Stamps** – Recycling and Green Waste Containers shall carry stickers/labels and hot stamps as described in Section 7.06.1.
- **Annual Newsletter** – Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Customer a brochure or newsletter promoting and explaining: all Solid Waste programs offered by City and Contractor (such as Recycling, Green Waste, Holiday Tree and Bulky Waste pick-ups) described in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Waste such as syringes, paint, etc., through the County's program or other means; Collection schedules, including holiday schedules; customers service numbers; and the procedures to begin and terminate services. City may provide mailing labels from its billing system.

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- **Corrective Action Notice** – Contractor shall develop a corrective action notification form for use in instances where a Customer sets out inappropriate materials for Collection that explains the appropriate manner for Disposal of such items.
- **Website** – Contractor shall develop and maintain a website with a page specific to the City, to enable City's Customers to contact Contractor and to display holiday schedules, proper HHW disposal procedures, which materials are to be placed in Recycling Containers and other useful information. Contractor will assist the City in establishing a link on the City's website to Contractor's page.

### **6.03.2 Annual Collection Service Notice**

Each year during the term of this Contract, the Contractor shall publish and distribute a notice to all Residential Customers regarding the Residential Service programs. The notice shall contain at a minimum; definitions of the materials to be collected, procedures for setting out the materials, service rates and discounts, maps of the Service Area indicating the days when Residential Refuse, Recycling and Green Waste Collection Services, Residential Bulky Waste Collection Services will be provided, and the City customer service phone number. The notice shall be provided in English and other languages as directed by the City and shall be distributed by the Contractor no later than December 15, 2010, during the first year of the Contract and no later than December 1 of each year thereafter.

### **6.03.3 Contractor Representative**

Contractor shall retain on its staff an individual who shall, as part of his or her job function, routinely visit civic groups, school assemblies, homeowners' associations, multi-family complexes and businesses, to promote and explain the Recycling and other programs Contractor offers, and participate in demonstrations and civic events.

### **6.03.4 Community Events**

At the direction of City, Contractor shall participate in and promote Recycling and other diversion techniques at community events and local activities. Such participation would

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normally include providing, without cost, Collection and educational and publicity information promoting the goals of City's Solid Waste program.

### **6.04 WASTE GENERATION/CHARACTERIZATION STUDIES**

Contractor acknowledges that City must perform solid waste generation and disposal characterization studies periodically to comply with the requirements of state law. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed, by Customer type (Single-Family, Multi-Family, Commercial), to satisfy the requirements of state law. Contractor will at its sole expense conduct such a waste generation and characterization study upon request of City, but not more than once every two years.

### **6.05 PROGRAMS AND SERVICES**

Contractor shall provide additional services and programs, such as pilot programs, special studies, etc., as requested by City at a price to be mutually agreed upon between the Contractor and the Contract Administrator. In the event the Contractor and the Contract Administrator cannot reach a mutually agreed upon price for the requested service or program, City shall have the right to procure the service of other vendors or contractors to provide the requested service. In the event that the requested services and programs are required to comply with state mandates or requirements, Contractor shall make the requested services and programs available to the City subject to a negotiation and rate adjustment as provided for in Section 14.07.3(b).

### **6.06 EMERGENCY SERVICES**

In the event of a tornado, major storm, earthquake, tsunami, fire, natural disaster, or other such event, the Contract Administrator may grant the Contractor a variance from regular routes and schedules. As soon as practicable after such event, the Contractor shall advise the Contract Administrator when it is anticipated that normal routes and schedules can be resumed. The Contract Administrator shall make an effort through the local news media to inform the public when regular services may be resumed. The

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clean-up from some events may require that the Contractor hire additional equipment, employ additional personnel, or work existing personnel on overtime hours to clean debris resulting from the event. The Contractor shall receive additional compensation, above the normal compensation contained in this Contract, to cover the costs of rental equipment, additional personnel, overtime hours and other documented additional expenses based on the rates set forth in Exhibit 1 to this Contract provided the Contractor has first secured written authorization and approval from the City through the Contract Administrator.

### **6.07 NEWS MEDIA RELATIONS**

Contractor shall notify the Contract Administrator by Fax, e-mail or phone of all requests for news media interviews related to the Collection Services program within twenty-four (24) hours of Contractor's receipt of the request. Before responding to any inquiries involving controversial issues or any issues likely to affect participation or Customer perception of services, Contractor will discuss Contractor's proposed response with the Contract Administrator.

#### **6.07.1 News Releases**

Copies of draft news releases or proposed trade journal articles related to the Contract Services shall be submitted to City for prior review and approval at least five (5) business days in advance of release, except where Contractor is required by any law or regulation to submit materials to any regulatory agency in a shorter period of time, in which case Contractor shall submit such materials to City simultaneously with Contractor's submittal to such regulatory agency.

#### **6.07.2 Copies of Articles**

Copies of articles resulting from media interviews or news releases shall be provided to the City within five (5) days after publication.

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## **6.08 STREET SWEEPING**

### **6.08.01 Street Sweeping Services**

Contractor shall provide street sweeping services commencing January 1, 2011. The days, times and frequency of such services shall be as set forth in Exhibit 5, which Exhibit may be amended from time to time by mutual agreement in writing, executed by the City Manager and Contractor.

### **6.08.02 Street Sweeping Equipment**

Contractor shall purchase from City the Tymco street sweeper currently in use by City at a price of \$250,000. Contractor shall pay City the purchase price of \$250,000 no later than September 30, 2010 and title to the street sweeper shall transfer no later than December 31, 2010.

## **ARTICLE 7. REQUIREMENTS FOR OPERATIONS, EQUIPMENT, AND PERSONNEL**

### **7.01 COLLECTION HOURS AND SCHEDULES**

#### **7.01.1 Day and Time of Collection**

To preserve peace and quiet, no solid waste may be collected between 6:00 P.M. and 5:00 A.M. in commercial areas, or between 6:00 P.M. and 6:00 A.M. from Residential Premises. Contractor must adjust the early morning start point of collection routes to address and minimize service complaints when warranted and as practicable.

The Contract Administrator may require the Contractor to change hours of operations in Residential or Commercial/Industrial areas if disruption occurs.

#### **7.01.2 Holiday Service**

The City observes New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day as legal holidays. Contractor shall not be required to provide Collection Services or maintain office hours on the designated holidays. In any week in which one of these holidays falls on a Work Day, Residential

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Services for the holiday and each Work Day thereafter will be delayed one Work Day for the remainder of the week with normally scheduled Friday Residential Services being performed on Saturday. Any changes to the Holiday Service collection schedule may only be as approved by the City in advance.

### **7.02 COLLECTION ROUTES**

Ninety (90) days prior to commencement of Collection Services, the Contractor shall provide for City approval maps precisely defining Collection routes, together with the days and the times at which Collection shall regularly commence. If the City has not approved or requested changes within fifteen (15) business day days upon receipt of the service route maps, they shall be deemed as approved.

#### **7.02.1 Collection Routes Changes**

The Contractor shall submit to the City, in writing, any proposed route change (including maps thereof) not less than sixty (60) calendar days prior to the proposed date of implementation. The Contractor shall not implement any route changes without the prior review and approval of the Contract Administrator. The Contractor shall notify those Customers in writing of route changes not less than thirty (30) days before the proposed date of implementation. The Contractor shall be responsible for all costs associated with the changing of the street sweeping routes related to changes in the solid waste Collection routes.

### **7.03 COLLECTION STANDARDS**

#### **7.03.1 Implementation of Service**

The Contractor's implementation of the services required by the Effective Date under this Contract shall occur in a smooth and seamless manner so that Customers and/or Generators do not experience disruption in Collection Services when services are initiated on the Commencement Date. Contractor shall be responsible for managing implementation of new Collection Services and other related services and shall do so in accordance with the Implementation Plan prepared by the Contractor.

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### **7.03.2 Servicing Containers**

Contractor shall Collect the contents and return each Container to the location where the Occupant properly placed the Container for Collection. Contractor shall place the Containers upright with lids properly closed and secured. Contractor shall use due care when handling Containers. Contractor shall not throw, roughly handle, damage, or break Containers.

### **7.03.3 Missed Pick-Ups – Residential Premises**

When notified of a missed pick-up prior to 12:00 noon, Contractor shall collect the Solid Waste, Recyclable Materials, or Green Waste on the day the notice is received. If notified after 12:00 noon, Contractor must collect the solid waste no later than the next day.

### **7.03.4 Missed Pick-Ups – Multi-Family & Commercial Premises**

When notified of a missed pick-up prior to 4:00 P.M., the Contractor must collect the Solid Waste, Recyclable Materials, or Green Waste on the day the notice is received, except in cases where access to containers is blocked on the Customer's property. Otherwise, the Contractor must collect the solid waste no later than the next day.

### **7.03.5 New Customer and Change in Service Levels**

Contractor shall deliver Containers and initiate Collection services for a new Customer within five (5) Business Days of the Customer's request for service. If an existing Customer requests a change in the number or size of the Solid Waste, Recyclable Materials, or Organic Materials Containers and/or frequency of Collection, the Contractor shall deliver additional Containers and/or remove Containers and shall initiate changes in the Collection Services within five (5) Business Days of the Customer's request for a change in service.

### **7.03.6 No Commingling of Solid Waste**

Contractor shall separately collect and segregate Solid Waste, Recyclable Materials, and Green Waste Materials from each other and shall not commingle these materials at any time without the express prior written authorization of the Contract Administrator.

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### **7.03.7 Conditions of Service**

Contractor shall collect all Refuse, Recycling, or Green Waste Bins or Carts that are readily accessible to the Contractor's crew and vehicles and not blocked, where the Carts have been placed curbside or other such location agreed to by the Contractor and Customer that will provide safe and efficient accessibility to the Contractor's Collection crew and vehicle.

Contractor shall not be required to Service

1. Recycling Carts with Recyclable Materials that have not been segregated from Solid Waste and Green Waste.
2. Green Waste Carts with Green Waste that have not been segregated from Solid Waste and Recyclable Materials.
3. Carts that exceed the maximum load limit specified by the Container Manufacturer.
4. Any Commercial Solid Waste that is not placed in a Bin unless such Commercial Solid Waste is outside the Solid Waste Bin as a result of overflow.

### **7.03.8 Set-Out Instructions to Customers**

Contractor shall instruct Customers as to any preparation of Solid Waste, Recyclable Materials, or Green Waste and the proper placement of Containers. If Customers are not adhering to Contractor's instructions, Contractor shall notify such Customers in writing.

### **7.03.9 Non-Collection**

In cases of failure to comply with the instructions, Contractor may decline Collection Service provided that Contractor leaves an adequate number of Non-Collection Notices on the Container, as determined by the City, indicating the reason for refusing to Collect the material. Such Notices shall also identify the steps Generator must take to recommence Collection Service.

### **7.03.10 Non-Collection Notices**

In the event of non-collection, Contractor shall affix to the Container a Non-Collection Notice explaining why Collection was not made. The Non-Collection Notice shall be

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affixed prominently onto the Container to ensure that it is not inadvertently removed from Cart due to weather conditions. The Non-Collection Notices must be protected from rain, if precipitation is present or forecasted, by placing the Notice in a clear plastic bag prior to affixing to Container.

Contractor shall document Non-Collection Notices recording the date and time of issuance, address of Customer, reason for issuance, name of employee who issued the notice, and truck and route numbers. The warning notice shall be at least two inches by six inches (2" x 6") in size. The Non-Collection Notices must identify the steps the Generator must take to recommence Collection Service.

Contractor shall report monthly to City any Non-Collection Notices issued. Contractor shall take direction from the City with regard to termination or reinstatement of service to a Customer due to numerous Non-Collection Notices issued to the same Customer.

### **7.03.11 Commercial Bin Overflow**

In the case of repeated overflows of Commercial Solid Waste, Contractor shall contact the Commercial Service Customer Management to arrange for an appropriate change in Bin size, Collection frequency or both. In the event, Contractor cannot successfully contact the Commercial Service Customer Management after three attempts, or cannot reach an agreement with such management regarding the change in service, Contractor shall advise the Contract Administrator, either by Fax or e-mail, of the details of the Commercial Solid Waste overages, and the attempts at communication with the Commercial Service Customer Management. The Contract Administrator shall respond to Contractor's report and make a final written determination. Within five (5) Work Days of receipt of the Contract Administrator's written determination, Contractor shall change the Collection Service in accordance with such written determination.

### **7.03.12 Care of Private Property**

Contractor's employees shall follow the regular walk for pedestrians while on private property and shall neither trespass nor cross property to the adjoining premises unless the occupant or owner of both properties has given permission. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings.

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Contractor shall repair, to its previous condition, all damage to private or public property caused by its employees.

### **7.03.13 Spillage and Litter**

The Contractor shall not litter premises and shall exercise all reasonable care and diligence in providing Collection Services so as to prevent spilling or dropping of Solid Waste. The Contractor shall not be responsible for cleaning up sanitary conditions caused by the carelessness of the Customer; however, the Contractor shall clean up any material or residue that are spilled or scattered by the Contractor or its employees.

Contractor shall immediately, at the time of occurrence, clean up any spilled or dropped Solid Waste. Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris resulting from the Contractor's operations or equipment repair shall be covered immediately with an absorptive material and removed from the street surface. When necessary, Contractor shall apply a suitable cleaning agent to the street surface to provide adequate cleaning, and shall notify the Contract Administrator, and applicable Hazardous Materials Management Agencies within two (2) hours of such a spill or leak. Contractor shall meet or exceed for National Pollutant Discharge Elimination System (NPDES).

The above paragraphs notwithstanding, Contractor shall clean up any spillage or litter caused by Contractor within two (2) hours upon notice from the City.

### **7.03.14 Vehicles Equipped with Absorbent, Broom and Shovel**

To facilitate such clean-up, Contractor's vehicles shall at all times carry sufficient quantities of petroleum absorbent materials along with a broom and shovel.

## **7.04 CONTRACTOR FACILITIES**

Contractor shall provide all Facilities needed for vehicle parking and maintenance, container storage and maintenance, employee parking, administration, billing, customer service, and other activities required to fulfill its obligations hereunder. Contractor shall own or lease the Facilities; secure all permits needed to conduct its operations; design, finance, and complete any site improvements; maintain the Facilities; and make any other arrangements necessary to fulfill its obligations required by this Contract.

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### 7.05 VEHICLES

Contractor is responsible for providing all vehicles that may be required for the Collection of Solid Waste that are sufficient in number and capacity to efficiently perform the work required by this Contract in strict accordance with its terms. Contractor is expressly obligated to provide such Collection Vehicles and routes as are required to meet the service standards set forth herein. Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection Vehicle used to respond to complaints and emergencies.

#### 7.05.1 Specifications

1. The vehicles shall be designed and operated so as to prevent Collected materials from escaping from the vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent Collected materials from leaking, blowing or falling from the vehicles. All trucks and containers shall be watertight and shall be operated so that liquids do not spill during Collection or in transit.
2. All Collection Vehicles used in performance of this Contract to provide Residential and Commercial Services may be new or used at the inception of the Contract; however, no vehicle shall be older than ten (10) years at any time during their use in the City. New or used vehicles may be used for on-call services, roll-off services and support vehicles; however, such vehicles shall be no older than ten (10) years at any time during their use in the City unless such vehicle is a Rebuilt Vehicle.
3. At all times during the term of this Contract, Contractor's Collection Vehicles shall comply with South Coast Air Quality Management District Requirements and the California Air Resource Board's emission standards as they may be approved for Refuse removal vehicles, as well as other Federal, State and local laws and regulations that may be enacted during the term of this Contract.
4. All vehicles used by Contractor in providing Collection Services under this Contract, except those vehicles used solely on Contractor's premises, are to be registered with the California Department of Motor Vehicles.

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5. All Collection Vehicles must comply with U.S. EPA noise emission regulations, currently codified at 40 CFR Part 205, and other applicable state noise control regulations.
6. All Collection Vehicles using compaction mechanisms during the stationary compaction process shall not exceed a single-event noise level of seventy-five (75) decibels (Db)A at a distance of twenty-five (25') from the collection vehicle measured at an elevation of five (5') above ground level. Contractor shall submit to City, upon City's request, a certificate of vehicle noise level testing by an independent testing entity, for any collection vehicle which has been the subject of more than one noise compliant in a twelve-month period.

### **7.05.2 Vehicle Identification**

Collection vehicles shall be marked with Contractor's name, toll-free number, and the number of the vehicle painted in letters of contrasting color, at least three (3) inches high, on each side and the rear of each vehicle. City must approve truck labeling. No advertising shall be permitted other than the name of the Contractor except that City may place billboards with public notices on vehicles at no additional charge.

### **7.05.3 Vehicle Inventory**

Contractor shall furnish the City a written inventory of all vehicles used in providing service, and shall update the inventory annually. 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 and rebuild status. Each inventory shall also include the tare weight of each vehicle as determined by weighing at a public scale and not at a disposal or other facility scale used by Contractor. Each vehicle inventory shall be accompanied by a certification signed by Contractor that all Collection Vehicles meet the requirements of this Contract.

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### **7.05.4 Vehicle Cleaning**

All Collection Vehicles shall be washed at least once each week. Collection Vehicles shall be thoroughly washed and thoroughly steam cleaned on a regular basis so as to present a clean appearance. City may inspect vehicles at any time to determine compliance with this Contract. Contractor agrees to replace or repair to the City's satisfaction, any Collection Vehicle which City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.

### **7.05.5 Vehicle Maintenance**

Contractor shall inspect each Collection Vehicle daily to ensure that all equipment is operating properly. Collection Vehicles, which are not operating properly, shall be removed from service until repaired and operating properly. Contractor shall perform all scheduled maintenance functions upon Collection Vehicles in accordance with the manufacturer's specifications and schedule.

Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. Contractor shall maintain accurate records of repair, which shall include the date, nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.

Contractor shall keep accurate records of all Collection Vehicle maintenance and shall make such records available to City upon request. The log shall at all times be accessible to City by physical inspection upon request of Contract Administrator, and shall show, at a minimum, each vehicle's Contractor-assigned identification number, date purchased or initial lease, dates of performance of routine maintenance, dates of performance of any additional maintenance, and description of additional maintenance performed.

### **7.05.6 Painting**

Contractor shall repaint all vehicles (including vehicle's striping) during the term of this Contract on a frequency as necessary to maintain a positive public image as reasonably

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determined by the Contract Administrator, but not less often than every five (5) years for any Collection Vehicle more than five (5) years old, beginning January 1, 2011.

Contractor shall repaint any or all Collection Vehicles within thirty (30) days' notice from City, if City determines that their appearance warrants painting. City must approve vehicle color.

### **7.05.7 Vehicle Operation**

Vehicles shall be operated in compliance with Federal, State and local laws and regulations including, but not limited to, the California Vehicle Code, the regulations of the California Air Resources Board (CARB) Waste Collection Vehicle Regulations as established in the California Code of Regulations Title 13 Section 2700 et seq., and all applicable safety and local ordinances. Annually, Contractor shall provide the City with documentation of such compliance for each vehicle. For example, with regard to CARB regulations, such documentation shall demonstrate, at a minimum, the vehicle number, make, model, year, control technology used or planned, and the year that the control technology was applied or is planned to be applied. Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by Federal, State, or local weight restrictions on vehicles or roads.

### **7.05.8 Vehicle Certification**

For each Collection vehicle used in the performance of services under this Contract, Contractor shall obtain a certificate of compliance (smog check) issued pursuant to Part 5 of Division 26 of the California Health and Safety Code (Section 43000 et seq.) and regulations promulgated thereunder and/or a safety compliance report issued pursuant to Division 14.8 of the California Vehicle Code (Section 34500 et seq.) and the regulations promulgated thereunder, as applicable to the vehicle. Contractor shall maintain copies of such certificates and reports and shall make such certificates and reports available for inspection upon request by the Contract Administrator.

### **7.05.9 California Heavy-Duty Inspection Program**

No later than September 1, 2011, Contractor shall submit to the Contract Administrator verification that each of the Contractor's Collection Vehicles has passed the California

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Heavy-Duty Vehicle Inspection. Thereafter, Contractor shall cause each vehicle in Contractor's Collection Fleet to be tested annually in the California Heavy-Duty Inspection Program and shall submit written verification to City within ten (10) Work Days of the completion of such test. Contractor shall not use any vehicle that does not pass such inspection.

### **7.05.10 Vehicle Inspections**

Upon City request, Contractor shall submit the Safety Compliance Report/Terminal Record Update from its Biennial Inspection of Terminal, or BIT. If Contractor receives a terminal rating below satisfactory, Contractor shall notify the City, and Contractor is in violation of the Contract. Contractor has the time allowed by the Department of California Highway Patrol ("CHP") to cure violations and bring the terminal rating up to satisfactory. If the CHP does not adjust the rating to satisfactory or better within six (6) months, then the Contractor shall be considered in default of the contract and the City may terminate this Contract.

## **7.06 CONTAINERS**

### **7.06.1 Carts**

#### **Purchase and Distribution of Carts**

Each Residential Customer will be provided at no charge one (1) 96-gallon Solid Waste Cart, one (1) 96-gallon Recycling Cart, and one (1) 96-gallon Green Waste Cart. Customers may request additional Carts for Refuse, Recycling or Green Waste Collection Service. In addition, Contractor shall provide 32- and 64-gallon carts as substitutes. No discount will be given for use of smaller carts.

The Contractor shall be responsible for the purchase and distribution of fully assembled and functional Carts to Customers in the Service Area. All Carts provided by Contractor utilized in the performance of this Contract shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below.

All Carts selected shall be subject to City's approval. Carts must meet color, size, uniformity and quality requirements of the City. The City will not permit Carts with

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inconsistent colors or in poor condition to be used in the City at any time during the term of this Contract, and may require Contractor to replace such Carts.

### **Cart Capacity**

The references in Sections 4.02, 4.03 and 4.04 to Cart sizes of 96, 64 and 32 gallons may be approximate. The Cart size may fall within the following range:

- 30 – 35 gallons
- 60 – 70 gallons
- 90 – 101 gallons

The selected sizes must be consistent throughout the City for a uniform appearance.

### **Cart Color and Appearance**

The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Cart colors shall be consistent throughout City.

### **Cart Labeling and Hot Stamping**

Labels used on Carts shall be placed on the inside of the Cart lid, and hot stamps shall be on the top of the lid and/or on the body of the Cart. Design for both the labels and the hot stamps must be approved by City prior to ordering labels or Carts. City shall approve what information is included on the label and in the hot stamp, as well as approve design and quality. Labels shall be replaced when worn. Cart labels and hot stamps will include specific instruction on what materials should and should not be placed in each Cart. Carts shall include the telephone number to call for Bulky Item Collection .

### **Replacement of Carts**

Contractor's employees shall take care to prevent damage to carts by unnecessary rough treatment. Any cart damaged by the Contractor shall be replaced by the Contractor, at the Contractor's expense, within five (5) Work Days at no cost or inconvenience to the Customer.

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Upon notification to the Contractor by the City or a Customer that the Customer's Refuse, Recycling, or Green Waste Cart(s) has been stolen or damaged beyond repair, the Contractor shall deliver a replacement cart(s) to such Customer within five (5) Work Days at no additional cost unless Contractor can demonstrate to the Director of Public Works beyond a reasonable doubt that the damage or loss was due exclusively to the Customer's intentional or negligent behavior. The Contract Administrator shall make the final determination. All repairs must restore the Cart to its full functionality. Unsightly/worn-out Carts shall be replaced by Contractor upon Customer request. The Contractor shall maintain records documenting all Cart replacements occurring on a monthly basis.

Contractor shall be responsible for graffiti removal within one (1) business day at no additional charge to the Customer or to City.

Each Customer shall be entitled to the replacement of one (1) lost, destroyed, or stolen Refuse Cart, one (1) lost, destroyed, or stolen Recycling Cart, one (1) lost, destroyed, or stolen Green Waste Cart on one occasion during the life of this Contract at no cost to the Customer, unless caused by the fault of the Customer. Except in the case of a cart that must be replaced because of damage caused by Contractor or in the case where Contractor elects to replace a cart rather than repair it on-site, Contractor shall be compensated for the cost of those replacements in excess of one (1) per type of cart per Customer during the life of the Contract, in accordance with the "Cart Exchange" Service Rate set forth in Exhibit 1, or as may be adjusted by the City from time to time as provided under the terms of this Contract.

Contractor understands and agrees that this provision is intended to be applied on a per-cart-type basis and accordingly each Customer could receive up to three (3) replacement carts, one (1) of each type, each year during the life of the contract.

### **Repair of Carts**

Contractor shall be responsible for repair of carts in the areas to include but not be limited to, hinged lids, wheels and axles, unless caused by the fault of the Customer. Within five (5) Work Days of notification by the City or a Customer of the need for such

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repairs, the Contractor shall repair the cart or, if necessary, remove the cart for repairs and deliver a replacement cart to the Customer.

### **Cart Delivery, Removal or Exchange**

Upon notification to the Contractor by the City or a Customer requesting delivery, removal or exchange of Cart(s), the Contractor shall complete such request within five (5) Work Days.

Each Cart-serviced Customer is eligible to receive up to three (3) free Cart deliveries, removals or exchanges per Contract Year during the term of this Contract. Accordingly Contractor shall be compensated for the cost of those Cart deliveries, removals, or exchanges in excess of three (3) per Customer per Contract Year, in accordance with the "Cart Delivery, Removal or Exchange" service rate as set forth in Exhibit 1 or as may be adjusted under the terms of this Contract.

### **Ownership of Refuse, Recycling and Green Waste Carts**

Ownership of Refuse, Recycling, and Green Waste Carts shall rest with the Contractor. However, all Carts provided under this Contract will become the property of the City upon termination of this Contract, although the City retains the right to direct the Contractor to remove and dispose of the Carts at the termination of the Contract at no additional charge.

### **Collection of Customers' Discarded Collection Containers**

The Contractor shall collect used, discarded, or unwanted collection containers used for collection prior to January 1, 2011, at no cost. To the extent feasible, Contractor shall recycle, or cause to have recycled the used, discarded, or unwanted collection containers.

#### **7.06.2 Bins**

##### **Purchase and Distribution of Containers**

The Contractor shall be responsible for the purchase and distribution of Containers such as Bins and Roll-Off Boxes to all Commercial Customers in the Service Area.

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Contractor shall also distribute Containers to new Commercial Customers that are added to the Service Area during the term of this Contract. Distribution of Containers shall be completed within five (5) Work Days of receipt of the request by the Commercial Customer.

### **Replacement of Containers**

Care shall be taken by Contractor's employees to prevent damage to Bins and Roll-Off Boxes by unnecessary rough treatment. Any Container damaged by the Contractor shall be replaced by the Contractor, at the Contractor's expense, within five (5) business days at no cost or inconvenience to the Customer.

### **Repair of Containers**

Contractor shall be responsible for repair of Bins and Roll-Off Boxes at no additional charge, unless caused by the fault of the Customer. Within five (5) Work Days of notification by the City or a Customer of the need for such repairs, the Contractor shall repair the Container or if necessary, remove the Container for repairs and deliver a replacement Container to the Customer. Container repair shall also include the removal of graffiti from the Container within forty-eight (48) hours' notice by the Customer or the Contract Administrator.

### **Bin Exchange**

Upon notification to the Contractor by the City or a Customer that a change in the size or number of the Bins is required, the Contractor shall deliver such different-sized or number of Bins to such Customer within five (5) Work Days.

### **Ownership of Containers**

Ownership of Bins or Roll-Offs distributed by the Contractor shall rest with the Contractor.

### **Annual Cleaning**

Once each Contract Year, at no charge to the Commercial Service Customer, Contractor shall clean all Bins at a Commercial Premise or shall replace the dirty bins with clean bins and remove the dirty bins for cleaning.

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### **Bin Enclosure Cleanout**

Contractor is responsible for cleaning out Customers' overflowing Bins and enclosures within twenty-four (24) hours of notification by City at no additional cost. Contractor may follow the procedures in Section 7.03.8 to address habitual offenders.

### **Bin Signage, Painting, and Cleaning**

All metal bins of any service type furnished by the Contractor shall be either painted or galvanized. All metal or plastic bins shall display the Contractor's name, Contractor's customer service telephone number, and the number of the bin and shall be kept in a clean and sanitary condition. Such bins as are provided by the Contractor shall be steam cleaned by the Contractor as frequently as necessary so as to maintain them in a sanitary condition. At a minimum, Contractor shall steam clean the bins once per year at Contractor's expense. Bins will be subject to periodic, unscheduled inspections by the City and determination as to sanitary condition shall be made by the City.

## **7.07 PERSONNEL REQUIREMENTS**

The Contractor shall employ and assign qualified personnel to perform all services set forth herein. The Contractor shall be responsible for ensuring that its employees comply with all applicable laws and regulations and meet all federal, state and local requirements related to their employment and position.

- The City may request the transfer of any employee of the Contractor who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the performance of his duties.
- Contractor's field operations personnel shall be required to wear a clean uniform shirt bearing the Contractor's name. Contractor's employees, who normally come into direct contact with the public, including drivers, shall bear some means of individual photographic identification such as a name tag or identification card.
- Each driver of a Collection vehicle shall at all times carry a valid California driver license and all other required licenses for the type of vehicle that is being operated.
- Each driver of a Collection Vehicle shall be proficient in written and spoken English.

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- Each driver of a Collection Vehicle shall at all times comply with all applicable state and federal laws, regulations and requirements.
- Contractor's employees, officers, and agents shall at no time be allowed to identify themselves or in any way represent themselves as being employees of the City.
- The Contractor's name and the Customer Service telephone number shall be properly displayed on all Collection Vehicles.

### **7.08 PERFORMANCE REVIEW MEETING**

Contractor acknowledges and agrees that one of City's primary goals in entering into this Contract is to ensure that the Collection Services are of the highest caliber, that Customer satisfaction remains at the highest level, that maximum diversion levels are achieved, and that materials collected are put to the highest and best use to the extent possible.

City may hold a meeting or a public hearing annually to review Contractor's Solid Waste Collection efforts, source reduction, processing and other diversion services and overall performance under this Contract. The purpose of the Performance Review Meeting is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided by Contractor with adequate quality, effectiveness and economy, and in full compliance with the terms of this Contract. Topics for discussion and review at the Solid Waste Services and Performance Review Meeting shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, Customer complaints, amendments to this Contract, developments in the law, new initiatives for meeting or exceeding the Act's mandates, regulatory constraints, results of audits, and Contractor performance. City and Contractor may each select additional topics for discussion at any Performance Review Meeting.

City shall notify Contractor of its intent to hold a Performance Review Meeting at least sixty (60) calendar days in advance thereof. Thirty (30) calendar days after receiving notice from City of a Performance Review Meeting, Contractor shall submit a report to

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City which may contain such information as it wishes to have considered, and shall contain the following:

- a) Current diversion rates and a report on Contractor's outreach activities for the past year.
- b) Recommended changes and/or new services to improve City's ability to meet the goals of state law and to contain costs and minimize impacts on rates. A specific plan for compliance with state law shall be included.
- c) Any specific plans for provision for new or changed services by Contractor.
- d) Customer complaint records. The reports required by this Contract regarding Customer complaints shall be used as one basis for review of Contractor's performance, and Contractor may submit other relevant performance information and reports for consideration at the Solid Waste Services and Performance Review Meeting. In addition to the above, City may request Contractor to submit any other specific information relating to its performance for consideration at the Solid Waste Services and Performance Review Meeting, and any Customer may submit comments or complaints before or during the Meeting, either orally or in writing. Contractor shall be present at and participate in the Solid Waste Services and Performance Review Meeting.

As a result of its findings following any Solid Waste Services and Performance Review Meeting, City may require Contractor to provide expanded or new services within a reasonable time and City may direct or take corrective actions for any performance inadequacies (although nothing contained in this provision should be construed as requiring City to hold a Solid Waste Services and Performance Review Meeting in order to enforce any rights or remedies it has pursuant to the terms hereof.) Should City require expanded or new services as a remedy for Contractor's failure to perform its obligations hereunder, no additional compensation shall be due for such services. Otherwise, any new or expanded services required of Contractor shall be subject to the provisions of Section 14.07.2.

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## ARTICLE 8. FEES PAID TO THE CITY

In addition to any other consideration set forth herein, as part of its consideration for entering into this Contract, and for the exclusive right and privilege to provide Solid Waste Services as specified herein, Contractor shall provide the following:

### 8.01 FRANCHISE FEE PAYMENT

The Franchise Fee Payment to the City shall be due on the 20<sup>th</sup> day of the month following the end of each preceding month that revenues are collected. Each such payment shall be accompanied by an accounting, substantially in the form attached hereto as Exhibit 5, which sets forth Contractor's gross receipts collected during the preceding month. Failure of Contractor to make any payment within the appropriate time period shall result in interest, compounded daily, accruing thereon at the maximum rate permitted under California law, in addition to all remedies of the City pursuant to this Contract. The Franchise Fee shall be a percentage of Contractor's Gross Revenues collected each month for all Residential, Multi-Family and Commercial Services provided in the City under the terms of this Contract. Revenue received by the Contractor from the sale of Recyclable Materials, including California Redemption Value, shall not be considered as Gross Revenue for purposes of the calculation of Franchise Fees. For Residential Services, the Franchise Fee percentage shall be 8 percent of Gross Revenue during the term of this Contract unless adjusted by the City. For Commercial and Multi-Family Services, the Franchise Fee percentage shall be 8% percent of Gross Revenue during the term of this Contract unless adjusted by the City. On or before January 20 of each year, Contractor shall calculate the total franchise fee paid or owing for the prior year. The total franchise fee paid for each service year shall be a minimum of two hundred thousand dollars (\$200,000). If the calculation shows that the total franchise fee for the prior year did not amount to at least two hundred thousand dollars (\$200,000), then Contractor shall pay the difference with its January 20 franchise fee payment to ensure that the City receives the minimum franchise fee payment each year.

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### **8.02 CONTRACTING FEE PAYMENT**

The Contractor shall make a one-time, lump sum payment of Eighty Thousand Dollars (\$80,000) within seven (7) business days of execution of this Contract to reimburse the City for costs it incurred in connection with entering this Contract.

### **8.03 RATE ADJUSTMENT REVIEW FEE**

An application for adjustment of rates shall be accompanied by a Rate Adjustment Review fee, in the amount of Five Thousand Dollars (\$5,000), to partially offset City's expenses in reviewing the application.

### **8.04 CONTRACTOR AUDITS**

#### **8.04.1 Payment**

Beginning on January 1, 2011, and on January 1<sup>st</sup> each year thereafter, the Contractor shall make payments to the City in the amount of Ten Thousand Dollars (\$10,000) to fund solid waste related studies Collector audits as the City determines. The City will use the funds to contract with an independent consultant to conduct Waste Audits to identify source reduction and recycling programs at businesses and multi-family developments for implementation by the Contractor; Service Audits including billing, fee payments, gross receipts, tonnage, and verification of cost components used in the rate adjustment formula and verification of diversion rates. Waste audits shall be consistent with the requirements of the California Integrated Waste Management Board Division Study Guide Final Draft.

The \$10,000 annual contribution will be increased annually, starting in rate year three, by the percentage change in the Consumer Price Index, calculated in accordance with the provisions of Sections 9.02.1 and 9.02.2 of this Contract.

#### **8.04.2 Right to Audit**

The City reserves the right to conduct audits of Contractor's payments, operations and financial records. The Contractor shall cooperate with the City in connection therewith, including permitting City employees or agents, designated by the Contract Administrator, to ride in the Collection vehicles, to inspect records consistent with the

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terms of this agreement and to review and inspect all other information and facilities necessary 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 Contract Administrator to conduct such audits. The scope of the audit, and auditing party, will be determined by City and the scope may include, but is not limited to, Customer Service levels and Billing, fee payments, Gross Receipts, tonnage, verification of weightings of cost components used in the rate adjustment formula described in Section 9.02.02, and verification of diversion rate.

If inaccuracies are found, City may expand the scope of the audit and recover from the Contractor any additional audit costs resulting from the expanded scope.

### **8.05 SALES AND USE TAX**

Contractor will establish a local office within City boundaries and will utilize that office as the purchasing center for trucks and equipment and take all steps necessary to ensure that the sales and use tax revenues resulting from the purchase of those trucks and equipment accrues to the benefit of City. Further, Contractor guarantees sales tax revenue to City of a minimum of seventy-five thousand dollars (\$75,000) annually. No later than January 20 of each year, City will provide Contractor a copy of the sales and use tax information relating to Contractor's purchases for the prior year. If the amount of sales and use tax received by City from the Board of Equalization as a result of Contractor's purchases does not amount to at least seventy-five thousand dollars (\$75,000) for the prior fiscal year, then Contractor shall pay the difference on or before January 31 to ensure that the City receives the minimum sales and use tax payment each year.

### **8.06 ACCEPTANCE OF PAYMENT BY CITY**

No acceptance by City of any payment shall be construed as an accord that the amount is the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Contractor for any additional sums payable under the provisions of this Contract. All amounts paid shall be subject to independent audit and recompilation by City. If, after the audit, such recompilation indicates an

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underpayment, Contractor shall pay to City the amount of the underpayment within ten (10) days of receipt of written notice from City that such is the case. If, after the audit, such recompilation indicates an underpayment of more than one-half percent (0.5%) of the amounts as specified in Section 8.01, Contractor shall reimburse City for all reasonable costs and expenses incurred in connection with the audit and recompilation, within ten (10) days of receipt of written notice from City that such is the case. Contractor shall pay interest to the City for any underpayment at an annual rate of ten percent (10%). Should an audit disclose that Customers were overcharged for the period under review, Contractor shall refund to Contractor's Customers or to City, as directed by City, any overcharges within thirty (30) days following the date of the audit. Undercharges shall not be billed in arrears for more than ninety (90) days of service, with any remaining undercharges absorbed by Contractor. Should an audit disclose that fees were overpaid by the Contractor to City, City shall issue a credit against future fees payable by Contractor in the amount of any overpayments made during the period ninety (90) days prior to the date of the audit, less costs and expenses incurred in connection with the audit and recompilation.

### **ARTICLE 9. CHARGES AND RATES**

#### **9.01 INITIAL RATES**

There shall be no rate increases prior to January 1, 2011. The rates that Contractor may charge Customers for the period beginning January 1, 2011 and ending Jun 30, 2013 shall not exceed the maximum rates set forth in Exhibit 1.

#### **9.02 SCHEDULE OF FUTURE ADJUSTMENTS**

Beginning with the Rate Year starting July 1, 2013 and ending on June 30, 2014 and for all subsequent Rate Years, the maximum rates shown in Exhibit 1 shall be adjusted upon request as described in this Section 9. The Contractor shall submit its request in writing directly to City staff or via certified mail, on or before April 30 of 2013 and of each succeeding year. Failure to submit a written request by April 30, of each year shall

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

result in Contractor waiving the right to request such an increase for the subsequent Rate Year. Missed rate adjustments may not be added to rate adjustment applications in ensuing years. The rates shall decrease automatically in accordance with Section 9 if either the disposal gate fee or the Consumer Price Index decreases. Future adjustments will be effective July 1. Rate adjustment calculations shall be separately performed for Cart rates (Exhibit 2A) and Commercial and Multi-Family Bin rates (Exhibit 2B).

### **9.02.1 Cost Component and Rate Adjustment Indexes**

The approved rates consist of the following cost components, followed by the initial weightings of each component by waste stream. Each cost component may be adjusted by the change in the corresponding index below. See Section 9.02.2 for detailed rate adjustment procedures.

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	Cost Component	% of Costs (1)		Rate Adjustment Index	Starting Index
		Cart	Bin		
A.	Service	69.3	59.7%	Consumer Price Index - All Urban Consumers, All items – Los Angeles – Riverside – Orange County, CA capped at 5%.	CPI as of February 2011.
B.	Fuel	5.0%	5.0%	DOE Diesel (on highway) prices publishing in the Official Energy Statistics from the United States Department of Energy website: <a href="http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_sca_m.htm">http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_sca_m.htm</a> .	Price as of February 2011.
C.	Direct Disposal	21.7%	n/a	Actual change at Orange County Landfills as per waste disposal agreement with City of Los Alamitos.	\$29.95 per ton as of July 1, 2010
D.	Green Waste	4.0%	n/a	Actual change in the per ton posted gate rate at Puente Hills for Green Waste	\$19.95 per ton as of July 1, 2010
E.	MRF Disposal	n/a	19.6%	Actual change at Orange County Landfills as per waste disposal agreement with City of Los Alamitos.	\$29.95 per ton as of July 1, 2010
F.	MRF Service	n/a	15.7%	Consumer Price Index - All Urban Consumers, All items – Los Angeles – Riverside – Orange County, CA capped at 5%	CPI as of February 2011.

(1) Weightings may be adjusted for the rate adjustment following, and based upon results from each audit per Section 8.04.2.

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### **9.02.2 Rate Adjustment**

Cart and Bin rates will be adjusted using the same method, but will be calculated separately due to the differences in the weightings of the cost components for each Customer type, as listed in Section 9.02.1.

Step One – Calculate the percentage increase or decrease in the Service, Fuel, Direct Disposal, Green Waste, MRF Disposal and the MRF Service Component indices listed in Section 9.02.1. The increase or decrease in the Service, Fuel and MRF Service Component indices will be based on the twelve (12) month period ending February prior to the July 1 when the rate change will take effect.

The Direct Disposal and MRF Disposal indices will be based on the percentage change in the gate rates at Orange County Landfills as per the then-existing waste disposal agreement with City of Los Alamitos for the twelve (12) month period ending June 30 prior to the July 1 when the rate change will take effect.. The Green Waste index will be based on posted gate rate at the Puente Hills landfill for green waste. The percentage increase for the Direct Disposal, MRF Disposal or the Green Waste Index shall not exceed 5% for any one Rate Year.

Step Two – For rate adjustments prior to the first audit (see Section 8.04.2): Cost components are weighted as listed in Section 9.02.1. For subsequent rate adjustments: The relative weightings of the service and disposal cost components will be determined by the most recent audit, if any, conducted per Section 8.04.2.

Multiply the percentage changes for each rate adjustment component, as determined in Step One, by that component's weighting as a percentage of total cost.

Step Three – Multiply the weighted permitted percent change from Step Two by the existing maximum Cart and Bin Collection rates to determine the increase or decrease in maximum rates. Then add (subtract) the change in rates to (from) the existing maximum rates to determine the new maximum rates.

### **9.02.3 Residential Roll-Off and Temporary Service Charges**

In order to assure rates for residential roll-off and temporary services are equitable and competitively established, Contractor's right to provide such services shall be non-

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exclusive as set forth in section 3.02 and the rates shall be established by the competitive marketplace. Contractor may adjust the rates for residential roll-off and temporary services and shall provide City a standard rate sheet of the rates currently in effect. Contractor shall also provide the standard rate sheet to any potential customer who requests it.

### **ARTICLE 10. RECORD KEEPING AND REPORTING REQUIREMENTS**

#### **10.01 GENERAL**

Contractor shall compile and maintain records related to its performance under this Contract as necessary to develop the reports required by this Contract. Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with and to meet the reporting and Solid Waste program management needs of the City, the Act, other Applicable Laws, and the requirements of this Contract.

Record keeping and reporting requirements specified in this Contract shall not be considered limiting or necessarily complete. In particular, Article 10 is intended to highlight the general nature of records and reports and their minimum content and is not meant to comprehensively define the scope and content of the records and reports. Upon written direction or approval of City, the records and reports required by Contractor in accordance with this and other Articles of the Contract shall be adjusted in number, format, or frequency.

Contractor shall maintain all records necessary to allow the City to determine Contractor's compliance with the Terms of the Contract and compliance with the Performance Standards presented in this Contract. The records shall be maintained in a manner that allows for easy verification of Contractor's performance.

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## **10.02 RECORD KEEPING**

### **10.02.1 General**

Contractor shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City. All records shall be maintained for five (5) years after the expiration or early termination of this Contract.

In order to set Contractor's compensation pursuant to Article 9, it is necessary for Contractor to maintain accurate, detailed financial and operational information in a consistent format and to make such information available to the City in a timely fashion, and in accordance with reporting requirements specified in this Article.

### **10.02.2 Inspection of Records**

City shall have the right to inspect or review the payroll tax reports, specific documents or records required expressly or by inference pursuant to this Contract, or any other similar records or reports of Contractor or its Affiliates that City shall deem, in its sole discretion, necessary to evaluate annual reports, compensation applications provided for in this Contract, and Contractor's performance provided for in this Contract.

Contractor agrees that the records of any and all companies conducting operations addressed in the Contract shall be provided or made available to City and its official representatives for review. The City, its auditors and other agents selected by the City, shall have the right, during regular business hours, to conduct unannounced on-site inspections and review of the records and accounting systems of Contractor and to make copies of any documents relevant to this Contract.

### **10.02.3 Retention of Records**

Unless otherwise herein required, Contractor shall retain all records and data required to be maintained by this Contract for the Term of this Contract plus at least five (5) years after expiration or early termination of the Contract. Records and data shall be in a chronological and organized form and readily and easily interpreted. At the City's request, records and data required to be retained shall be retrieved in a timely manner (which shall not exceed more than ten (10) Business Days unless Contractor obtains prior written approval from the City) by Contractor and made available to the City.

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Contractor shall maintain copies of all Billings and Billing collections (e.g., Customer payments) records or copies of Billing summary reports (that document all Billings and Billing Collections for each Customer) for five (5) years, following the date of Billings, for inspection and verification by City.

Records and data required to be maintained that are not specifically directed to be retained that are, in the sole opinion of the City, material to the determination of Contractor's compensation or rates or to determine Contractor's performance under this Contract, shall be retrieved by Contractor and made available to the City in a timely manner (which shall not exceed ten (10) Business Days unless Contractor obtains prior written approval from the City). When records and data are not retained or provided by the Contractor, the City may make reasonable assumptions regarding what information is contained in such records and data, and such assumption(s) shall be conclusive in whatever action the City takes.

### **10.02.4 Record Security**

Contractor shall maintain adequate record security to preserve records from events that can be reasonably anticipated such as a fire, theft, and an earthquake. Electronically-maintained data and/or records shall be protected, backed up, and stored at a separate site from the original data.

### **10.02.5 Accounting Records**

Contractor shall maintain full, complete and separate financial, statistical and accounting records, pertaining to cash, billing, and provisions of all Collection Services, prepared on an accrual basis in accordance with generally accepted accounting principles. Billing, gross receipt, rebate and disposal records only shall be subject to audit, copy, and inspection. Contractor shall maintain and preserve all billing, gross receipts, rebate and disposal records for a period of not less than five (5) years following the close of each of the Contractor's fiscal years.

### **10.02.6 Collection Service Records**

Contractor shall maintain and retain records relating to:

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1. Customer and Billing information including, but not limited to, the following for each Customer:
  - a) Names, addresses, and phone numbers of Customer, billing contact person, and, if appropriate, for property manager or on-site contact person;
  - b) Solid Waste service level, Recyclable Materials service level, and Organic Materials service level (where service level includes the number of Containers, size of each Container, and the Collection frequency of each Container);
  - c) Number of tenant or living units at Multi-Family Residential Complexes;
  - d) Service exemptions for Residential Premises (if applicable);
  - e) Special services (e.g., Backyard and Special Handling Collection for Residential Premises, push/pull charges, lock/unlock charges, etc.);
  - f) Contractor's Customer and Billing system shall allow for information to be compiled easily and separately for each Service Sector.
2. Quantities of Residential Solid Waste and Commercial Solid Waste by type (e.g., Solid Waste, Recyclable Materials, or Green Waste) collected, purchased, processed, sold, donated or given for no compensation, and residue disposed.
3. Route sheets and route maps identifying the accounts serviced by each Collection vehicle on a daily basis.
4. Facilities, equipment and personnel used.
5. Facilities and equipment operations, maintenance and repair.
6. Tonnage of Solid Waste, Recyclable Materials, and Green Waste Materials listed separately by materials type and Service Sector and the facility where materials were delivered.
7. Monthly Overall Diversion Level, monthly Residential Diversion Level, and the monthly Commercial Diversion Level (each stated as a percentage) and calculated in accordance with Attachment I.
8. Recyclable Materials, Household Batteries, Cell Phones and Green Waste Collection participation and set-out rates.
9. Tonnage of materials Collected from on-call Bulky and community drop-off events as described in Section 4.05 reported separately by material type collected and

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listing facilities where materials were delivered (e.g., Goodwill Industries, Transfer Station and Processing Site, etc.).

10. Tonnage of Solid Waste, Recyclable Materials, and Green Waste Collected from Venues and Events reported separately by material type collected and reported separately for each Venue and Event as the total tonnage of each material type for each Event or Venue monthly.

### **10.02.7 Other Records**

Contractor shall maintain all other records reasonably related to provision of Collection Services or necessary to comply with, or document compliance with, state law, whether or not specified in this the Contract.

### **10.02.8 Customer Service Records**

Daily logs of all Complaints and Inquiries provided under this Contract shall be retained for a minimum of thirty-six (36) months. Contractor shall maintain and retain customer service center records, which include, but are not limited to the following customer service center statistics.

1. Number of calls received on a daily and monthly basis;
2. Number of calls answered on a daily and monthly basis;
3. Number of abandoned (dropped) calls on a daily and monthly basis;
4. Average abandoned time (i.e., hold time before abandoning call);
5. Number of delayed calls (i.e., calls where caller is placed on hold before speaking with a Customer Service Agent) on a daily and monthly basis;
6. Average Hold Time for incoming calls on a daily and monthly basis;
7. Percentage of calls answered by a person within thirty (30) seconds on a daily and monthly basis;
8. Percentage of calls answered within three (3) minutes on a daily and monthly basis;
9. Number of e-mail responses sent from the Customer Service Department to Customers on a monthly basis;

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10. Number and percentage of Complaint and Inquiry e-mails or submissions through Contractor website that received responses before close of business on the day received on a monthly basis;
11. Number and percentage of Complaint and Inquiry e-mails that received responses by the close of business on the day following the receipt of the Complaint or Inquiry;
12. Number of Complaints and Inquiries received through Contractor's website on a daily and monthly basis;
13. Names of all Customer Service representatives employed;
14. Minimum, average, and maximum number of Customer Service representatives employed during each month; and,
15. Number of Customer Service representatives employed during each month.

### **10.03 ANNUAL REPORTING**

#### **10.03.1 General**

Annual reports shall be submitted no later than April 1 for the previous Contract Year. Annual reports shall be submitted in hard copy, and shall be provided electronically in software acceptable to the City.

#### **10.03.2 Financial Reports**

Contractor shall prepare an annual Financial Report for submittal to the City by April 1, 2010, and each April 1st thereafter covering the Contractor's prior calendar year operations. At a minimum, the Financial Report shall include the number of Residential Customers and Commercial Customers provided with Collection Services, including any additional services, and the Contractor's gross billing and amount collected for each type of Customer, per ton and total annual disposal and processing fees paid, and the amount received for the sale of recyclable materials.

- At the City's request, the Financial Report shall also include Compiled Financial Statements covering all services provided by the Contractor to the City under the terms of this Contract. If the Contractor has Audited, Reviewed, or Compiled Financial Statements prepared each year by an

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

Independent Certified Public Accountant, those Financial Statements shall be included in the Financial Report submitted to the City.

- In the event that the Contractor does not have Financial Statements Audited, Reviewed, or Compiled each year, then the Contractor must have Financial Statements prepared by an Independent Certified Public Accountant. Such Financial Statements may be Audited, Reviewed or Compiled at the discretion of the Contractor and shall be included in the Financial Report submitted to the City.

### **10.03.3 CIWMB Reports**

Contractor shall assist the City to prepare annual reports for information required by the California Integrated Waste Management Board (CIWMB).

### **10.03.4 City Reports**

Annual reports to the City shall include:

- Contractor shall prepare a report that summarizes the public education and information activities undertaken during the year, including distribution of bill inserts, collection notification tags, community information and events, tours and other activities related to the provision of Collection Services. This report shall discuss the impact of these activities on recycling program participation and include amounts collected from Residential, Multi-Family and Commercial Customers.
- Contractor shall prepare a report that summarizes Recycling and Green Waste Collection, processing and marketing issues or conditions (such as participation, setouts, contamination, etc.) and possible solutions, discussed separately for Residential, Multi-Family and Commercial programs.

### **10.03.5 Solid Waste Data**

The number of Residential, Multi-Family and Commercial Customers and the number of Solid Waste Bins and Carts distributed by size and Customer type.

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### **10.03.6 Recycling Data**

Gross tons collected daily on average by material type by route for Residential, Multi-Family and Commercial Recycling service. The average participation rates by quarter relative to the total number of Customers by Customer type. Indicate, by material type (and grade where appropriate), quarterly totals of Recyclable Materials processed and sold including facility name and location, average price received per ton and total recycling revenue received for the quarter. Indicate any quantities, by material type, donated or otherwise disbursed without compensation. Indicate number of Recycling Bins and Carts distributed by size and Customer type. Also provide quarterly totals and location for residue disposed.

### **10.03.7 Green Waste Data**

Include average daily gross tons collected by route. Indicate average daily number of set-outs by route. Indicate average participation rates relative to the total number of Customers in terms of weekly set-out counts. Indicate number of Green Waste Bins and Carts distributed by size and Customer type. Also provide totals and location for Residue Disposed.

### **10.03.8 Customer Service Log**

A copy of the customer service log, including a summary of the type and number of complaints and their resolution. Copies of a written record of all calls related to missed pick-ups and responses to such calls.

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

### **10.03.9 Bin and Cart Inventory**

An updated complete inventory of Bins, Carts and Roll-Offs by type and size.



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### **10.03.10 Additional Reporting**

The Contractor shall furnish the City with any additional reports as may reasonably be required, such reports to be prepared within a reasonable time following the reporting period.

- Contractor shall maintain any and all letters, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to Customers for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contract or pursuant to this Contract.
- Contractor shall maintain all documents and records, which demonstrate performance under this Contract for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Contract.
- Any records or documents required to be maintained pursuant to this Contract shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Contract Administrator, the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at the City offices when it is practical to do so. Otherwise, unless an alternative site is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Contract.

## **ARTICLE 11. INSURANCE**

### **11.01 INSURANCE POLICIES**

Contractor shall secure and maintain throughout the term of this Contract insurance with insurers which are California-Admitted and Best A+ and VII rated, or better, to insure against claims for injuries to persons or damages to property which may arise from or in connection with Contractor's performance of work for services under this Contract.

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Contractor's performance of work or services shall include performance by Contractor's employees, agents, representatives and subcontractors.

### **11.01.1 Minimum Scope of Insurance**

Insurance coverage shall be at least this broad:

- The most recent editions of Insurance Services Office Commercial General Liability coverage ("Occurrence" form CG 0001.)
- The most recent editions of Insurance Services Office form number CA 0001 covering Automobile Liability, Code 1 "any auto", or code 2 "owned autos" and endorsement CA 0025. Coverage shall include also code 8 "hired autos" and code 9 "non-owned autos".
- Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability Insurance.

### **11.02 MINIMUM LIMITS OF INSURANCE**

Contractor shall maintain insurance limits no less than:

- Comprehensive General Liability: (\$10,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Contract or the general aggregate limit shall be twice the required limit. The insurance shall be written on an "occurrence" basis (rather than a "claims made" basis) in a form at least as broad as the most current version of the Insurance Service Office commercial general liability occurrence policy form (CG0001).
- Automobile Liability: (\$10,000,000) combined single limit per accident for bodily injury and property damage.
- Umbrella Insurance: Umbrella insurance (over primary) shall be provided up to (\$20,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.

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- Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of (\$1,000,000) per accident.
- Hazardous Waste and Environmental Impairment Liability: \$(3,000,000) per occurrence.

### **11.03 DEDUCTIBLES AND SELF-INSURED RETENTION**

Any deductibles or self-insured retention must be declared to, and approved by the City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the Indemnities; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by City's Risk Manager.

### **11.04 ENDORSEMENTS**

The policies are to contain, or be endorsed to contain, the following provisions:

#### **11.04.1 General Liability and Automobile Liability Coverage**

- The City, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by, or on behalf of, Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor; and automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
- Contractor's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance, or self-insurance maintained by City, its officers, employees, agents or contractors shall be in excess of Contractor's insurance and shall not contribute with it.
- Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officers, employees, agents, or contractors.

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- Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

### **11.04.2 All Coverage**

Each insurance policy required by this Contract shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) calendar days prior written notice has been given to City.

### **11.05 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Guide of category VII or larger, and a rating classification of A- or better acceptable to City's Risk Manager.

### **11.06 VERIFICATION OF COVERAGE**

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this Contract. The certificates and endorsement for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Contractor shall furnish City with a new certificate of insurance and endorsements on each renewal of coverage or change of insurers.

#### **11.06.1 Proof of Insurance**

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Clerk:

CITY OF LOS ALAMITOS  
CITY CLERK  
3191 KATELLA AVE  
LOS ALAMITOS, CA 90720

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### **11.07 SUBCONTRACTORS**

Contractor shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

### **11.08 MODIFICATION OF INSURANCE REQUIREMENTS**

The insurance requirements provided in this Contract may be modified or waived by City's Risk Manager, in writing, upon the request of Contractor if the City's Risk Manager determines such modification or waiver is in the best interest of City considering all relevant factors, including exposure to City.

### **11.09 RIGHTS OF SUBROGATION**

All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against City with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above-described insurance. Contractor shall ensure that any companies issuing insurance to cover the requirements contained in this Contract agree that they shall have no recourse against City for payment or assessments in any form on any policy of insurance. The clauses 'Other Insurance Provisions' and 'Insured Duties in the Event of an Occurrence, Claim or Suit' as it appears in any policy of insurance in which City is named as an additional insured shall not apply to City.

## **ARTICLE 12. INDEMNIFICATION AND BOND**

### **12.01 INDEMNIFICATION**

Contractor shall indemnify and hold harmless City, public officials, officers, directors, employees, agents and other contractors, from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals as well as all Court or other dispute resolution costs), liabilities, expenditures or causes of action of any kind (including negligent, reckless, willful or intentional acts or omissions of the Contractor, any subcontractor, any supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any services or anyone for whose acts any of them

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may be liable), arising from, relative to or caused by the award of this Agreement or the performance of the services authorized or required by this Contract. This indemnity includes but is not limited to claims attributable to bodily injury, sickness, disease or death and to injury or destruction of tangible property. Contractor agrees, at Contractor's expense, after written notice from the City, to defend any action against the City that falls within the scope of this indemnity, or the City, at the City's option, may elect not to tender such defense and may elect instead to secure its own attorneys to defend any such action and the reasonable costs and expenses of such attorneys incurred in defending such action shall be payable by Contractor. Additionally, if Contractor, after receipt of written notice from the City, fails to make any payment due under this Contract to the City, Contractor shall pay any reasonable attorneys' fees or costs incurred by the City in securing any such payment from Contractor. Payment of any amount due pursuant to the foregoing indemnity shall, after receipt of written notice by Contractor from the City that such amount is due, be made by Contractor prior to the City being required to pay same, or in the alternative, the City, at the City's option, may make payment of an amount so due and Contractor shall promptly reimburse the City for same, together with interest thereon at the rate of 12% per annum simple interest from the date of receipt by Contractor of written notice from the City that such payment is due.

Contractor agrees to protect and defend City with counsel selected by Contractor and approved by City, to pay all attorneys' fees, and to indemnify and hold City harmless from and against all fines or penalties imposed by the California Integrated Waste Management Board if the diversion goals specified in California Public Resources Code Section 41780 as of the date hereof and hereafter throughout are not met by the City with respect to the Materials Collected by Contractor and if the lack in meeting such goals are attributable to the failure of the Contractor to implement and operate the recycling or diversion programs or undertake the related activities required by this Contract.

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### 12.02 HAZARDOUS SUBSTANCES INDEMNIFICATION

Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), reimburse, indemnify, and hold harmless Indemnitees from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of or are alleged to arise out of or in any way relate to any action, inaction or omission of Contractor that:

1. Results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnitee is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise clean up, any Hazardous Contaminant (as defined herein); or
2. Relates to material collected, transported, recycled, processed, treated or disposed of by Contractor.

Contractor's obligations pursuant to this section shall apply, without limitation, to:

1. Any Claims brought pursuant to or based on the provisions of any Environmental Law;
2. Any Claims based on or arising out of or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation of Contractor of any Facility;
3. Any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, disposal, processing or use of any materials recovered by Contractor;
4. Any Claims based on or arising out of or alleged to be arising out of any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Contract.

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The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate of Contractor.

For purposes of this section, the term "Hazardous Contaminant" shall mean any Hazardous Substance, any Hazardous Waste any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to any referenced statutory or regulatory provisions made before or after the date of execution of this contract.

THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS CONTRACT.

### **12.03 THE ACT INDEMNIFICATION AND GUARANTEE**

To the extent authorized by law, Contractor agrees to indemnify and hold harmless City from and against all fines and/or penalties imposed by the California Integrated Waste Management Board in the event the source reduction and recycling mandates or any other requirement of the Act or other state law regarding waste diversion, reduction or recycling are not met by City.

Contractor warrants and represents that it is familiar with City's waste characterization study as set forth in City's Source Recovery and Recycling Element (SRRE), and that it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion, and any other requirements) set forth in the Act.

### **12.04 PERFORMANCE BOND**

Within ten (10) calendar days from the date the City Council approves this Contract, the Contractor shall furnish to the City, and keep current, a Performance Bond in a form substantially similar as set forth in Exhibit 3 which is included in and attached to this Contract, for the faithful performance of this Contract and all obligations arising hereunder in an amount as follows:

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- From January 1, 2011, the Contractor shall maintain a performance bond throughout the term of this Contract in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000).
- The performance bond shall be executed by a surety company licensed to do business in the State of California, having an, A:VII or better rating, and approved by the City; and included on the list of surety companies approved by the Treasurer of the United States.

### **12.04.1 Letter of Credit**

As an alternative to the performance bond required by Section 12.04, at City's option, Contractor may deposit with City an irrevocable letter of credit in an amount as set forth in this Contract. If allowed, the letter of credit must be issued by an FDIC-insured banking institution chartered to business in the State of California, in the City's name, and be callable at the discretion of the City. Nothing in this Section shall, in any way, obligate the City to accept a letter of credit in lieu of the performance bond.

### **12.05 FOREFEITURE OF PERFORMANCE BOND**

In the event Contractor shall for any reason become unable to, or fail in any way to, perform as required by this Contract, City may declare a portion or all of the performance bond which is necessary to recompense and make whole the City forfeited to the City. Upon partial or full forfeiture of the performance bond, Contractor shall restore the performance bond to its face amount within thirty (30) days of the City's declaration. Failure to restore the performance bond to its full amount within thirty (30) days shall be a material breach of the Contract.

### **12.06 PERFORMANCE SECURITY BEYOND SERVICE TERM**

Some Contract requirements extend beyond the Term of this Contract and other requirements, such as State-approved diversion rates per Section 5.05, will not be substantiated until after the final service date. Therefore, the Contractor shall not terminate the performance bond or letter of credit, and will renew them to ensure continuous availability to the City, until receiving a written release from the City. Any performance bond or letter of credit will automatically expire at the end of 36 months

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after the end of the Term of this Contract. Permission from the City to discontinue holding these performance securities does not relieve Contractor of payments to the City that may be due, or may become due.

### **12.07 OBLIGATION**

The execution of this Contract by the Contractor shall obligate the Contractor to comply with the foregoing indemnification provision; however, the collateral obligation of providing insurance must also be complied with as set forth in this Contract.

### **12.08 EXCEPTION**

Notwithstanding other provisions of this Contract, Contractor's obligation to indemnify, hold harmless and defend City, its officers and employees shall not extend to any loss, liability, penalty, claim, damage, action or suit arising or resulting from acts or omissions constituting willful misconduct or active negligence of the City or its officers or employees, provided such active negligence or willful misconduct is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City, its officers and/or employees are shown to have been actively negligent or engaged in willful misconduct and where that negligent or willful misconduct accounts for only a percentage of the liability involved, the obligation of Contractor, will be for the entire portion or percentage of liability not attributable to the active negligence or willful misconduct of City, its officers and/or employees, or from the City's direction to deliver Solid Waste to a MRF, or processing center other than a facility owned and operated by Contractor or an affiliate.

## **ARTICLE 13. DEFAULT OF CONTRACT**

### **13.01 TERMINATION**

The City may cancel this Contract, except as otherwise provided below in this Section, by giving the Contractor thirty (30) calendar days' advance written notice, to be served as provided in this Contract, upon the happening of any one of the following events:

1. The Contractor shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary

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petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law or statute of the United States or any state thereof, or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

2. By order or decree of a Court, the Contractor shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or by any of the stockholders of the Contractor, seeking its reorganization or the readjustment of its indebtedness under the Federal bankruptcy laws or under any law or statute of the United States or of any state thereof, provided that if any such judgment or order is stayed or vacated within sixty (60) calendar days after the entry thereof, any notice of default shall be and become null, void and of no effect; unless such stayed judgment or order is reinstated in which case, the default shall be deemed immediate; or
3. By, or pursuant to, or under the authority of any legislative act, resolution or rule or any order or decree of any Court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Contractor, and such possession or control shall continue in effect for a period of sixty (60) calendar days; or
4. The Contractor has defaulted, by failing or refusing to pay in a timely manner the liquidated damages or other monies due the City and the default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or
5. The Contractor has defaulted by allowing any final judgment for the payment of money to stand against it unsatisfied and the default is not cured within thirty (30) calendar days of receipt of written notice by City to do so; or
6. In the event that the monies due the City under Section 13.01.4 above or an unsatisfied final judgment under Section 13.01.5 above is the subject of a judicial proceeding, the Contractor shall not be in default if the sum of money is bonded. All bonds shall be in the form acceptable to the City Attorney; or
7. The Contractor has defaulted, by failing or refusing to perform or observe the terms, conditions or covenants in this Contract or any of the rules and regulations

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promulgated by the City pursuant thereto or has wrongfully failed or refused to comply with the instructions of the Contract Administrator relative thereto and the default is not cured within thirty (30) calendar days of receipt of written notice by the City to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) calendar days following receipt by the Contractor of written demand from the City to do so, the Contractor fails to commence the remedy of such default within thirty (30) calendar days following such written notice or having so commenced shall fail thereafter to continue with diligence the curing thereof [with the Contractor having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure the default, and such default will be cured within a reasonable period of time]. Notwithstanding anything contained herein to the contrary, for the failure of the Contractor to provide Collection Services for a period of three (3) consecutive Work Days, the City may secure the Contractor's records on the fourth (4th) Work Day in order to provide interim Collection services until such time as the matter is resolved and the Contractor is again able to perform pursuant to this Contract; provided, however, if the Contractor is unable for any reason or cause to resume performance at the end of thirty (30) calendar days, all liability of the City under this Contract to the Contractor shall cease and this Contract may be deemed terminated by the City.

### **13.02 VIOLATIONS**

Notwithstanding the foregoing and as supplemental and additional means of termination of this Contract under this Article, in the event that the Contractor's record of performance shows that the Contractor has frequently, regularly or repetitively defaulted in the performance of any of the covenants and conditions required herein to be kept and performed by the Contractor, in the opinion of the City and regardless of whether the Contractor has corrected each individual condition of default, the Contractor shall be deemed a "habitual violator", shall be deemed to have waived the right to any further notice or grace period to correct, and all of the defaults shall be considered cumulative and collectively shall constitute a condition of irredeemable default. In order to be

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deemed a "habitual violator" such violation must have occurred not less frequently than three (3) times in any Contract Year. The City shall thereupon issue the Contractor a final warning citing the circumstances therefore, and any single default by the Contractor of whatever nature, subsequent to the occurrence of the last of the cumulative defaults, shall be grounds for immediate termination of the Contract. In the event of any such subsequent default, the City may terminate this Contract upon giving of written final notice to the Contractor, such cancellation to be effective upon the date specified in the City's written notice to the Contractor, and all contractual fees due hereunder plus any and all charges and interest shall be payable to that date, and the Contractor shall have no further rights hereunder. Immediately upon the specified date in such final notice the Contractor shall proceed to cease any further performance under this Contract.

### **13.03 EFFECTIVE DATE OF TERMINATION**

In the event of events specified in Sections 13.01 or 13.02, and except as otherwise provided in these subsections, termination shall be effective upon the date specified in the City's written notice to the Contractor and upon that date this Contract shall be deemed immediately terminated and upon such termination all liability of the City under this Contract to the Contractor shall cease, and the City shall have the right to call the performance bond and shall be free to negotiate with other contractors for the operation of the herein specified services. The Contractor for failure to perform shall reimburse the City all direct and indirect costs of providing interim Collection Services.

### **13.04 IMMEDIATE TERMINATION**

City may terminate this Contract immediately upon written notice to Contractor in the event Contractor fails to provide and maintain the performance bond as required by this Contract, Contractor fails to obtain or maintain insurance policies endorsements as required by this Contract, Contractor fails to provide the proof of insurance as required by this Contract, or Contractor offers or gives any gift prohibited by City Municipal Code.

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**13.05        TERMINATION CUMULATIVE**

City's right to terminate this Contract is cumulative to any other rights and remedies provided by law or by this Contract.

**13.06        LIQUIDATED DAMAGES**

It shall be the duty of Contractor to perform services under this Contract in such a manner as to implement the goals set forth in Section 7.08 above. In the event Contractor fails to perform the services set forth in this Contract, City may assess liquidated damages against Contractor in the following amounts:

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LIQUIDATED DAMAGES		
a.	Failure or neglect to resolve each complaint within the time set forth in this Contract.	\$100 per incident per Customer
b.	Failure to clean up spillage or litter caused by Contractor.	\$100 per incident per location.
c.	Failure to repair damage to Customer property caused by Contractor or its personnel.	\$100 per incident per location.
d.	Failure to maintain equipment in a clean, safe, and sanitary manner.	\$100 per incident per day.
e.	Failure to have a vehicle operator properly licensed.	\$100 per incident per day.
f.	Failure to maintain office hours as required by this Contract.	\$100 per incident per day.
g.	Failure to maintain or timely submit to City all documents and reports required under the provisions of this Contract.	\$100 per incident per day.
h.	Failure to properly cover materials in Collection Vehicles.	\$100 per incident.
i.	Failure to display Contractor's name and Customer Service phone number on Collection Vehicles, except for reserve vehicles.	\$100 per incident per day.
j.	Failure to comply with the hours or days of operation as required by this Contract.	\$1,000 per incident per day.
k.	Failure or neglect to complete at least ninety percent (90%) of each route on the regularly scheduled Collection Service Work Day.	\$500 for each route not completed.
l.	Failure to notify Contract Administrator of failure to complete daily routes.	\$250 per incident per day.
m.	Changing routes without proper notification to the Contract Administrator.	\$250 per incident per day.
n.	Commingling Residential or Commercial Solid Waste with Recyclable Materials.	\$1,000 per incident.
o.	Commingling of materials collected inside and outside the City of Los Alamitos without prior approval by the City.	\$500 per incident.
p.	Failure to repair or replace damaged carts or bins within the time required by this Contract.	\$100 per incident per day.
q.	Failure to deliver or exchange carts or bins within the time required by this Contract.	\$100 per incident per day.
r.	Failure to have Contractor personnel in proper uniform.	\$100 per incident per day.

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<b>LIQUIDATED DAMAGES</b>		
s.	Disposal of Recyclable Materials in the Disposal Facility without first obtaining the required permission of the City.	\$ <u>500</u> per occurrence
t.	Failure to provide required communications equipment.	\$ <u>100</u> per incident per day.
u.	Failure to deliver any collected materials to the Disposal Facility, Materials Recycling Facility, or Green Waste Processing Facility, as appropriate, except as otherwise expressly provided in this Contract.	\$ <u>1,000</u> per incident
v.	Delivery to the Disposal Facility of any Solid Waste collected outside of the city boundaries of Los Alamitos commingled with Solid Waste collected as part of this Contract without prior approval by the City.	\$ <u>1,000</u> per incident
w.	If after full implementation of programs, City's diversion rate falls below 50%, as determined by CIWMB	\$ <u>250</u> for each day City is deemed non-compliant by CIWMB.

**13.07 PROCEDURE FOR REVIEW OF LIQUIDATED DAMAGES**

The City Manager may assess liquidated damages pursuant to this Contract on a monthly basis. At the end of each month during the term of this Contract, the City Manager shall issue a written notice to Contractor ("Notice of Assessment") of the liquidated damages assessed and the basis for each assessment.

1. The assessment shall become final unless, within ten (10) calendar days of the date of the notice of assessment, Contractor provides a written request for a meeting with the City Manager to present evidence that the assessment should not be made.
2. The City Manager shall schedule a meeting between Contractor and City Manager or designee as soon as reasonably possible after timely receipt of Contractor's request.
3. The City Manager or the City Manager's designee shall review Contractor's evidence and render a decision sustaining or reversing the liquidated damages as soon as reasonably possible after the meeting. Written notice of the decision shall be provided to Contractor.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

4. In the event Contractor does not submit a written request for a meeting within ten (10) calendar days of the date of the Notice of Assessment, the City Manager's determination shall be final and City may deduct the liquidated damages from amounts otherwise due to Contractor.
5. City's assessment or collection of liquidated damages shall not prevent City from exercising any other right or remedy, including the right to compel performance or terminate this Contract, for Contractor's failure to perform the work and services in the manner set forth in this Contract. Liquidated damages shall be in addition to any applicable fines or penalties imposed by third parties, damages owed to third parties and actual clean up costs.

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

#### **14.01 INDEPENDENT CONTACTOR**

In the performance of services pursuant to this Contract, Contractor shall be an independent contractor and not an officer, agent, servant or employee of City. Contractor shall have exclusive control of the details of the services and work performed and over all persons performing such services and work. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors, if any. Neither Contractor nor its officers, employees, agents, contractors or subcontractors shall obtain any right to retirement benefits, workers' compensation benefits, or any other benefits which accrued to City employees and Contractor expressly waives any claim it may have or acquire to such benefits.

#### **14.02 COMPLIANCE WITH LAW**

In the performance of this Contract, Contractor shall comply with all applicable laws, regulations, ordinances and codes of the federal, state and local governments, including without limitation the City of Los Alamitos Municipal Code.

#### **14.03 NO ASSIGNMENT**

No assignment of this Contract or any right occurring under this Contract shall be made in whole or in part by the Contractor without the express prior written consent of the City.

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The City shall have full discretion to approve or deny, with or without cause, any proposed or actual assignment by the Contractor, except for an assignment to an affiliate of Contractor, which shall not be withheld unreasonably. Any assignment of this Contract made by the Contractor without the express written consent of the City shall be null and void and shall be grounds for the City to declare a default of this Contract and immediately terminate this Contract by giving written notice to the Contractor, and upon the date of such notice this Contract shall be deemed immediately terminated, and upon such termination all liability of the City under this Contract to the Contractor shall cease, and the City shall have the right to call the performance bond and shall be free to negotiate with other contractors, the Contractor, or any other person or company for the service which is the subject of this Contract. In the event of any assignment, the assignee shall fully assume all the liabilities of the Contractor.

### **14.04 USE OF SUBCONTRACTOR**

The use of a subcontractor to perform services under this Contract shall not constitute an assignment of Contractor's duties provided that Contractor has received prior written authorization from the Contract Administrator to subcontract such services and the Contract Administrator has approved a subcontractor who will perform such services. Contractor shall be responsible for directing the work of Contractor's subcontractors and any compensation due or payable to Contractor's subcontractor shall be the sole responsibility of Contractor. The Contract Administrator shall have the right to require the removal of any approved subcontractor for reasonable cause.

### **14.05 SUBCONTRACTORS**

The Contractor shall require all subcontractors to enter into a contract containing the provisions set forth in the preceding subsection in which contract the subcontractor agrees that Contractor and subcontractor are independent contractors and have no other agency relationship with City.

### **14.06 NONDISCRIMINATION**

In the performance of all work and services under this Contract, Contractor shall not discriminate against any person on the basis of such person's race, sex, color, national

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origin, religion, marital status or sexual orientation. Contractor shall comply with all applicable local, state and federal laws and regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

### **14.07 MODIFICATIONS**

The City shall have the power to make changes in this Contract as the result of changes in law, changes in the City of Los Alamitos Municipal Code, or both, to impose new rules and regulations on the Contractor under this Contract relative to the scope and methods of providing Collection Services as shall from time to time be necessary and desirable for the public welfare. The City shall give the Contractor notice of any proposed change and an opportunity to be heard concerning those matters.

#### **14.07.1 Change in Law**

The City and the Contractor understand and agree that the California Legislature and regulatory agencies have the authority to make comprehensive changes in Solid Waste Management legislation and regulations, including but not limited to fees and charges imposed under federal, state or local law related to the provisions of solid waste services, and that these and other changes in law in the future which mandate certain actions or programs for counties or municipalities may require changes or modifications in some of the terms, conditions or obligations under this Contract. The Contractor agrees that the terms and provisions of the City of Los Alamitos Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the provisions of this Contract and the Customers of the Contractor located within the Service Area. In the event any future change in the City Code, state law or regulations that materially alters the obligations of the Contractor, the City requests a change in the scope of services, or there is an increase or decrease in a fee or charge applicable to the provision of Solid Waste Services, then the affected service rates, as established in Exhibit 1 of this Contract shall be adjusted. Nothing contained in this Contract shall require any party to perform any act or function contrary to law. The City and Contractor agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or

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due to change in law. When such modifications are made to this Contract, the City and the Contractor shall negotiate in good faith a reasonable and appropriate compensation adjustment for any increase or decrease in the services or other obligations required of the Contractor due to any modification in the Contract under this Article. The City and the Contractor shall not unreasonably withhold agreement to such compensation adjustment.

### **14.07.2 City's Right to Direct Changes**

City may direct Contractor to perform additional Solid Waste Collection and diversion services (including new diversion programs, etc.) or modify the manner in which it performs existing services or bills for services. Pilot programs and innovative services which may entail new collection methods, and different kinds of services and/or new requirements for Waste Generators are included among the kinds of changes which City may direct. Contractor shall be entitled to an adjustment in its Contractor Compensation for providing such additional or modified services, including a profit factor equal to ten percent (10%) of the incremental cost of such additional or modified services. City may utilize cost components provided with Contractor's proposed rates in calculating equitable rate adjustments. If the City Manager and Contractor cannot agree upon the amount of a rate adjustment authorized pursuant to this section, the City Council shall make a final determination and its decision is final and binding.

### **14.07.3 New or Additional Programs and Services**

(a) Contractor shall present, within thirty (30) days of a written request to do so by City, a proposal to provide additional or expanded diversion services. The proposal shall contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.).
- Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- Labor requirements (number of employees, by classification).
- Type(s) of Containers to be utilized.
- Type(s) of materials to be collected.
- Provision for program publicity/education/marketing.

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- Three-year projection of the financial results of the program's operations in an operating statement format including documentation of the key assumptions underlying the projections and the support for those assumptions.

The added cost for providing such additional or expanded diversion services.

(b) In the event that the mandatory diversion rate of 50% under state law is increased or other diversion or waste reduction requirements are imposed by legislative or regulatory action, then City and Contractor agree to meet and negotiate in good faith with respect to necessary compliance programs and corresponding rate increases needed to fund such programs. In order to assist the City in achieving diversion rates and programs mandated by state law in each calendar year during the term of this Agreement, Contractor shall be required to provide and implement, if requested by the City, additional services and programs to the extent necessary to achieve the legally required diversion rate in each calendar year and to comply with all other state mandates regarding diversion, recycling and waste reduction. Without limiting the foregoing, Contractor agrees that the rate for incremental processing or other programs provided by Contractor directly or indirectly shall not be higher than the lowest rate for the same incremental processing or programs provided to other municipalities by Contractor based upon comparable features and cost factors, and if at any time the rate for the same incremental processing or programs with comparable features and cost factors provided by Contractor directly or indirectly to another municipality is lower than the rate at which City is charged, then the rate applicable to City shall immediately and automatically be lowered to such lower rate.

### **14.08           TRANSITION TO NEXT CONTRACTOR**

In the event Contractor is not awarded a Contract to continue to provide Collection Services following the expiration or early termination of this Contract, Contractor shall cooperate fully with City and any subsequent contractors to assure a smooth transition of services described in this Contract. Such cooperation shall include but not be limited to transfer of computer data, files and tapes; providing routing information, route maps, vehicle fleet information, and list of Customers; providing a complete inventory of all carts and bins; providing adequate labor and equipment to complete performance of all Collection Services required under this Contract; taking all actions necessary to transfer

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ownership of carts and bins, as appropriate, to City; including transporting such containers to a location designated by the Contract Administrator; coordinating collection of materials set out in new containers if new containers are provided for a subsequent Contract and providing other reports and data required by this Contract.

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

### **ARTICLE 15. MISCELLANEOUS PROVISIONS**

#### **15.01 GOVERNING LAW**

The law of the State of California shall govern the rights, obligations, duties and liabilities of City and Contractor under this Contract and shall govern the interpretation of this Contract.

#### **15.02 JURISDICTION**

The parties agree that any litigation between City and Contractor concerning or arising out of this Contract shall be filed and maintained exclusively in the Municipal or Superior Courts of Orange County, State of California, or in the United States District Court for the Central District of California to the fullest extent permissible by law. Each party consents to service of process in any manner authorized by California law.

#### **15.03 WAIVER**

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

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

a waiver by City of any breach for violation of any term, covenant or condition of this Contract.

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

### **15.04 ENTIRE CONTRACT**

This document incorporates and includes all prior negotiations, correspondence, conversations, contracts and understandings applicable to the matters contained in this Contract and the parties agree that there are no commitments, contracts or understandings concerning the subject matter of this Contract that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Contract shall be predicated upon any prior representations or Contracts, whether oral or written. This Contract and the Exhibits attached hereto constitute the entire Contract and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

Each Exhibit referred to in this Contract forms an essential part of this Contract. Each such Exhibit is a part of this Contract and each is incorporated by this reference.

### **15.05 SECTION HEADINGS**

Headings in this document are for convenience of reference only and are not to be considered in any interpretation of this Contract.

### **15.06 CONSIDERATION**

It is specifically understood and agreed that the consideration inuring to the Contractor for the execution of this Contract consists of the promises, payments, covenants, rights and responsibilities contained in this Contract.

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **15.07 SEVERABILITY**

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

### **15.08 DAMAGE BY CONTRACTOR**

If Contractor's employees or subcontractors cause any injury, damage or loss to City property, including but not limited to City streets or curbs, Contractor shall reimburse City for City's cost of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of City to be indemnified by Contractor for any such injury, damage or loss. With the prior written approval of City, Contractor may repair the damage at Contractor's sole cost and expense.

### **15.09 ACKNOWLEDGMENT**

It is acknowledged that each party was, or had the opportunity to be, represented by counsel in the preparation of and contributed equally to the terms and conditions of this Contract and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing the same shall not apply herein due to the joint contributions of both parties.

### **15.10 CONTRACTOR STATUS**

Contractor represents and warrants that it is duly organized, validly existing and in good standing under applicable laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Contract.

### **15.11 CONTRACTOR AUTHORIZATION**

Contractor represents and warrants that it has the authority to enter into and perform its obligations under this Contract. The Board of Directors of Contractor (or the shareholders, if necessary) has taken all actions required by law, its articles of

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

incorporation, its bylaws or otherwise to authorize the execution of this Contract. The Persons signing this Contract on behalf of Contractor have authority to do so. Contractor shall authorize one employee for the City as a single point of contact for issues arising under this Contract, and Contractor acknowledges and agrees that City may expect and assume that this employee's actions are taken on behalf of and with the full approval of the Contractor.

### **15.12 REPRESENTATIONS**

Contractor warrants and represents that no elected official, officer, agent or employee of the City has a financial interest, directly or indirectly, in this Contract, the compensation to be paid under it and, further, that no City employee who acts in the City as a "purchasing agent" as defined in the appropriate Section of California Statutes, nor any elected or appointed officer of the City, nor any spouse or child of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director or proprietor of the Contractor and, further, that no such City employee, purchasing agent, City elected or appointed officer, or the spouse or child of any of them, alone or in combination, has a material interest in the Contractor. Material interest means direct or indirect ownership of more than five percent (5%) of the total assets or capital stock of the Contractor.

Contractor represents that Contractor is familiar with City's prohibition against the acceptance of any gift by a City officer or designated employee. Contractor shall not offer any City officer or designated employee any gifts prohibited by the City.

### **15.13 PERMITS & LICENSES**

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

## LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

### **15.14 CITY OWNERSHIP**

All reports, documents, brochures, public education materials, and other written, printed, electronic or photographic materials developed by City or Contractor in connection with the services to be performed under this Contract, whether developed directly or indirectly by City or Contractor shall be and shall remain the property of City without limitation or restrictions on the use of such materials by City. Notwithstanding the above, all financial records and data remain the property of Contractor. Contractor shall not use such materials in connection with any project not connected with this Contract without the prior written consent of the Contract Administrator. This Article 15.14 does not apply to ideas or concepts described in such materials and does not apply to the format of such materials.

### **15.15 EXEMPT WASTE**

The Contractor shall not be required to collect or dispose of Exempt Waste, but may offer such services. All such Collection and disposal of Exempt Waste is not regulated under this Contract, but if provided by the Contractor shall be in strict compliance with all federal, state and local laws and regulations. If Contractor is aware of any Exempt Waste and chooses not to collect it, Contractor must notify City of the Exempt Waste.

## **ARTICLE 16. NOTICES**

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

#### **As to the CITY:**

City of Los Alamitos  
City Manager or His Designee  
3191 Katella Ave  
Los Alamitos, CA 90720

LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

**As to the CONTRACTOR:**

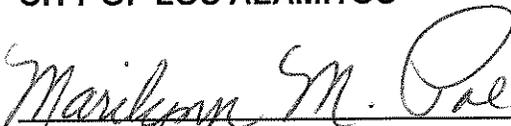
Consolidated Disposal Service, LLC  
Attn: Area President  
12949 Telegraph Road  
Santa Fe Springs, CA 90670

(562) 347-4055 Notices shall be effective when received at the address as specified above. Changes in the respective address to which such notice is to be directed may be made by written notice. Facsimile transmission is acceptable notice, effective when received; facsimile transmissions received (i.e., printed) after 4:30 p.m. or on weekends or holidays will be deemed received on the next business day. The original of items that are transmitted by facsimile equipment must also be mailed as required herein.

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

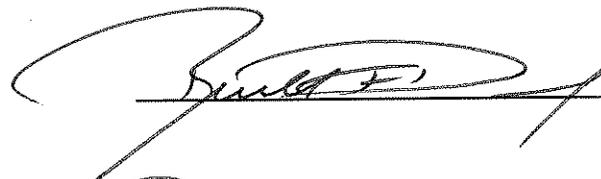
IN WITNESS WHEREOF, the City and the Contractor have executed this Contract on the respective date(s) below each signature.

**CITY OF LOS ALAMITOS**

  
\_\_\_\_\_  
Marilynn M. Poe  
Mayor

6-28-2010  
Date

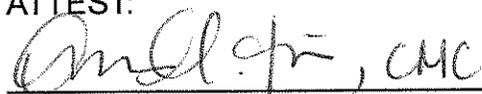
**CONTRACTOR**

  
\_\_\_\_\_  
Russell F. Dix V.P.

Russell F. Dix V.P.  
Name/Title

7/1/10  
Date

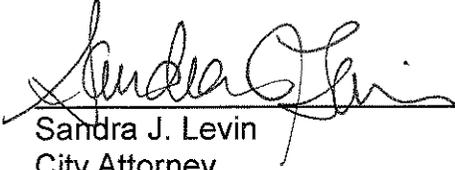
**ATTEST:**

  
\_\_\_\_\_  
Adria M. Jimenez, CMC  
City Clerk

06/22/10  
Date

LOS ALAMITOS/CONSOLIDATED DISPOSAL SOLID WASTE SERVICES CONTRACT

APPROVED AS TO FORM:

  
\_\_\_\_\_

Sandra J. Levin  
City Attorney

7/6/10  
\_\_\_\_\_

Date

## EXHIBIT 1 – INITIAL RATES

### MAXIMUM RESIDENTIAL SERVICES RATES

RESIDENTIAL PREMISES		MAXIMUM RATE	
<b>A.</b>	CART SERVICE – One 96-gallons capacity each: refuse, recycling, and green waste carts – weekly collection;	\$11.80	Per Month
<b>B.</b>	Additional Refuse Cart(s) – Each	\$7.00	Per Month
<b>C.</b>	Additional Green Waste Cart(s) – Each	\$3.50	Per Month
<b>D.</b>	Additional Recycling Carts will be free of charge.	No Charge	
<b>E.</b>	On-Call Bulky beyond two per year	\$25.00	Per item
<b>F.</b>	Cart addition, removal or exchange beyond three (3) per calendar year.	\$20.00	Per Trip
<b>G.</b>	Cart Replacement Due to Customer Damage	\$45.00	Per Event
<b>H.</b>	Annual Holiday Tree Collection	No Charge	
<b>I.</b>	Household Hazardous Waste Collection	\$0.40	Per Month
<b>J.</b>	Cart Roll-Out Service – Incremental Charge	\$25.00	Per Month

**MAXIMUM MONTHLY BIN SERVICE RATES  
COMMERCIAL AND MULTI-FAMILY**

Container Size	Pickups per week					
	1 x wk	2 x wk	3 x wk	4 x wk	5 x wk	6 x wk
2 Cubic Yards	\$103.50	\$155.44	\$208.02	\$260.62	\$310.69	\$362.04
3 Cubic Yards	\$117.23	\$182.42	\$249.31	\$312.10	\$375.21	\$437.72
4 Cubic Yards	\$162.12	\$233.31	\$297.60	\$359.99	\$418.81	\$482.40
Locking Bin Fee	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
Scout Service	\$10.00	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00
Extra Dump	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00
100-Gal Cart	\$24.35	\$48.70	\$73.05	\$97.40	\$121.75	\$146.10

**MAXIMUM MONTHLY RECYCLING BIN SERVICE RATES**

Container Size	Pickups per week					
	1 x wk	2 x wk	3 x wk	4 x wk	5 x wk	6 x wk
2 Cubic Yards	\$48.70	\$73.15	\$97.89	\$122.65	\$146.21	\$170.37
3 Cubic Yards	\$55.17	\$85.84	\$117.32	\$146.87	\$176.57	\$205.99
4 Cubic Yards	\$76.29	\$109.79	\$140.05	\$169.41	\$197.09	\$227.01
Locking Bin Fee	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
Scout Service	\$10.00	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00
Extra Dump	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00

100-Gal Cart	\$24.35	\$48.70	\$73.05	\$97.40	\$121.75	\$146.10
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**MAXIMUM MONTHLY GREEN WASTE BIN SERVICE RATES**

Container Size	Pickups per week					
	1 x wk	2 x wk	3 x wk	4 x wk	5 x wk	6 x wk
2 Cubic Yards	\$103.50	\$155.44	\$208.02	\$260.62	\$310.69	\$362.04
3 Cubic Yards	\$117.23	\$182.42	\$249.31	\$312.10	\$375.21	\$437.72
4 Cubic Yards	\$162.12	\$233.31	\$297.60	\$359.99	\$418.81	\$482.40
Locking Bin Fee	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00
Scout Service	\$10.00	\$20.00	\$30.00	\$40.00	\$50.00	\$60.00
Extra Dump	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00	\$35.00
100-Gal Cart	\$24.35	\$48.70	\$73.05	\$97.40	\$121.75	\$146.10

**MAXIMUM RATES – OTHER SERVICES**

OTHER SERVICES		MAXIMUM RATE	
<b>A.</b>	Household Hazardous Waste Collection – Multi-Family.	\$0.40	Per Unit Per Month
<b>B.</b>	On-Call Bulky beyond two per year – Commercial & Multi-Family	\$25.00	Per Item
<b>C.</b>	Annual Holiday Tree Collection	No Charge	
<b>E.</b>	On-Call E-Waste - Commercial	\$25.00	Per Item
<b>F.</b>	On-Call E-Waste – City Services	No Charge	

<b>G.</b>	Emergency Services	\$100.00	Per Hour
<b>H.</b>	Maximum Late Fee	1.5%	Per Month

**MAXMIMUM RATES – U-WASTE COLLECTION – COMMERCIAL & CITY SERVICES**

	TYPE	PRICE	PER UNIT
<b>A.</b>	Fluorescent tubes, straight	\$0.20	Foot
<b>B.</b>	Utube/Compact/Biax	\$0.85	Lamp
<b>C.</b>	Incandescent	\$0.40	Lamp
<b>D.</b>	Ultraviolet/Germicidal	\$4.00	Lamp
<b>E.</b>	Coated or Scattershield	\$2.50	Lamp
<b>F.</b>	Low/High Pressure Sodium	\$1.94	Lamp
<b>G.</b>	HID/Mercury/Metal Halide	\$1.94	Lamp
<b>H.</b>	Broken lamps in 5 gal pail	\$50.00	Pail
<b>I.</b>	Household Batteries	\$1.80	Pound
	<b>BALLAST DISPOSAL</b>		
<b>J.</b>	Recycle/Landfill=non-PCB	\$0.75	Pound
<b>K.</b>	PCB Containing	\$0.81	Pound
<b>L.</b>	Stop Charge	\$65.00	

## EXHIBIT 2A

### EXAMPLE RATE ADJUSTMENT – RESIDENTIAL CUSTOMERS

STEP ONE: Calculate Percentage Change in Indices		A	B	C	
Row	Rate Component	Old Index	New Index	Percent Change in Index ((Column B/ Column A)-1)	
1	Service <sup>(1)</sup>	173.50	177.00	2.02%	
2	Fuel <sup>(2)</sup>	10.19	10.50	3.04%	
3	Direct Disposal <sup>(3)</sup>	29.95	31.25	4.34%	
4	Green Waste <sup>(4)</sup>	19.95	20.50	2.76%	
STEP TWO: Determine Weighted Change		D	E	F	
Row	Rate Component	Maximum Allowed Percentage Change	Component Weighting	Total Weighted Change (Column D x E)	
5	Service <sup>(5)</sup>	2.02%	62.50%	1.26%	
6	Fuel <sup>(5)</sup>	3.04%	5.00%	0.15%	
7	Direct Disposal <sup>(6)</sup>	4.34%	20.80%	0.90%	
8	Green Waste <sup>(6)</sup>	2.76%	11.70%	0.32%	
9	Total Cart Service Percentage Rate Adjustment			2.64%	
STEP THREE: Apply Percentage Change to Rates		G	H	I	J
Row	Rate Category	Current Rate	Total Weighted Percentage Change (from Row 10, Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
10	CART SERVICE	11.80	2.64%	0.31	12.11
11	Additional Refuse Cart(s) Each	7.00	2.64%	0.18	7.18
12	Additional Green Waste Cart(s) Each	3.50	2.64%	0.09	3.59
13	On-Call Bulky Item Beyond Two per Year	25.00	2.64%	0.66	25.66
14	Cart Delivery, Removal or Exchange	20.00	2.64%	0.53	20.53
15	Cart Roll-Out Service	25.00	2.64%	0.66	25.66
16	HHW	0.40	2.64%	0.01	0.41

- <sup>(1)</sup> Consumer price index - All Urban Consumers, All Items, Los Angeles - Riverside - Orange County, CA CUURA421SAC as of February prior to July 1 when the rate change will take effect. Initial index based on CPI for February 2011.
- <sup>(2)</sup> Change in DOE Diesel (On Highway) prices published in the Official Energy Statistics from the United States Department of Energy website: [http://tonto.eia.doe.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_sca\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_sca_m.htm) as of February prior to July 1 when the rate change will take effect. Initial index based on February 2011.
- <sup>(3)</sup> Disposal gate fee for solid waste at Orange County Landfills as per Waste Disposal Agreement for July 1 when the rate change will take effect. Initial index will be 29.95.
- <sup>(4)</sup> Posted gate rate for green waste at Puente Hills landfill; initial index will be 19.95.
- <sup>(5)</sup> Maximum allowed percentage change not to exceed 5.0%
- <sup>(6)</sup> Maximum allowed percentage change not to exceed 5%

**EXHIBIT 2B**  
**EXAMPLE RATE ADJUSTMENT – BIN CUSTOMERS**

STEP ONE: Calculate Percentage Change in Indices		A	B	C	
Row	Rate Component	Old Index	New Index	Percent Change in Index ((Column B/Column A)-1)	
1	Service <sup>(1)</sup>	173.50	177.00	2.02%	
2	Fuel <sup>(2)</sup>	10.19	10.50	3.04%	
3	MRF Disposal <sup>(3)</sup>	29.95	31.25	4.34%	
STEP TWO: Determine Weighted Change		D	E	F	
Row	Rate Component	Maximum Allowed Percentage Change	Component Weighting	Total Weighted Change (Column D x E)	
4	Service <sup>(4)</sup>	2.02%	45.20%	0.91%	
5	Fuel <sup>(4)</sup>	3.04%	5.00%	0.15%	
6	MRF Service <sup>(4)</sup>	2.02%	19.50%	0.39%	
7	MRF Disposal <sup>(5)</sup>	4.34%	30.30%	1.32%	
8	Total Bin Service Percentage Rate Adjustment			<b>2.77%</b>	
STEP THREE: Apply Percentage Change to Rates		G	H	I	J
Row	Rate Category	Current Rate	Total Weighted Percentage Change (from Row 8, Column F)	Rate Increase or Decrease (Column G x Column H)	Adjusted Rate (Column G + Column I)
9	Refuse 2 Cu Yards 1 x Wk	103.50	2.77%	2.87	106.37
10	Refuse 2 Cu Yards 2 X Wk	155.44	2.77%	4.31	159.75
11	Refuse 2 Cu Yards 3 X Wk	208.02	2.77%	5.77	213.79
12	Refuse 2 Cu Yards 4 X Wk	260.62	2.77%	7.23	267.85
13	Refuse 2 Cu Yards 5 X Wk	310.69	2.77%	8.61	319.30
14	Refuse 2 Cu Yards 6 X Wk	362.04	2.77%	10.04	372.08
15	Refuse 3 Cu Yards 1 x Wk	117.23	2.77%	3.25	120.48
16	Refuse 3 Cu Yards 2 X Wk	182.42	2.77%	5.06	187.48
17	Refuse 3 Cu Yards 3 X Wk	249.31	2.77%	6.91	256.22
18	Refuse 3 Cu Yards 4 X Wk	312.10	2.77%	8.65	320.75
19	Refuse 3 Cu Yards 5 X Wk	375.21	2.77%	10.40	385.61
20	Refuse 3 Cu Yards 6 X Wk	437.72	2.77%	12.14	449.86
21	Refuse 4 Cu Yards 1 x Wk	162.12	2.77%	4.49	166.61
22	Refuse 4 Cu Yards 2 X Wk	233.31	2.77%	6.47	239.78
23	Refuse 4 Cu Yards 3 X Wk	297.60	2.77%	8.25	305.85
24	Refuse 4 Cu Yards 4 X Wk	359.99	2.77%	9.98	369.97
25	Refuse 4 Cu Yards 5 X Wk	418.81	2.77%	11.61	430.42
26	Refuse 4 Cu Yards 6 X Wk	482.40	2.77%	13.37	495.77
27	Scout Service	10.00	2.77%	0.28	10.28
28	Extra Dump	24.35	2.77%	0.68	25.03

- <sup>(1)</sup> Consumer price index - All Urban Consumers, All Items, Los Angeles - Riverside - Orange County, CA CUURA421SAC as of February prior to July 1 when the rate change will take effect. Initial index based on CPI for February 2011.
- <sup>(2)</sup> Change in DOE Diesel (On Highway) prices published in the Official Energy Statistics from the United States Department of Energy website: [http://tonto.eia.doe.gov/dnav/pet/pet\\_pri\\_gnd\\_dcus\\_sca\\_m.htm](http://tonto.eia.doe.gov/dnav/pet/pet_pri_gnd_dcus_sca_m.htm) as of February prior to July 1 when the rate change will take effect. Initial index based February 2011.
- <sup>(3)</sup> Disposal gate fee for solid waste at Orange County Landfills as per Waste Disposal Agreement for July 1 when the rate change will take effect. Initial index will be 29.95.
- <sup>(4)</sup> Maximum allowed percentage change not to exceed 5.0%
- <sup>(5)</sup> Maximum allowed percentage change not to exceed 5.0%

**EXHIBIT 3**  
**PERFORMANCE BOND**

(To be inserted after contract award)

**EXHIBIT 4**  
**LIST OF CITY FACILITIES**

Laurel Park	10862 Bloomfield Street
Little Cottonwood Park	4000 Farquhar Avenue
Orville R. Lewis Park	3662 Kempton Drive
Labourdette Park	4401 Howard Avenue
Soroptimist Park	10822 Pine Street
Stansbury Park	3711 Toland Avenue
Sterns Park	3811 Farquhar Avenue
Roberts Park	10911 Oak Street
McAuliffe Middle School (Athletic Field)	4112 Cerritos Avenue (field only)
Oak Middle School (Athletic)	10821 Oak Street (field only)
Los Alamitos Community Center	10911 Oak Street
Los Alamitos Youth Center	10909 Oak Street.
Pool at the JFTB	11360 Valley Forge Drive
City Hall Complex 1	3191 Katella Avenue
City Hall Complex 2	3191 Katella Avenue
LATV Studio	10921 Oak Street
Police Station	3201 Katella Avenue
Finley Pump Station	Cul-de-sac at Finley Drive (no trash bins needed)
Los Alamitos Museum	11062 Los Alamitos Blvd (no trash bin needed)