

**AMENDMENT 1 TO**  
***FRANCHISE AGREEMENT***

*For*

***RESIDENTIAL AND COMMERCIAL  
GARBAGE, RECYCLABLE MATERIAL  
AND ORGANIC WASTE COLLECTION  
SERVICES***

*Between*

***CITY OF HALF MOON BAY***

*And*

***BFI Waste Systems  
of North America, LLC***

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## **FRANCHISE AGREEMENT**

**ORDINANCE NO.** \_\_\_\_\_

### **FRANCHISE AGREEMENT FOR COLLECTION AND DISPOSAL OF SOLID WASTE AND RECYCLABLES IN THE CITY OF HALF MOON BAY, CALIFORNIA**

THIS FRANCHISE AGREEMENT (“Agreement”), was made and entered into at Half Moon Bay, California, the 5<sup>th</sup> day of September 2017, (the “Effective Date”) by and between the City of Half Moon Bay, hereinafter referred to as “CITY,” and BFI Waste Systems of North America, LLC, a California Corporation, dba Republic Services of San Mateo County, a wholly-owned subsidiary of Republic Services, Inc. hereinafter referred to as “CONTRACTOR” and on this 1st day of July, 2021 is amended to clarify certain provisions.

#### **RECITALS:**

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

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

**WHEREAS;** pursuant to its Charter and California Public Resources Code Section 40059(a) as may be amended from time to time, CITY has determined that the public health, safety, and well-being require that an exclusive right be awarded to a qualified contractor to provide for the collection of garbage, recyclable materials, and organic waste materials, except for collection of materials excluded in CITY’S Municipal Code, and other services related to meeting the Act’s 50 percent diversion goal and other requirements of the Act; and,

**WHEREAS;** CITY further declares its intent to regulate the maximum rates CONTRACTOR may charge customers for the collection, transportation, processing, recycling, composting, and/or disposal of garbage, recyclable materials, and organic waste materials; and,

**WHEREAS;** the City Council has determined that CONTRACTOR, by demonstrated experience, reputation and capacity, is qualified to provide for the collection of garbage, recyclable materials, and organic waste materials within the corporate limits of CITY, the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and City Council desires that CONTRACTOR be engaged to perform such services on the basis set forth in this Agreement; and,

**WHEREAS;** CONTRACTOR, has represented that it has the ability and capacity to provide for the collection of garbage, recyclable materials, and organic waste materials within the corporate limits of CITY; the transportation of such material to appropriate places for processing, recycling, composting and/or disposal; and the processing of materials.

## **FRANCHISE AGREEMENT**

Now, therefore, in consideration of the mutual covenants, conditions and consideration contained herein, CITY and CONTRACTOR hereby agree as hereinafter set forth below:

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### 70 ARTICLE 1. Definitions

71 For the purpose of this Collection Service Agreement, hereinafter referred to as "Agreement", the  
72 definitions contained in this Article shall apply unless otherwise specifically stated. If a word or  
73 phrase is not defined in this Article, the definition of such word or phrase as contained in the CITY  
74 Municipal Code shall control. When not inconsistent with the context, words used in the present  
75 tense include the future, words in the plural include the singular, and words in the singular include  
76 the plural. Use of the masculine gender shall include the feminine gender.

77 1.01 AB 341. State of California Assembly Bill No. 341 approved October 5, 2011. AB 341  
78 requires businesses, defined to include commercial or public entities that generate more than 4  
79 cubic yards of commercial solid waste per week or multifamily residential dwellings of 5 units or  
80 more to arrange for recycling services, on and after July 1, 2012. AB 341 requires jurisdictions,  
81 on and after July 1, 2012, to implement a commercial solid waste recycling program.

82 1.02 AB 939. The California Integrated Waste Management Act of 1989, codified in part  
83 at Public Resources Code §§ 40000 et seq., as it may be amended and as implemented by the  
84 regulations of the California Department of Resources Recycling and Recovery (CalRecycle), or  
85 its successor agency.

86 1.03 AB 1594. State of California Assembly Bill No. 1594 approved September 28, 2014.  
87 AB 1594 provides that the use of green material as Alternative Daily Cover does not constitute  
88 diversion through recycling and would be considered disposal.

89 1.04 AB 1826. State of California Assembly Bill No. 1826 approved September 28, 2014.  
90 AB 1826 requires each jurisdiction, on and after January 1, 2016, to implement an organic waste  
91 recycling program to divert organic waste from businesses. Each business meeting specific  
92 organic waste or solid waste generation thresholds phased in from April 1, 2016 to January 1,  
93 2020 is required to arrange for organic waste recycling services.

94 1.05 Agreement. This written document and all amendments thereto, between CITY and  
95 CONTRACTOR, governing the provision of Collection Services as provided herein.

96 1.06 Agreement Year. Each twelve (12) month period from April 1st to March 31st during  
97 the term of this Agreement, beginning April 1, 2018.

98 1.07 Alternative Daily Cover (ADC). Landfill cover material and at least six (6) inches of  
99 earthen material, placed on the surface of the active face of the refuse fill area at the end of each  
100 operating day to control vectors, fires, odor, blowing litter and scavenging, as defined in Title 27  
101 of the California Code of Regulations (C.C.R.) Section 20164.

102 1.08 Beneficial Reuse. Using a waste byproduct or other low-value material for a  
103 productive use, other than ADC/AIC, at a landfill within regulatory guidelines. Examples include  
104 demolition waste that is used as road base or cell wall construction.

105 1.09 Biohazardous or Biomedical Waste. Any waste which may cause disease or  
106 reasonably be suspected of harboring pathogenic organisms; included are waste resulting from  
107 the operation of medical clinics, hospitals, and other facilities processing wastes which may  
108 consist of, but are not limited to, human and animal parts, contaminated bandages, pathological  
109 specimens, hypodermic needles, sharps, contaminated clothing and surgical gloves.

110 1.10 Brown Goods. Electronic equipment such as stereos, televisions, VCRs, Personal  
111 Data Assistants (PDAs), telephones, and other similar items not containing cathode ray tubes  
112 (CRTs).

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113           1.11 Bulky Waste. Includes Large Items; Large Green Waste; discarded furniture; carpets;  
114 mattresses; household appliances including refrigerators, ranges, washers, dryers, water heaters,  
115 and dishwashers and other similar items; large household goods including lawn and garden  
116 equipment (drained of fluids), bicycles and other similar large personal items. Bulky Waste does  
117 not include Exempt Waste or Construction and Demolition Debris.

118           1.12 Business Service Unit. All business, retail, professional, office, wholesale and  
119 industrial facilities, and other commercial enterprises.

120           1.13 Change in Law(s). Any change in (or any new) laws, ordinances, rules, regulations,  
121 orders, judgments, decrees, interpretations, decisions or permit requirements, of or by any  
122 federal, state or local governmental entity (collectively, "Applicable Laws"), after the date hereof.

123           1.14 CITY. The City of Half Moon Bay, California.

124           1.15 City Collection Service. City Garbage Collection Service, City Recycling Collection  
125 Service, City Organic Waste Collection Service, and City Debris Box Collection Service.

126           1.16 City Debris Box Collection Service. The Collection in Debris Boxes of City Garbage,  
127 Recyclable Materials, or Organic Waste generated by City Services Units, Collected and delivered  
128 by CONTRACTOR to an appropriate processing facility or Disposal Facility.

129           1.17 City Garbage Collection Service. The Collection of Garbage generated from City  
130 Service Units that is Collected and delivered to the Disposal Facility by CONTRACTOR.

131           1.18 City Organic Waste. Green Waste and Food Waste separated at the source of  
132 generation for inclusion in CITY Organic Waste Collection Service program.

133           1.19 City Organic Waste Collection Service. The Collection of City Organic Waste,  
134 generated from City Service Units, that is Collected and delivered to the Organic Waste  
135 Processing Facility by CONTRACTOR.

136           1.20 City Recycling Collection Service. The Collection of Recyclable Materials, generated  
137 from City Service Units, that is Collected and delivered to the Materials Recovery Facility by  
138 CONTRACTOR.

139           1.21 City Representative. The City Manager, or his/her designee, authorized to administer  
140 and monitor the provisions of this Agreement.

141           1.22 City Service Unit. Those CITY properties or locations as set forth in **Exhibit 2**, "City  
142 Service Units", which is attached to and included in this Agreement.

143           1.23 City Street. Public streets within the CITY, as designated by the CITY  
144 Representative. CITY Streets include large arterials, major collectors, and residential streets  
145 throughout the CITY.

146           1.24 Collection. The process whereby Garbage, Recyclable Materials, Organic Waste and  
147 Construction and Demolition Debris are removed and transported to a Disposal Facility, an  
148 Organic Waste Processing Facility, or a Materials Recovery Facility, as appropriate.

149           1.25 Collection Services. Single-Family Collection Service (SFD), Multi-family Collection  
150 Service (MFD), City Collection Service, and Commercial Collection Service.

151           1.26 Commercial Collection Service. Commercial Garbage Collection Service,  
152 Commercial Recycling Collection Service, Commercial Organic Waste Collection Service, and  
153 Commercial Debris Box Collection Service.

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154           1.27 Commercial Debris Box Collection Service. The Collection in Debris Boxes of  
155 Commercial Garbage, Recyclable Materials, or Organic Waste by CONTRACTOR from  
156 Commercial Service Units in the Service Area, and the delivery of collected Commercial Debris  
157 Boxes to an appropriate processing facility or disposal facility.

158           1.28 Commercial Organic Waste. Green Waste and Food Waste separated at the source  
159 of generation for inclusion in the Commercial Organic Waste Collection Service program.

160           1.29 Commercial Organic Waste Collection Service. The Collection of Commercial  
161 Organic Waste by CONTRACTOR from Commercial Service Units in the Service Area, and the  
162 delivery of that Commercial Organic Waste to an Organic Waste processing facility.

163           1.30 Commercial Recycling Collection Service. The Collection of Recyclable Materials by  
164 CONTRACTOR from Commercial Service Units in the Service Area, the delivery of those  
165 Recyclable Materials to a Materials Recovery Facility, and the processing and marketing of those  
166 Recyclable Materials.

167           1.31 Commercial Service Unit. Business Service Units that utilize a Garbage Cart or Bin  
168 for the accumulation and set-out of Garbage.

169           1.32 Commercial Garbage Collection Service. The Collection of Garbage by  
170 CONTRACTOR, from Commercial Service Units in the Service Area, and the delivery of that  
171 Garbage to the Disposal Facility.

172           1.33 Compactor. Any Debris Box Container or Bin, which has a compaction mechanism,  
173 whether stationary or mobile.

174           1.34 Composting. The controlled biological decomposition of Organic Waste into a  
175 specific mixture of decayed organic matter used for fertilizing or soil conditioning.

176           1.35 Construction and Demolition Debris. Commonly used or discarded materials  
177 removed from construction, remodeling, repair, demolition, or renovation operations on any  
178 pavement, house, commercial building, or other structure, or from landscaping. Such materials  
179 include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard,  
180 aluminum, glass, asphalt material, plastics, roofing material, cardboard, carpeting, cinder blocks,  
181 concrete, copper, electrical wire, fiberglass, Formica, granite, iron, lead, linoleum, marble, plaster,  
182 plant debris, pressboard, porcelain, steel, stucco, tile, vinyl, wood, masonry, rocks, trees,  
183 remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal,  
184 building materials, packaging and rubble resulting from construction, remodeling, renovation,  
185 repair and demolition operations on pavements, houses, commercial buildings and other  
186 structures. Construction and Demolition Debris does not include Exempt Waste.

187           1.36 Construction and Demolition Debris Processing Facility. Any facility selected by  
188 CONTRACTOR that is operated and legally permitted for the purpose of receiving and processing  
189 Construction and Demolition Debris.

190           1.37 CONTRACTOR. Republic Services of San Mateo County.

191           1.38 County. San Mateo County, California.

192           1.39 Consumer Price Index (CPI). The index published by the U.S. Department of Labor,  
193 Bureau of Labor Statistics, Series Id: CUURA422SA0, Not Seasonally Adjusted, All Items, All  
194 Urban Consumers (CPI-U) for San Francisco-Oakland-San Jose, California.

195           1.40 Curb Sweeping. A complete sweep of all curbs and Median Islands on all publicly  
196 maintained CITY Streets.

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197           1.41 Customer. Means a Service Recipient that receives Collection Services under the  
198 terms of this Collection Service Agreement.

199           1.42 Debris Box Collection Service. Collection utilizing 10 to 40 cubic yard containers, on  
200 a temporary or permanent basis, and provided to Service Units for the Collection of Garbage,  
201 Recyclable Materials, and Organic Waste, and for the delivery of that material to an appropriate  
202 facility.

203           1.43 Debris Box Container. A metal container that is normally tipped loaded onto a motor  
204 vehicle and transported to an appropriate facility.

205           1.44 Detailed Rate Review. The review and adjustment of Maximum Service Rates in  
206 accordance with the methodology specified in **Exhibit 5**.

207           1.45 Disposal Facility. Any facility selected by CONTRACTOR and approved by CITY, or  
208 specifically designated by CITY, that is operated and legally permitted for the purpose of  
209 accepting materials for disposal. The initial Disposal Facility is the Ox Mountain Landfill, located  
210 at 12310 San Mateo Rd, Half Moon Bay, CA 94019.

211           1.46 Dwelling Unit. Any individual living unit in a single-family dwelling (SFD) or multi-  
212 family dwelling (MFD) structure or building intended for, or capable of being utilized for, residential  
213 living other than a Hotel or Motel.

214           1.47 Effective Date. April 1, 2018.

215           1.48 E-Waste. Discarded electronics equipment such as cell phones, PDAs, computers,  
216 monitors, televisions, and other items containing cathode ray tubes (CRTs), LCD or plasma  
217 screens and monitors.

218           1.49 Exempt Waste. Biohazardous or Biomedical Waste (including Sharps), Hazardous  
219 Waste, Sludge, automobiles, automobile parts, boats, boat parts, boat trailers, internal  
220 combustion engines, and those wastes under the control of the Nuclear Regulatory Commission.

221           1.50 Food Waste. Food scraps and trimmings and other putrescible waste that results  
222 from food production, preparation, storage, consumption or handling. Food Waste includes but is  
223 not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, Stable Matter,  
224 acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard and food  
225 contaminated paper products. Food Waste does not include Exempt Waste.

226           1.51 Garbage. All putrescible and non-putrescible solid, semi-solid and associated liquid  
227 waste, as defined in California Public Resources Code Section 40191. Garbage does not include  
228 Recyclable Materials, Organic Waste, Construction and Demolition Debris, Bulky Waste, or  
229 Exempt Waste.

230           1.52 Garbage Bin. A metal or plastic container, with a capacity of one (1) cubic yard up  
231 to, and including, six (6) cubic yards, designed or intended to be mechanically dumped into a  
232 loader packer type garbage truck that is approved for such purpose by CITY. Garbage Bins may  
233 also include Compactors that are owned by the MFD or Commercial Service Unit wherein the  
234 MFD or Commercial Collection Service occurs.

235           1.53 Garbage Cart. A heavy plastic receptacle with a rated capacity of at least twenty  
236 (20) gallons and not more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels,  
237 that is approved by the City Representative (if different from those currently in use by  
238 CONTRACTOR) for use by Service Recipients for Collection Services under this Agreement.

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239           1.54 Green Waste. Any vegetative matter resulting from normal yard and landscaping  
240 maintenance that is not more than three (3) feet in its longest dimension or six (6) inches in  
241 diameter and fits in the Organic Waste Cart utilized by the Service Recipient. Green Waste  
242 includes plant debris, such as Palm, Yucca and Cactus, ivy, grass clippings, leaves, pruning,  
243 weeds, branches, brush, Christmas trees, and other forms of vegetative waste and must be  
244 generated by and set out for Collection at the Service Unit where the Green Waste is collected.  
245 Green Waste does not include items herein defined as Exempt Waste.

246           1.55 Gross Revenue. All revenue amounts collected by CONTRACTOR for the provision  
247 of Collection Services pursuant to this Agreement, calculated in accordance with Generally  
248 Accepted Accounting Procedures (GAAP). The term Gross Revenue, for purposes of this  
249 Agreement, does not include any revenues generated from the sale of Recyclable Material, or  
250 other receipts from state and local government accounts (e.g. grants, cash awards and rebates)  
251 resulting from the performance of this Agreement.

252           1.56 Hazardous Waste. Any material which is defined, regulated or listed as “hazardous”,  
253 “toxic”, a “pollutant”, or words of similar import waste under California or United States law or any  
254 regulations promulgated pursuant to such law, as such state or federal law or regulations may be  
255 amended from time to time; and “designated waste” as defined in California Water Code Section  
256 13173.

257           1.57 Household Hazardous Waste (HHW). HHW includes dry cell household batteries,  
258 cell phones and PDAs; used motor oil; used oil filters when contained in a sealed plastic bag;  
259 cooking oil; compact fluorescent light bulbs contained in a sealed plastic bag; cleaning products,  
260 pesticides, herbicides, insecticides, painting supplies, automotive products, solvents, strippers,  
261 adhesives, auto batteries, and Universal Waste.

262           1.58 Kitchen Food Waste Pail. A plastic receptacle with a rated capacity not exceeding  
263 one and one-half (1.5) gallons, having a hinged lid, suitable for use in a SFD or MFD Service Unit  
264 for temporary storage of SFD and MFD Organic Waste that is approved for such purpose by CITY.

265           1.59 Large Items. Those materials including furniture, carpets, mattresses, White Goods,  
266 Brown Goods, E-Waste, clothing, tires without rims, Green Waste, and Large Green Waste which  
267 are attributed to the normal activities of a SFD Service Unit, MFD Service Unit, or City Service  
268 Unit. Large Items must be generated by and set out for Collection at the Service Unit where the  
269 Large Items are collected. Large Items do not include items herein defined as Exempt Waste.

270           1.60 Large Green Waste. Oversized Green Waste such as tree trunks and branches with  
271 a diameter of not less than six (6) inches and not more than two (2) feet and a length of not more  
272 than six (6) feet in its longest dimension, and not weighing more than seventy (70) pounds, which  
273 are attributed to the normal activities of a SFD, MFD, or City Service Unit. Large Green Waste  
274 must be generated by and set out for Collection at the Service Unit where the Large Green Waste  
275 is collected.

276           1.61 Material Change In Law(s). A Change in Law(s) that (a) results in a cumulative  
277 increase in CONTRACTOR's allowable costs of operation, or a reduction in CONTRACTOR's  
278 Agreement Year Gross Revenue over two (2) consecutive years period, of at least Seventy-Five  
279 Thousand Dollars (\$75,000), and (b) relates specifically to any aspect of the solid waste industry  
280 (including, for the avoidance of doubt and without limitation, changes to the California Integrated  
281 Waste Management Act (CIWMA), changes to CalRecycle regulations, or changes to other  
282 Applicable Laws relating specifically to any aspect of “solid waste handling,” “solid waste disposal”  
283 or “solid waste facilities,” as such terms are defined in the CIWMA).

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284           1.62 Materials Recovery Facility (MRF). Any facility selected by CONTRACTOR, and  
285 approved by CITY, or specifically designated by CITY, that is designed, operated, and legally  
286 permitted for the purpose of receiving, sorting, processing, storing, or preparing Recyclable  
287 Materials for sale. The initial MRF is the Newby Island Resource Park, located at 1601 Dixon  
288 Landfill Road, Milpitas, CA 95035.

289           1.63 Maximum Service Rates. The maximum amount that CONTRACTOR may charge  
290 Service Recipients for Collection Services, as listed in **Exhibit 1** and as may be adjusted in  
291 accordance with the provisions of this Agreement.

292           1.64 MFD Collection Service. MFD Garbage Collection Service, MFD Recycling Service,  
293 MFD Organic Waste Collection Service, MFD Bulky Waste Collection Service, and MFD Debris  
294 Box Collection Service.

295           1.65 MFD Debris Box Waste Collection Service. The Collection in Debris Boxes of MFD  
296 Garbage, Recyclable Materials, or Organic Waste by CONTRACTOR from MFD Service Units in  
297 the Service Area, and the delivery of Collected MFD Debris Boxes to an appropriate processing  
298 facility or disposal facility.

299           1.66 MFD Bulky Waste Collection Service. The periodic on-call Collection of a  
300 combination of Large Items Collected by CONTRACTOR, from MFD Service Units in the Service  
301 Area and the delivery of those Large Items to a Disposal Facility, Materials Recovery Facility,  
302 Organic Waste Processing Facility or such other facility as may be appropriate under the terms  
303 of this Agreement. MFD Bulky Waste Collection Service can include the Collection of Large Items  
304 through the use of Debris Boxes, at CONTRACTOR's option.

305           1.67 MFD Organic Waste. Green Waste and Food Waste separated at the source of  
306 generation for inclusion in the MFD Organic Waste Collection Service program.

307           1.68 MFD Organic Waste Collection Service. The Collection of MFD Organic Waste from  
308 MFD Service Units in the Service Area, and the delivery of that MFD Organic Waste to an Organic  
309 Waste processing facility.

310           1.69 MFD Recycling Service. The Collection of Recyclable Materials, by CONTRACTOR,  
311 from MFD Service Units in the Service Area, the delivery of those Recyclable Materials to a  
312 Materials Recovery Facility, and the processing and marketing of those Recyclable Materials.

313           1.70 MFD Service Unit. Any residential premises containing five (5) or more Dwelling  
314 Units.

315           1.71 MFD Garbage Collection Service. The Collection of Garbage, by CONTRACTOR,  
316 from MFD Service Units in the Service Area and the delivery of that Garbage to the Disposal  
317 Facility.

318           1.72 Non-Collection Notice. A form developed and used by CONTRACTOR, as approved  
319 by CITY (if different from the form commonly used by CONTRACTOR), to notify Service  
320 Recipients of the reason for non-collection of materials set out by the Service Recipient for  
321 Collection by CONTRACTOR pursuant to this Agreement.

322           1.73 Organic Waste. Food Waste and Green Waste, either separately or commingled  
323 with each other, that has been separated at the source of generation from Garbage and  
324 Recyclable Materials.

325           1.74 Organic Waste Bin. A metal or plastic container, with a capacity of one (1) cubic yard  
326 up to and including three (3) cubic yards, designed or intended to be mechanically dumped into  
327 a loader packer type truck that is approved for such purpose by CITY.

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328           1.75 Organic Waste Cart. A heavy plastic receptacle with a rated capacity of at least  
329 twenty (20) gallons and not exceeding ninety-six (96) gallons, having a hinged tight-fitting lid and  
330 wheels, that is approved for such purpose by CITY.

331           1.76 Organic Waste Processing Facility. Any facility selected by CONTRACTOR, and  
332 approved by CITY, or specifically designated by CITY, that is operated and legally permitted for  
333 the purpose of receiving and processing Organic Waste and Large Green Waste. The initial  
334 Organic Waste Processing Facility is the Newby Island Compost Facility, located at 1601 Dixon  
335 Landfill Road, Milpitas, CA 95035.

336           1.77 Overs Fraction. Large, woody parts of the compost pile that have not completely  
337 broken down and will not pass through a minus one-half inch (-1/2") trommel screen.

338           1.78 Recyclable Materials. Those discarded materials which are capable of being  
339 recycled and which have been separated at the source of generation from Garbage and Organic  
340 Waste would otherwise be processed or disposed of as Garbage. Recyclable Materials include  
341 the following materials defined by CITY: newsprint (including inserts); mixed paper (including  
342 magazines, catalogs, envelopes, junk mail, corrugated cardboard, brown bags and paper,  
343 paperboard, paper egg cartons, office ledger paper, and telephone books); glass containers;  
344 aluminum beverage containers; small scrap and cast aluminum (up to 20 pounds); steel including  
345 "tin" cans, empty aerosol cans (empty, non-toxic products) and small scrap (up to 20 pounds);  
346 bimetal containers; plastic food containers, #1-7 plastics regardless of form or mold (including but  
347 not limited to plastic containers, bottles, and wide mouth tubs), aluminum foil and pans.  
348 Recyclable Materials do not include Exempt Waste.

349           1.79 Recycling Bin. A plastic or metal container, with a capacity of one (1) cubic yard up  
350 to and including six (6) cubic yards, designed or intended to be mechanically dumped into a loader  
351 packer type recycling truck that is approved for such purpose by CITY and is appropriately labeled  
352 as a Recycling Bin.

353           1.80 Recycling Cart. A heavy plastic receptacle with a rated capacity of at least twenty  
354 (20) gallons and not more than ninety-six (96) gallons, having a hinged tight-fitting lid and wheels,  
355 that is approved for such purpose by CITY and is appropriately labeled as a Recycling Cart.

356           1.81 Service Area. That area within the corporate limits of the City of Half Moon Bay,  
357 California, as the same may be modified from time to time through annexation or otherwise.

358           1.82 Service Recipient. An individual or entity receiving Collection Service under this  
359 Agreement.

360           1.83 Service Unit. SFD Service Units, MFD Service Units, City Service Units, and  
361 Commercial Service Units.

362           1.84 SFD Collection Service. SFD Garbage Collection Service, SFD Recycling Collection  
363 Service, SFD Organic Waste Collection Service, SFD Bulky Waste Collection Service, and SFD  
364 Debris Box Collection Service.

365           1.85 SFD Debris Box Waste Collection Service. The Collection in Debris Boxes of SFD  
366 Garbage, Recyclable Materials, or Organic Waste by CONTRACTOR from SFD Service Units in  
367 the Service Area, and the delivery of Collected SFD Debris Boxes to an appropriate processing  
368 facility or disposal facility.

369           1.86 SFD Bulky Waste Collection Service. The periodic on-call Collection of a  
370 combination of Large Items Collected by CONTRACTOR, from SFD Service Units in the Service  
371 Area and the delivery of those Large Items to a Disposal Facility, Materials Recovery Facility,

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372 Organic Waste Processing Facility or such other facility as may be appropriate under the terms  
373 of this Agreement. SFD Bulky Waste Collection Service does not include the collection of Large  
374 Items through the use of Debris Box Containers.

375           1.87 SFD Organic Waste. Green Waste and Food Waste separated at the source of  
376 generation for inclusion in the SFD Organic Waste Collection Service program.

377           1.88 SFD Organic Waste Collection Service. The Collection of SFD Organic Waste by  
378 CONTRACTOR from SFD Service Units in the Service Area, the delivery of that Residential  
379 Organic Waste to an Organic Waste Processing Facility.

380           1.89 SFD Recycling Collection Service. The Collection of Recyclable Materials by  
381 CONTRACTOR from SFD Service Units in the Service Area, the delivery of those Recyclable  
382 Materials to a Materials Recovery Facility, and the processing and marketing of those Recyclable  
383 Materials.

384           1.90 SFD Garbage Collection Service. The Collection of Garbage, by CONTRACTOR,  
385 from SFD Service Units in the Service Area and the delivery of that Garbage to a Disposal Facility.

386           1.91 SFD Service Unit. Each Dwelling Unit in a residential premises containing no more  
387 than four (4) Dwelling Units.

388           1.92 Sharps. Sharps include needles, scalpels, blades, broken medical glass, broken  
389 capillary tubes, and ends of dental wires.

390           1.93 Sludge. The accumulated solids, residues, and precipitates generated as a result of  
391 waste treatment or processing, including wastewater treatment, water supply treatment, or  
392 operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks,  
393 grease traps, privies, or similar disposal appurtenances or any other such waste having similar  
394 characteristics or effects.

395           1.94 Solid Waste. Garbage, Recyclable Materials, Organic Waste, Construction and  
396 Demolition Debris, Large Items, and items dropped off at CONTRACTOR's drop-off events or  
397 CONTRACTOR's (or CONTRACTOR's affiliates') facilities pursuant to this Agreement (such as  
398 E-Waste and HHW).

399           1.95 Source-Separated. Source-Separated materials means materials of a particular type  
400 that have been separated by the generator from Garbage and materials of other types and placed  
401 in the Container designated for Collection of that particular type of materials.

402           1.96 Stable Matter. Manure and other waste matter normally accumulated and associated  
403 with stables or in domestic livestock.

404           1.97 Street Sweeping Service. The sweeping of streets in the CITY and the transportation  
405 of Sweep Waste by CONTRACTOR to the Disposal Facility.

406           1.98 Sweep Waste. The accumulated waste materials generated as a result of performing  
407 Street Sweeping Services. Sweep Waste includes, but is not limited to, deposits of loose dirt,  
408 rocks, glass, cans, leaves, sticks, papers, Organic Waste residue or any like materials that can  
409 be removed by Street Sweeping operations.

410           1.99 Sweeper Route. A daily path or itinerary followed by a sweeper that has been clearly  
411 divided into a.m. and p.m. sections.

412           1.100 Universal Waste. Televisions, computer monitors, consumer electronics with  
413 circuit boards, fluorescent lamps, cathode ray tubes, non-empty aerosol cans, instruments and  
414 switches that contain mercury, and dry cell batteries containing cadmium copper, or mercury.

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415           1.101 White Goods. Discarded refrigerators, ranges, water heaters, freezers, and other  
416 similar household appliances.

417           1.102 Work Day. Any day, Monday through Friday that is not a holiday as set forth in  
418 Section 3.09 of this Agreement (it being understood that Commercial and MFD Collection Service  
419 may be provided on Saturday as provided in Section 3.05.2 and 3.05.3, and holiday service may  
420 be provided on Saturday/Sunday as provided in Section 3.09).

### 421 **ARTICLE 2. Term of Agreement**

422           2.01 Term. The term of this Agreement shall be for a ten (10) year period beginning  
423 April 1, 2018 and terminating on March 31, 2028.

424           2.02 Five (5) Year Extension. CONTRACTOR may request one five (5) year term  
425 extension to the original ten (10) year term, and at CITY's sole option, CITY may grant  
426 CONTRACTOR's request to extend the term. Under no circumstances will CITY be obligated to  
427 extend the term, and under no circumstances shall CITY be obligated to grant the full five (5)  
428 years of extension (i.e., an extension for a shorter time period may instead be granted by the  
429 CITY if it chooses). CONTRACTOR must request the five (5) year extension by October 1, 2025  
430 in order to be eligible for the term extension. If CONTRACTOR fails to meet the diversion  
431 requirements as described in Section 5.01, CONTRACTOR may not eligible for the five (5) year  
432 extension, subject to the terms and conditions set forth in Section 5.02.4. Similarly, if  
433 CONTRACTOR is found to have a Specified Default (as described in Section 24.09),  
434 CONTRACTOR will not be eligible for the five (5) year extension.

435           2.03 Performance Review prior to Five (5) Year Extension. If CONTRACTOR requests a  
436 term extension as described in Section 2.02 above, then, at CITY's sole option, a billing audit and  
437 performance review may be conducted as described in Article 20, and CONTRACTOR must pay  
438 the cost of the billing audit and performance review subject to the maximum cost specified in such  
439 Article. Regardless of the outcome of this billing audit and performance review, CITY will have no  
440 obligation to extend the term of the Agreement.

### 441 **ARTICLE 3. Services Provided by Contractor**

442           3.01 Grant of Exclusive Right. Except as provided in Section 3.02, CONTRACTOR is  
443 hereby granted the exclusive right to collect, transport, recycle, process and dispose of all  
444 Garbage, Recyclable Materials, Food Waste, Green Waste, and Bulky Waste within the Service  
445 Area, including without limitation all such material generated or accumulated at all SFD Service  
446 Units, MFD Service Units, Commercial Service Units and City Service Units in the Service Area.  
447 No other garbage, organic waste, or recycling services shall be exclusive to CONTRACTOR.

448           3.02 Limitations to Scope of Exclusive Agreement. This Agreement does not grant  
449 CONTRACTOR the exclusive right to collect, transport, recycle, process and/or dispose the  
450 following materials in the CITY:

451                   3.02.1 Recyclable Materials or Large Items that are separated from Garbage by  
452 the generator, which the generator sells or is otherwise compensated by a collector in a manner  
453 resulting in a net payment to the generator;

454                   3.02.2 Garbage, Recyclable Materials, Large Items, or Organic Waste, which is  
455 removed from any SFD Service Unit, MFD Service Unit, Commercial Service Unit, or City Service  
456 Unit and which is transported personally by the owner or occupant of such premises (or by his or

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457 her full-time employees but not including construction related employees or subcontractors) to a  
458 processing or Disposal Facility;

459           3.02.3 Recyclable Materials, Organic Waste or Large Items which are separated  
460 at any premises by the generator and donated to youth, civic or charitable organizations;

461           3.02.4 Beverage containers delivered by the generator for Recycling under the  
462 California Beverage Container Recycling Litter Reduction Act, Section 14500, et seq.;

463           3.02.5 Organic Waste removed from a premise by a gardening, landscaping, or  
464 tree trimming company as an incidental part of a total service offered by that company rather than  
465 as a hauling service;

466           3.02.6 Construction and Demolition Debris resulting solely from construction,  
467 remodeling, and demolition authorized by a CITY permit, transported by a licensed construction  
468 company as an incidental part of the total service offered by that company rather than as a hauling  
469 service, and where the licensed construction company uses its own equipment and employees  
470 (and no Debris Box Containers are used) for the collection and transportation of such Construction  
471 and Demolition Debris;

472           3.02.7 Large Items removed from a premise by a property management or  
473 maintenance company as an incidental part of the total cleanup or maintenance service offered  
474 by the company rather than as a hauling service, where no Debris Box Containers are used for  
475 the collection and transportation of such Large Items;

476           3.02.8 Hazardous Waste and other Exempt Waste regardless of its source;

477           3.02.9 Secure document shredding; and

478           3.02.10 Construction and Demolition Debris, which is not commingled with  
479 other Solid Waste, and which is placed in Debris Box Containers for collection on a temporary  
480 basis. This exclusion from CONTRACTOR's exclusive franchise is not intended to apply where  
481 the owner or occupant of a Commercial premise commingles other Solid Waste with Construction  
482 and Demolition Debris. The intent of this exclusion is to allow non-franchised haulers with  
483 business licenses from the CITY to provide temporary Debris Box Container services for the  
484 collection, processing and disposal of Construction and Demolition Debris. It is not intended to  
485 allow for non-franchised haulers to provide Commercial premises with regularly scheduled or  
486 permanent collection in Debris Box Containers of Solid Waste or Solid Waste commingled with  
487 Recyclable Materials.

488           3.03 CONTRACTOR acknowledges and agrees that CITY may permit other persons  
489 besides CONTRACTOR to collect any and all types of materials excluded from the scope of this  
490 Agreement, as set forth above, without seeking or obtaining approval of CONTRACTOR. If  
491 CONTRACTOR can produce evidence that other persons are servicing collection containers or  
492 are Collecting Garbage, Recyclable Materials, Large Items, Construction and Demolition Debris,  
493 and/or Organic Waste in a manner that is not consistent with CITY'S Municipal Code or this  
494 Agreement, it shall report the location, the name and phone number of the person or company to  
495 CITY along with CONTRACTOR'S evidence of the violation of the exclusiveness of this  
496 Agreement, and CONTRACTOR shall assist CITY to enforce CITY's Municipal Code and this  
497 Agreement.

498           3.03.1 The scope of this Agreement shall be interpreted to be consistent with  
499 applicable law, now and during the term of the Agreement. If future judicial interpretations of  
500 current law or new laws, regulations, or judicial interpretations limit the ability of CITY to lawfully  
501 provide for the scope of services as specifically set forth herein, CONTRACTOR agrees that the

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502 scope of the Agreement will be limited to those services and materials which may be lawfully  
503 provided and that CITY shall not be responsible for any lost profits or losses claimed by  
504 CONTRACTOR to arise out of limitations of the scope of the Agreement set forth herein.  
505 Notwithstanding the foregoing, nothing in this paragraph shall be deemed to limit Sections 4.02.6  
506 or 25.01 of this Agreement.

507           3.04 Service Standards. CONTRACTOR shall perform all Collection Services under this  
508 Agreement in a thorough and professional manner. Collection Services described in this  
509 Agreement shall be performed regardless of weather conditions or difficulty of collection, except  
510 as provided in Section 24.08 (Force Majeure).

511           3.05 Hours and Days of Collection.

512                 3.05.1 SFD Collection Services shall be provided, commencing no earlier than  
513 6:00 a.m. and terminating no later than 6:00 p.m., Monday through Friday with no service on  
514 Saturday (except for holiday service as set forth in Section 3.09 of this Agreement in which case  
515 normal collection hours may be utilized) or Sunday. The hours, days, or both of collection may be  
516 extended due to extraordinary circumstances or conditions with the prior written consent of the  
517 City Representative.

518                 3.05.2 MFD Collection Services shall be provided, commencing no earlier than  
519 6:00 a.m. and terminating no later than 6:00 p.m., Monday through Saturday with no service on  
520 Sunday (except for holiday service as set forth in Section 3.09 of this Agreement in which case  
521 normal collection hours may be utilized). The hours, days, or both of collection may be extended  
522 due to extraordinary circumstances or conditions with the prior written consent of the City  
523 Representative.

524                 3.05.3 Commercial Collection Service and Collection Services provided to CITY  
525 Service Units shall be provided, commencing no earlier than 4:00 a.m. and terminating no later  
526 than 6:00 p.m. on Monday through Saturday, and commencing no earlier than 6:00 a.m. and  
527 terminating no later than 6:00 p.m. on Sunday. The hours, days, or both of collection may be  
528 extended due to extraordinary circumstances or conditions with the prior written consent of the  
529 City Representative.

530                 3.05.4 CITY may direct CONTRACTOR to restrict the Collection hours in areas  
531 around schools and in high traffic areas during peak commute hours. When CITY is conducting  
532 road overlay or slurry projects, CITY reserves the right to temporarily redirect or restrict  
533 CONTRACTOR from collection in the affected areas or temporarily change the collection hours if  
534 needed. The hours of collection may be extended due to extraordinary circumstances or  
535 conditions with the prior written consent of CITY Representative.

536           3.06 Manner of Collection. CONTRACTOR shall provide Collection Service with as little  
537 disturbance as possible and shall leave any Cart or Bin in an upright position with the lid closed  
538 at the same point it was collected without obstructing alleys, roadways, driveways, sidewalks or  
539 mail boxes.

540           3.07 Containers.

541                 3.07.1 Carts and Kitchen Food Waste Pails. All Carts and Kitchen Food Waste  
542 Pails are to be new at the start of the term of this Agreement. Newly-purchased Carts introduced  
543 into service by CONTRACTOR during the term of this Agreement are to be hot-stamped,  
544 embossed, or laminated, with a unique identification number, and labeled with the type of  
545 materials to be Collected (i.e., Garbage, Organic Waste, Recyclable Materials) and instructions  
546 provided for proper usage at the time of delivery to a new account or upon request of the Service

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547 Recipient. Labeling on such Carts shall be on the lids. CONTRACTOR'S phone number shall be  
548 included as part of such Cart labeling. Kitchen Food Waste Pails are to be hot stamped,  
549 embossed, laminated, or in-molded with instructions for proper use. Labeling and graphics on  
550 such newly-purchased Carts (if different from those commonly used by CONTRACTOR) and  
551 Kitchen Food Waste Pails shall be approved by CITY. Changes to the color and labeling of Carts  
552 and Kitchen Food Waste Pails may only be made with the prior express written consent of the  
553 CITY Representative.

554           3.07.2 Bins. Bins may be new or refurbished at the start of the term of this  
555 Agreement. All Bins are to be labeled with the type of materials to be Collected (i.e., Garbage,  
556 Organic Waste, Recyclable Materials) and instructions provided for proper usage at the time of  
557 delivery to a new account or upon request of the Service Recipient. CONTRACTOR'S phone  
558 number shall be included as part of Bin labeling. Labeling and graphics of the Bins (if different  
559 from those commonly used by CONTRACTOR) shall be approved by CITY. Changes to the color  
560 and labeling of Bins may only be made with the prior express written consent of the CITY  
561 Representative.

562           3.07.3 Debris Boxes. Debris Box Containers may be used, provided they are  
563 properly marked with Contractor's name and phone number as part of Debris Box labeling and in  
564 good working order. CITY retains the right to inspect any such used Debris Box and direct  
565 CONTRACTOR to replace or repair such a used Debris Box if it is not properly marked or is not  
566 in good working order. Changes to the color and labeling of Debris Boxes may only be made with  
567 the prior express written consent of the CITY Representative.

568           3.07.4 Purchase and Distribution of Carts, Bins, and Kitchen Food Waste Pails.  
569 CONTRACTOR shall be responsible for the purchase and distribution of fully assembled and  
570 functional carts and bins for all Service Recipients, and Kitchen Food Waste Pails to SFD and  
571 MFD Service Units in the Service Area, including to new Service Units that are added to  
572 CONTRACTOR'S Service Area during the term of this Agreement. Kitchen Food Waste Pails  
573 shall only be distributed upon request of the Service Recipient, and shall be provided at no  
574 additional charge (one (1) pail per Dwelling Unit). The distribution to new Service Units shall be  
575 completed within three (3) Work Days of receipt of notification from CITY or the Service Unit.

576           3.07.5 Replacement of Carts and Bins. CONTRACTOR'S employees shall take  
577 care to prevent damage to carts or bins by unreasonably rough treatment. However, any Cart or  
578 Bin damaged by CONTRACTOR shall be replaced by CONTRACTOR, at CONTRACTOR'S  
579 expense, within three (3) Work Days at no cost or inconvenience to the Service Recipient.

580           3.07.5.1       Upon notification to CONTRACTOR by CITY or a Service  
581 Recipient that the Service Recipient's Cart(s), Bin(s), or Kitchen Food Waste Pail(s) have been  
582 stolen or damaged beyond repair through no fault of CONTRACTOR, CONTRACTOR shall  
583 deliver a replacement Cart(s), Bin(s) or Kitchen Food Waste Pail(s) to such Service Recipient  
584 within three (3) Work Days. CONTRACTOR shall maintain records documenting all Cart and Bin  
585 replacements occurring on a monthly basis.

586           3.07.5.2       Where such Cart or Kitchen Food Waste Pail is lost, stolen  
587 or damaged beyond repair through no fault of CONTRACTOR, each SFD Service Unit shall be  
588 entitled to the replacement of one (1) lost, destroyed, or stolen Garbage Cart, one (1) lost,  
589 destroyed, or stolen Recycling Cart, one (1) lost, destroyed, or stolen Organic Waste Cart, and  
590 three (3) lost, destroyed, or stolen Kitchen Food Waste Pails, during the life of this Agreement at  
591 no cost to the Service Recipient.

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592                           3.07.5.3       Where such Cart, Bin, or Kitchen Food Waste Pail is lost,  
593 stolen or damaged beyond repair through no fault of CONTRACTOR, each MFD Service Unit  
594 shall be entitled to the replacement of one (1) lost, destroyed, or stolen Garbage Cart or Bin, one  
595 (1) lost, destroyed, or stolen Recycling Cart or Bin, (1) lost, destroyed, or stolen Organic Waste  
596 Cart or Bin and three (3) lost, destroyed, or stolen Kitchen Food Waste Pails during the life of this  
597 Agreement at no cost to the Service Unit.

598                           3.07.5.4       Where such Cart or Bin is lost, stolen or damaged beyond  
599 repair through no fault of CONTRACTOR, each Commercial and City Service Unit shall be entitled  
600 to the replacement of one (1) lost, destroyed, or stolen Garbage Cart or Bin, one (1) lost,  
601 destroyed, or stolen Recycling Cart or Bin, and one (1) lost, destroyed, or stolen Organic Waste  
602 Cart or Bin during the life of this Agreement at no cost to the Service Unit.

603                           3.07.5.5       Where such Bin or Cart replacement occurs through no fault  
604 of CONTRACTOR, CONTRACTOR shall be compensated for the cost of those replacements in  
605 excess of the requirements set forth above in accordance with the "Cost to Replace Lost, Stolen  
606 or Damaged Containers" Service Rate, as initially set forth in **Exhibit 1**, as adjusted as provided  
607 under the terms of this Agreement.

608                           3.07.6 Repair of Carts and Bins. CONTRACTOR shall be responsible for repair  
609 of carts in the areas to include but not be limited to, hinged lids, wheels and axles. Within seven  
610 (7) calendar days of notification by CITY or a Service Recipient of the need for such repairs,  
611 CONTRACTOR shall repair the Cart or Bin or if necessary, remove the Cart or Bin for repairs and  
612 deliver a replacement Cart or Bin to the Service Recipient. In the event the Cart or Bin is removed  
613 for repair or replacement, Contractor shall provide a replacement Cart or Bin on the same day.

614                           3.07.7 Cart or Bin Exchange. Upon notification to CONTRACTOR by CITY or a  
615 Service Recipient that a change in the size or number of Carts or Bins is required, CONTRACTOR  
616 shall deliver such Carts or Bins to such Service Recipient within seven calendar days to allow for  
617 the exchange to occur on the regular scheduled collection day. Each SFD, MFD, Commercial  
618 and City Service Unit shall be entitled to receive one (1) free Cart or Bin exchange per calendar  
619 year during the term of this Agreement. CONTRACTOR shall be compensated for the cost of  
620 those exchanges in excess of one (1) per calendar year, in accordance with the "Cart or Bin  
621 Exchange" service rate as set forth in **Exhibit 1** which is attached to and included in this  
622 Agreement or as may be adjusted under the terms of this Agreement.

623                           3.07.8 Ownership of Carts. Ownership of carts shall rest with CONTRACTOR. In  
624 the case of the termination of the Agreement prior to the expiration of the initial term or optional  
625 extension terms due to the default of CONTRACTOR as set forth in Article 24 of this Agreement,  
626 CITY shall have the right to take possession of the carts in service with customers and retain such  
627 possession until satisfactory arrangements can be made to provide Collection Services using  
628 other equipment. Such time of possession shall be limited to one hundred eighty (180) days after  
629 the effective date of termination. After such time, such carts shall be returned to CONTRACTOR  
630 or, if the parties mutually agree, CITY shall pay a reasonable monthly rent to CONTRACTOR for  
631 CITY's use of the equipment. Upon termination of this Agreement, CONTRACTOR shall be  
632 responsible for removing all carts in service from the Service Area and reusing or recycling such  
633 carts.

634                           3.07.9 Ownership of Bins. Ownership of Bins distributed by CONTRACTOR shall  
635 rest with CONTRACTOR. In the case of the termination of the Agreement prior to the expiration  
636 of the initial term or optional extension term due to the default of CONTRACTOR as set forth in  
637 Article 24 of this Agreement, CITY shall have the right to take possession of such Bins and to  
638 retain such possession until satisfactory arrangements can be made to provide Collection

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639 Services using other equipment. Such time of possession shall be limited to one hundred eighty  
640 (180) days after the effective date of termination. After such time, such Bins shall be returned to  
641 CONTRACTOR, or, if the parties mutually agree, CITY shall pay a reasonable monthly rent to  
642 CONTRACTOR for CITY's use of the equipment. Upon the receipt of written notice from CITY,  
643 CONTRACTOR shall submit to the City Representative an inventory of Bins, including their  
644 locations.

645                   3.07.10       Ownership of Debris Box Containers. Ownership of Debris Box  
646 Containers distributed by CONTRACTOR shall rest with CONTRACTOR. In the case of the  
647 termination of the Agreement prior to the expiration of the initial term or optional extension term  
648 due to the default of CONTRACTOR as set forth in Article 24 of this Agreement, CITY shall have  
649 the right to take possession of such containers and to retain such possession until satisfactory  
650 arrangements can be made to provide Collection Services using other equipment. Such time of  
651 possession shall be limited to one hundred eighty (180) days after the effective date of  
652 termination. After such time, such Debris Box Containers shall be returned to CONTRACTOR,  
653 or, if the parties mutually agree, CITY shall pay a reasonable monthly rent to CONTRACTOR for  
654 CITY's use of the equipment. Upon the receipt of written notice from CITY, CONTRACTOR shall  
655 submit to the City Representative an inventory of containers, including their locations.

656                   3.07.11       Cleaning of Carts, Bins and Debris Boxes. Once each calendar  
657 year upon request of the Service Recipient from a MFD or Commercial Service Unit, and at no  
658 charge to CITY or the Service Recipient, CONTRACTOR shall replace those Bins or Debris Boxes  
659 needing cleaning with clean Bins or Debris Boxes and remove the dirty Bins or Debris Boxes for  
660 cleaning. Once each 10-year period, upon request of the Service Recipient, and at no charge to  
661 CITY or the Service Recipient, CONTRACTOR shall replace those Carts needing cleaning with  
662 clean Carts and remove the dirty Carts for cleaning. In accordance with the Maximum Service  
663 Rates as set forth in **Exhibit 1**, CONTRACTOR shall be compensated for each additional Cart,  
664 Bin or Debris Box cleaning.

665                   3.07.12       Cleaning/Removal of Graffiti from Containers. If CONTRACTOR  
666 identifies graffiti on any Container set out for Collection, or otherwise identifies graffiti on any  
667 Container during the normal course of its work, CONTRACTOR shall exchange that Container for  
668 a clean Container during the next scheduled Collection at no cost to the Service Recipient. In  
669 addition, CONTRACTOR shall remove or paint over any and all graffiti on Containers within 24  
670 hours that is specifically identified and requested by the City Representative.

671                   3.08 Labor and Equipment. CONTRACTOR shall provide and maintain all labor,  
672 equipment, tools, facilities, and personnel supervision required for the performance of  
673 CONTRACTOR'S obligations under this Agreement. CONTRACTOR shall at all times have  
674 sufficient backup equipment and labor to fulfill CONTRACTOR'S obligations under this  
675 Agreement. No compensation for CONTRACTOR'S services or for CONTRACTOR'S supply of  
676 labor, equipment, tools, facilities or supervision shall be provided or paid to CONTRACTOR by  
677 CITY or by any Service Recipient except as expressly provided by this Agreement.

678                   3.09 Holiday Service. CONTRACTOR shall not provide Collection Services on January  
679 1<sup>st</sup>, and December 25<sup>th</sup>. In any week in which one of these holidays falls on a Work Day, SFD  
680 Collection Services for the holiday and each Work Day thereafter will be delayed one Work Day  
681 for the remainder of the week with normally scheduled Friday Collection Services being performed  
682 on Saturday. MFD, Commercial and City Collection Services may also be delayed one Work Day  
683 for the remainder of the week, or may be adjusted as agreed between CONTRACTOR and the  
684 Service Recipient, so long as CONTRACTOR meets the minimum collection frequency  
685 requirement of one (1) time per week.

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### 686           3.10 Processing and Disposal.

687                   3.10.1 Compliance with Permits. CONTRACTOR shall not knowingly deliver  
688 materials Collected under this Agreement to facilities that do not comply in all material aspects  
689 with the Department of Resources Recycling and Recovery (CalRecycle) regulations under Title  
690 14, Division 7, Chapter 3, Minimum Standards for Solid Waste Handling and Disposal.  
691 CONTRACTOR, and not CITY, must use reasonable efforts to assure that all Disposal, transfer,  
692 and processing facilities to which CONTRACTOR delivers material under this Agreement are  
693 properly permitted to receive material Collected under this Agreement. Failure to comply with this  
694 provision may result in CONTRACTOR being in default under this Agreement.

695                   3.10.2 Permits and Approvals. CONTRACTOR shall, upon written request from  
696 CITY, arrange for the facilities owned by CONTRACTOR or an affiliate of CONTRACTOR to which  
697 CONTRACTOR delivers material under this Agreement to provide copies of facility permits,  
698 notices of violations, inspection areas or concerns, or administrative action to correct deficiencies  
699 related to the operation, but only to the extent the foregoing are material and reasonably related  
700 to the services provided under this Agreement. For other facilities selected by CONTRACTOR to  
701 which CONTRACTOR delivers material under this Agreement, if CONTRACTOR becomes aware  
702 of any material permit violations by such facilities that are reasonably related to the services  
703 provided under this Agreement, CONTRACTOR shall notify CITY of the same. Failure to provide  
704 facility information may result in CONTRACTOR being in default under this Agreement.

705                   3.10.3 Disposal Facility. Except as set forth below, all Garbage (not including  
706 residue) collected as a result of performing Collection Services shall be transported, and  
707 delivered, to the Disposal Facility. In the event the Disposal Facility is closed on a Work Day,  
708 CONTRACTOR shall transport and deliver the Garbage to such other legally permitted disposal  
709 facility as is approved by CITY. Failure to comply with this provision may result in the levy of  
710 liquidated damages as specified in Article 19 of this Agreement and may result in CONTRACTOR  
711 being in default under this Agreement.

712                   3.10.4 Organic Waste Processing Facility. CONTRACTOR shall deliver all  
713 collected Organic Waste to a legally permitted Organic Waste Processing Facility. Organic Waste  
714 shall not stay on site at designated Transfer Facility for a duration longer than allowed by current  
715 operating permits prior to transferring to the Organic Waste Processing Facility. Failure to comply  
716 with this provision may result in the levy of liquidated damages as specified in Article 19 of this  
717 Agreement and may result in CONTRACTOR being in default under this Agreement.

718                   3.10.5 Material Recovery Facility. All Recyclable Materials Collected as a result  
719 of performing SFD, MFD, Commercial and City Recycling Services shall be delivered to a legally  
720 permitted Material Recovery Facility (MRF). Failure to comply with this provision may result in the  
721 levy of liquidated damages as specified in Article 19 of this Agreement and may result in  
722 CONTRACTOR being in default under this Agreement.

723                   3.11 Inspections. CITY shall have the right to inspect CONTRACTOR'S facilities or  
724 collection vehicles used in the performance of this Agreement and their contents at any time while  
725 operating inside or outside CITY.

726                   3.12 Commingling of Materials. CONTRACTOR shall not at any time commingle in  
727 Collection Vehicles Garbage, Organic Waste, or Recyclable Material collected pursuant to this  
728 Agreement, with any Recyclable Material separated for collection pursuant to this Agreement  
729 without the express prior written authorization of the City Representative.

730                   3.12.1 Garbage Collected in CITY. CONTRACTOR shall not at any time  
731 commingle in Collection Vehicles any Garbage Collected pursuant to this Agreement, with any

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732 other material Collected by CONTRACTOR inside or outside the City of Half Moon Bay without  
733 the express prior written authorization of the City Representative.

734           3.12.2 Recyclable Materials Collected in CITY. CONTRACTOR shall not at any  
735 time commingle in Collection Vehicles Recyclable Materials Collected pursuant to this Agreement,  
736 with any other material Collected by CONTRACTOR inside or outside the City of Half Moon Bay  
737 without the express prior written authorization of the City Representative.

738           3.12.3 Organic Waste Collected in CITY. CONTRACTOR shall not at any time  
739 commingle in Collection Vehicles Organic Waste Collected pursuant to this Agreement, with any  
740 other material Collected by CONTRACTOR inside or outside the City of Half Moon Bay without  
741 the express prior written authorization of the City Representative.

742           3.13 Contamination. CONTRACTOR shall only be required to collect Recyclable  
743 Materials if they have been separated by the Service Recipient from Garbage and Organic Waste,  
744 and shall only be required to collect Organic Waste if it has been separated by the Service  
745 Recipient from Garbage and Recyclable Materials. If by visual inspection of a container it appears  
746 that Recyclable Materials are contaminated with ten percent (10%) or more by weight of Garbage  
747 or Organic Waste, or Organic Waste is contaminated with five percent (5%) or more by weight of  
748 Garbage or Recyclables, then CONTRACTOR may leave the container unemptied along with a  
749 Non-Collection Notice which contains instructions on the proper procedures for setting out  
750 Recyclable Materials or Organic Waste. Upon notification by the City Representative or  
751 agreement between the Service Recipient and CONTRACTOR, CONTRACTOR shall collect the  
752 contaminated Recyclable Materials or Organic Waste container as Garbage on the Service  
753 Recipient's next regularly scheduled Garbage collection day. CONTRACTOR may charge for this  
754 service at the then-applicable Garbage collection rate for the type of customer and size of  
755 container (and if City is the Service Recipient, at the Commercial Garbage collection rate).

756           3.14 Spillage and Litter. CONTRACTOR shall not litter premises in the process of  
757 providing Collection Services or while its vehicles are on the road. CONTRACTOR shall transport  
758 all materials Collected under the terms of this Agreement in such a manner as to prevent the  
759 spilling or blowing of such materials from CONTRACTOR'S vehicle. CONTRACTOR shall  
760 exercise all reasonable care and diligence in providing Collection Services so as to prevent  
761 spilling or dropping of Garbage, Organic Waste, or Recyclable Materials and shall immediately,  
762 at the time of occurrence, clean up such spilled or dropped materials.

763           3.14.1 CONTRACTOR shall not be responsible for cleaning up un-sanitary  
764 conditions caused by the carelessness of the Service Recipient; however, CONTRACTOR shall  
765 clean up any material or residue that are spilled or scattered by CONTRACTOR or its employees.

766           3.14.2 Equipment oil, hydraulic fluids, spilled paint, or any other liquid or debris  
767 resulting from CONTRACTOR'S operations or equipment repair shall be covered immediately  
768 with an absorptive material and removed from the street surface. When necessary,  
769 CONTRACTOR shall apply a suitable cleaning agent to the street surface to provide adequate  
770 cleaning. To facilitate such cleanup, CONTRACTOR'S vehicles shall at all times carry sufficient  
771 quantities of petroleum absorbent materials along with a broom and shovel.

772           3.14.3 The above paragraphs notwithstanding, CONTRACTOR shall clean up any  
773 spillage or litter caused by CONTRACTOR within two (2) hours upon notice from CITY.

774           3.14.4 In the event where damage to CITY streets is caused by a hydraulic oil spill  
775 (i.e., any physical damage in excess of a simple cosmetic stain caused by the spill),  
776 CONTRACTOR shall be responsible for all repairs to return the street to the same condition prior  
777 to the spill. CONTRACTOR shall also be responsible for all clean-up activities related to the spill.

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778 Repairs and clean-up shall be performed in a manner satisfactory to the City Representative and  
779 at no cost to CITY.

780           3.15 Ownership of Materials. Title to Garbage, Organic Waste, and Recyclable Materials  
781 shall pass to CONTRACTOR at such time as said materials are placed for collection in  
782 CONTRACTOR'S Carts, Bins or Boxes.

783           3.16 Hazardous Waste. Under no circumstances shall CONTRACTOR'S employees  
784 knowingly collect Hazardous Waste, or remove unsafe or poorly containerized Hazardous Waste,  
785 from a collection container. If CONTRACTOR determines that material placed in any container  
786 for collection is Hazardous Waste, or other material that may not legally be accepted at the  
787 Disposal Facility or one of the processing facilities, or presents a hazard to CONTRACTOR'S  
788 employees, CONTRACTOR shall have the right to refuse to accept such material. The generator  
789 shall be contacted by CONTRACTOR and requested to arrange for proper disposal service. If  
790 the generator cannot be reached immediately, CONTRACTOR shall, before leaving the premises,  
791 leave a Non-Collection Notice, which indicates the reason for refusing to collect the material, and  
792 how the Hazardous Waste can be properly disposed or recycled.

793           3.16.1 If Hazardous Waste is found in a collection container that poses an  
794 imminent danger to people or property, CONTRACTOR shall immediately notify the City of Half  
795 Moon Bay Fire Department. CONTRACTOR shall immediately notify CITY of any Hazardous  
796 Waste that has been identified.

797           3.16.2 If Hazardous Waste is identified at the time of delivery to the Disposal  
798 Facility, or one of the processing facilities and the generator cannot be identified, CONTRACTOR  
799 shall be solely responsible for handling and arranging transport and disposition of the Hazardous  
800 Waste.

801           3.17 Regulations and Record Keeping. CONTRACTOR shall comply with emergency  
802 notification procedures required by applicable laws and regulatory requirements. All records  
803 required by regulations shall be maintained at CONTRACTOR'S facility. These records shall  
804 include waste manifests, waste inventories, waste characterization records, inspection records,  
805 incident reports, and training records.

806           3.18 Transition. CONTRACTOR understands and agrees that the time between the formal  
807 Agreement signing and April 1, 2018 is intended to provide CONTRACTOR with ample and  
808 sufficient time to, among other things, order equipment, prepare necessary routing schedules and  
809 route maps, obtain any permits and licenses, establish/build facilities, and begin the public  
810 awareness campaign as part of CONTRACTOR's transition program as specified in **Exhibit 6**  
811 which is attached to and incorporated into this Agreement. CONTRACTOR shall be responsible  
812 for the provision of all Collection Services, and all other services described in this Agreement,  
813 beginning April 1, 2018.

## 814 **ARTICLE 4. Charges and Rates**

815           4.01 CONTRACTOR Billing. CONTRACTOR shall be responsible for the billing and  
816 collection of payments for all Collection Services. CONTRACTOR may charge Service Recipients  
817 any amount, provided that it does not exceed the Maximum Service Rates attached as **Exhibit 1**  
818 to this Agreement, as the same may be adjusted under the terms of this Agreement. The City  
819 Representative shall approve the form and format for all customer bills, if different from the ones  
820 commonly used by CONTRACTOR.

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821                   4.01.1 Partial Month Service. If, during a month, a Service Unit is added to or  
822 deleted from CONTRACTOR'S Service Area, CONTRACTOR'S billing shall be pro-rated based  
823 on the weekly service rate (the weekly service rate shall not exceed the service rates set forth in  
824 **Exhibit 1** divided by four (4)), and then multiplied by the number of actual weeks in the month  
825 that service was provided to the Service Unit.

826                   4.01.2 Production of Invoices for SFD Service Units. CONTRACTOR shall  
827 produce a quarterly invoice for SFD Service Recipients, billing them in advance for services to be  
828 provided in the upcoming three-month period. CONTRACTOR'S invoice shall be sent to the  
829 Service Recipient no later than the twentieth (20th) day of the 1<sup>st</sup> month of the period for which  
830 service is being billed.

831                   4.01.3 Production of Invoices for MFD and Commercial Service Units.  
832 CONTRACTOR shall produce a monthly invoice for MFD and Commercial Service Recipients,  
833 billing them for services provided in the prior month.

834                   4.01.4 Production of Invoices for Debris Box Collection Service. Notwithstanding  
835 the foregoing, CONTRACTOR shall produce an invoice for Debris Box Collection Services  
836 received under this Agreement in arrears for services during the prior month. Customers utilizing  
837 Debris Box Collection Services may be invoiced upon completion.

838                   4.01.5 City Provided Billing Inserts. CITY may provide educational and other  
839 material to CONTRACTOR for inclusion in the invoices provided by CONTRACTOR to SFD, MFD  
840 and Commercial Customers for Collection Services. CONTRACTOR shall not charge CITY for  
841 the inclusion of additional educational or other materials in the invoices.

842                   4.01.6 Methods of Payment. CONTRACTOR shall provide the means for  
843 customers to pay bills through the following methods: cash, checks, credit cards, internet payment  
844 service or automatic withdrawal from bank account. On-line (E-Pay) bill methods shall be  
845 password protected and comply with state and federal law protecting the privacy of customer  
846 credit information. At CITY's request, CONTRACTOR shall provide evidence of such security  
847 certifications and advise CITY of CONTRACTOR'S security measures implemented for on-line  
848 payment.

849                   4.01.7 Delinquent Service Accounts. CONTRACTOR may take such action as is  
850 legally available to collect or cause collection of past due amounts from Service Recipients;  
851 however, CONTRACTOR may not discontinue providing Garbage Collection Services without  
852 approval from CITY.

853                   4.02 Adjustments to Maximum Service Rates. CONTRACTOR'S initial *Maximum Service*  
854 *Rates* are as specified in **Exhibit 1** of this Agreement, and are firm and fixed through March 31,  
855 2019. CONTRACTOR shall not be entitled to any compensation from Service Recipients that is  
856 not listed in **Exhibit 1**, as adjusted from time to time in accordance with this Agreement. Beginning  
857 April 1, 2019, CONTRACTOR may apply for annual adjustments to Maximum Service Rates  
858 effective April 1 of each year based on inflation, as described below. CONTRACTOR shall be  
859 responsible for calculating and submitting its annual rate adjustment application to the CITY.

860                   4.02.1 Adjustments Based on CPI

861                   4.02.1.1 CPI Adjustment Calculation. The adjustment in Maximum  
862 Service Rates shall equal the percent change in the annual average Consumer Price Index [All  
863 Urban Consumers] (base years 1982-1984 = 100) San Francisco-Oakland-Hayward, CA, for the  
864 calendar year preceding the Agreement Year, as published by the United States Department of  
865 Labor, Bureau of Labor Statistics ("index"). If the index is discontinued or revised during the term

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866 of this Agreement, such other government index or computation with which it is replaced shall be  
867 used in order to obtain substantially the same result as would be obtained if the index had not  
868 been discontinued or revised.

869                                   4.02.1.2       Minimum and Maximum CPI Adjustment. Notwithstanding  
870 any provision herein to the contrary, in no case shall the Maximum Service Rates increase less  
871 than one percent (1%) or exceed four percent (4%) in any one Agreement Year.

872                                   4.02.1.3       Rounding. Annual adjustments shall be made only in units  
873 of one cent (\$0.01). Fractions of less than one cent (\$0.01) shall not be considered in making  
874 adjustments. CPI indices shall be truncated at four (4) decimal places for the adjustment  
875 calculations.

876                                   4.02.1.4       CPI Application. On or before each January 21,  
877 CONTRACTOR may deliver to CITY its application for annual adjustment to Maximum Service  
878 Rates. Such application shall include the methodology for calculating the requested CPI  
879 adjustment and the CONTRACTOR's proposed change in Maximum Service Rates based on the  
880 CPI adjustment, and shall be in the format as approved by CITY. If CONTRACTOR fails to submit  
881 the application in the required format by January 21, it is agreed that CONTRACTOR shall be  
882 deemed to have waived the CPI rate adjustment for that year.

883                                   4.02.1.5       Delay in CPI Application. If CONTRACTOR's failure to  
884 timely submit the application required under Section 4.02.4 is the result of extraordinary or  
885 unusual circumstances as demonstrated by CONTRACTOR to the satisfaction of the CITY  
886 Representative, CITY, at its sole discretion, may consider the request for the annual CPI rate  
887 adjustment.

888                                   4.02.1.6       CITY Approval of CPI Application. On or before each  
889 February 14, the CITY Representative shall notify CONTRACTOR whether or not the CPI  
890 application was approved by CITY and the affected Maximum Service Rates to take place on the  
891 subsequent April 1.

892                                   4.02.2 Adjustments Due to Material Change In Law(s).

893                                   4.02.2.1       If a Material Change in Law(s) occurs after the date hereof,  
894 then, upon notification by CONTRACTOR, CITY and CONTRACTOR shall negotiate in good faith  
895 a reasonable and appropriate adjustment to Maximum Service Rates sufficient to offset  
896 CONTRACTOR's increased allowable costs of operation or reduced Gross Revenue resulting  
897 from the Material Change in Law(s). As an exception to the preceding sentence, CONTRACTOR  
898 shall not be entitled to an adjustment in Maximum Service Rates with respect to the first Seventy-  
899 Five Thousand Dollars (\$75,000) in increased costs or decreased revenues incurred by  
900 CONTRACTOR over two (2) consecutive Agreement Years resulting from the Material Change in  
901 Law(s).

902                                   4.02.2.2       Separate and apart from the \$75,000 threshold adjustments  
903 due to any new or updated government fees or taxes outside of CONTRACTOR'S payments to  
904 the CITY as described in Section 4.03, including any new or updated government fees or taxes  
905 related to Solid Waste, shall also be covered by this process, and will not be subject to the  
906 Seventy-Five Thousand Dollars (\$75,000) threshold over two (2) consecutive Agreement Years.  
907 Section 4.02.6.2 below shall also apply to any such adjustments that are due to new or updated  
908 government fees or taxes.

909                                   4.02.2.3       Upon notification by Contractor of a Material Change in  
910 Law(s), the Parties may negotiate and agree on the amount of any Maximum Service Rate

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911 adjustment pursuant to this Section without a Detailed Rate Review. CONTRACTOR shall bear  
912 the burden of justifying to CITY any adjustment due to a Material Change in Law(s) and shall bear  
913 its own costs of preparing its request for an adjustment and supporting documentation. CITY may  
914 request from CONTRACTOR such further information as it reasonably deems necessary to fully  
915 evaluate CONTRACTOR'S request and make its determination whether CONTRACTOR has  
916 satisfied its burden, which determination shall not be unreasonably withheld. CITY shall notify  
917 CONTRACTOR of its determination within ninety (90) calendar days of receipt of the written  
918 request and all other additional information reasonably requested by CITY. Any such change will  
919 be implemented on the following April 1st, or within any other time frame agreed upon between  
920 CITY and CONTRACTOR. Any adjustment in Maximum Service Rates shall be approved by the  
921 City Council and memorialized in a written amendment to **Exhibit 1** to this Agreement.

922 4.02.3 Adjustments Due to Detailed Rate Reviews. A Detailed Rate Review may  
923 be conducted if requested by CITY in accordance with the specifications of **Exhibit 5**. If a Detailed  
924 Rate Review is to be conducted, CONTRACTOR shall make an advance payment to CITY to  
925 compensate CITY for the estimated cost of its rate consultant, with a reconciliation subsequent to  
926 the completion of the detailed rate review (so that the CITY is only compensated by  
927 CONTRACTOR for the actual costs incurred for its rate consultant). Such payment shall be  
928 treated as an allowable cost in such Detailed Rate Review.

929 4.02.3.1 Special Detailed Rate Review. CONTRACTOR may be  
930 eligible to request one Special Detailed Rate Review, but no earlier than Year 3 of this Agreement  
931 term. This review may only be requested by CONTRACTOR, and will only be conducted, in the  
932 event that CONTRACTOR can demonstrate: (1) a 10% change in the total number of Service  
933 Recipients as compared to the account information provided in the CITY's request for proposals  
934 (RFP) for Collection Services issued on April 30, 2017 (including any associated addenda or  
935 updates to account information provided during the course of that RFP process); or (2) significant  
936 Service Recipient migration between service levels affecting more than 10% of Service  
937 Recipients. This Special Detailed Rate Review may only be conducted if the CONTRACTOR has  
938 met all performance and diversion requirements of the Agreement, subject to the terms and  
939 conditions set forth in Section 5.02.4, and CONTRACTOR will be responsible for payment of the  
940 full cost of the Special Detailed Rate Review. If requested, this review shall be conducted in  
941 accordance with the specifications of **Exhibit 5**. If this Special Detailed Rate Review is to be  
942 conducted, CONTRACTOR shall make an advance payment to CITY to compensate CITY for the  
943 cost of its rate consultant. Such payment shall be treated as an allowable cost in such Special  
944 Detailed Rate Review. With the exception of this Special Detailed Rate Review, CONTRACTOR  
945 shall not have the right to request a Detailed Rate Review during the term of this Agreement  
946 (additional Detailed Rate Reviews may be requested by the CITY, but not by the CONTRACTOR,  
947 as provided for in Section 4.02.7 above).

948 4.02.3.2 Change in Additional Collection Services. In the event of a  
949 Detailed Rate Review, the costs of a change in scope to the Additional Collection Services  
950 provided by CONTRACTOR will be allowable expenses. Additional Collection Services are  
951 described in additional detail in Article 10.

952 4.02.4 Adjustments Due to Changes in CITY Fees or Payments. In the event that  
953 CITY elects to increase or decrease the amount of fees or payments set forth in Section 4.03  
954 through 4.03.4 below, beyond those increases provided for in such sections, Maximum Service  
955 Rates shall be adjusted in accordance with this Section. The increased or decreased fee or  
956 payment shall take effect on April 1, or such other date as may be agreed by CITY and  
957 CONTRACTOR. CITY shall notify CONTRACTOR of the amount of the intended increase or  
958 decrease by the February 14 preceding such April 1 so that CONTRACTOR may include an

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959 additional Maximum Service Rate adjustment as part of its regularly scheduled April 1<sup>st</sup> rate  
 960 adjustment, to accommodate the cost of the increased or decreased fee or payment. This  
 961 additional rate adjustment shall be calculated using the following methodology, and such  
 962 calculation must be included in CONTRACTOR'S regular rate adjustment request submitted to  
 963 CITY by January 21 in order for CONTRACTOR to be eligible to receive the additional rate  
 964 adjustment. Such rate adjustment shall be in addition to any other rate adjustment to which  
 965 CONTRACTOR may be entitled under this Agreement, (it being understood that, if the amount of  
 966 such adjustment is included in a contemporaneous Detailed Rate Review, no further adjustment  
 967 under this Section would be required).

968 4.02.4.1 The CONTACTOR shall calculate the rate adjustment  
 969 percentage related to changes in CITY fees or payments as:

970 (A) The total dollar value of the increased fees and/or payments

971 *divided by*

972 (B) The total estimated CONTRACTOR Gross Revenue for the current calendar year

973 *divided by*

974 (C) One (1) minus the Franchise Fee percentage described in Section 4.03.1.

975 By way of example, if the total dollar value of the increased fee is \$1 million and total estimated  
 976 CONTRACTOR Gross Revenue is \$15 million, the increased fee of \$1 million is divided by the  
 977 \$15 million Gross Revenue, which is 0.0666. The 0.0666 is divided by one minus the Franchise  
 978 Fee percentage of 14% or 0.14 (one minus 0.14 is 0.86), for a total of 0.0775. The additional rate  
 979 adjustment percentage in this example would therefore be 7.75 percent.

980 The "total estimated CONTRACTOR Gross Revenue for the current calendar year" shall be  
 981 calculated as: the CONTACTOR'S total Gross Revenue as reported to CITY for the previous  
 982 calendar year, multiplied by one (1) plus the approved CPI rate adjustment percentage which  
 983 became effective on the most recent April 1<sup>st</sup>.

984 4.03 CONTRACTOR'S Payments to CITY. CONTRACTOR shall make payment to CITY  
 985 of a Franchise Fee, and such other fees as may be required under this Agreement. Unless  
 986 otherwise noted, each payment to CITY shall be due on a quarterly basis, on the 15<sup>th</sup> day of the  
 987 month following the end of the calendar quarter in which revenues were collected. Each payment  
 988 shall be accompanied by an accounting, which sets forth CONTRACTOR'S Gross Revenues  
 989 during the preceding quarter in sufficient detail to allow for an independent recalculation of  
 990 payments.

991 4.03.1 Franchise Fee. The Franchise Fee will be a percentage of  
 992 CONTRACTOR'S Gross Revenue collected each calendar quarter under the terms of this  
 993 Agreement. The Franchise Fee percentage shall be **Fourteen Percent (14%) of Gross**  
 994 **Revenues** unless otherwise adjusted by CITY. CONTRACTOR shall make payment of the  
 995 Franchise Fee to CITY on a quarterly basis with payments due on January 15<sup>th</sup>, April 15<sup>th</sup>, July  
 996 15<sup>th</sup>, and October 15<sup>th</sup> of each Agreement Year for the prior quarter's services, with the first  
 997 payment due on July 15, 2018.

998 4.03.2 RFP Reimbursement Fee. CONTRACTOR shall pay CITY a one-time fee  
 999 of **One Hundred Fifty Thousand Dollars (\$150,000)** to reimburse CITY for its costs of preparing  
 1000 Request for Proposal (RFP) documents. The RFP Reimbursement Fee payment shall be made  
 1001 within thirty (30) calendar days of the effective date of this Agreement. Failure of CONTRACTOR  
 1002 to pay the RFP Reimbursement Fee will result in immediately voiding this Agreement.

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1003                   4.03.3 Monthly Administrative Support Payment. CONTRACTOR will be required  
 1004 to reimburse the CITY for its costs for managing this Agreement. The initial monthly payment  
 1005 amount shall be **Six Thousand Dollars (\$6,000)** and shall be adjusted annually each April 1<sup>st</sup> by  
 1006 the annual average increase in the CPI index subject to the terms and conditions set forth in  
 1007 Section 4.02.2. CONTRACTOR shall make this payment to CITY on a monthly basis with  
 1008 payments due on the 15<sup>th</sup> of each month for the prior month's services, with the first payment due  
 1009 on May 15, 2018. In the event that CITY adjusts the Monthly Administrative Support Payment  
 1010 amount, the Maximum Service Rates will also be adjusted simultaneously and commensurately,  
 1011 to incorporate any such changes in the Monthly Administrative Support Payment.

1012                   4.03.4 No acceptance by CITY of any payment shall be construed as an accord  
 1013 that the amount is in fact the correct amount, nor shall such acceptance of payment be construed  
 1014 as a release of any claim CITY may have against CONTRACTOR for any additional sums payable  
 1015 under the provisions of this Agreement. All amounts paid shall be subject to independent audit  
 1016 and recompilation by CITY. If, after the audit, such recompilation indicates an underpayment,  
 1017 CONTRACTOR shall pay to CITY the amount of the underpayment and shall reimburse CITY for  
 1018 all reasonable costs and expenses incurred in connection with the audit and recompilation within  
 1019 ten (10) Work Days of receipt of written notice from CITY that such is the case. If, after audit, such  
 1020 recompilation indicates an overpayment, CITY shall notify CONTRACTOR in writing of the  
 1021 amount of the overpayment, less costs and expenses incurred in connection with the audit and  
 1022 recompilation. CONTRACTOR may offset the amounts next due by the amount of any  
 1023 overpayment, less cost and expenses incurred by CITY, following receipt of such notice by the  
 1024 amount specified therein.

## 1025 **ARTICLE 5. Diversion Requirements**

1026                   5.01 CONTRACTOR'S Diversion Requirements. CONTRACTOR shall fully implement the  
 1027 Diversion Plan provided in Exhibit 10, and shall assist CITY in reaching CalRecycle's 75% goal  
 1028 by December 31, 2020. In addition, CONTRACTOR is required to achieve the following minimum  
 1029 diversion rates:

1030                   5.01.1 CONTRACTOR is required to divert a minimum of forty percent (40%) of  
 1031 all materials collected from all services under the provisions of this Agreement during calendar  
 1032 year 2019 (measured for the calendar year as a whole).

1033                   5.01.2 CONTRACTOR is required to divert a minimum of forty-five percent (45%)  
 1034 of all materials collected from all services under the provisions of this Agreement during calendar  
 1035 year 2020 (measured for the calendar year as a whole).

1036                   5.01.3 CONTRACTOR is required to divert a minimum of fifty percent (50%) of  
 1037 all materials collected from all services under the provisions of this Agreement for both calendar  
 1038 year 2021 and calendar year 2022 (measured separately for each calendar year).

1039                   5.01.4 CONTRACTOR is required to divert a minimum of fifty-five percent (55%)  
 1040 of the materials it collects pursuant to this Agreement for calendar year 2023 and each year  
 1041 thereafter during the term of this Agreement (measured separately for each calendar year).

1042                   5.01.5 Notwithstanding the foregoing, as described in Sections 5.02.4, the City  
 1043 recognizes that some factors impacting diversion rates may be outside the control of the  
 1044 Contractor and that under certain circumstances Contractor may be unable to meet the diversion  
 1045 requirements. The City may take into consideration other measures of diversion including, but not  
 1046 limited to, CalRecycle's per capita disposal rate.

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1047           5.02 CITY Remedies. In its sole discretion, the CITY, upon determining the  
1048 CONTRACTOR did not meet its diversion requirements under Section 5.01 above, may:

1049           5.02.1 For calendar years 2019 and 2020, if CONTRACTOR does not meet the  
1050 minimum diversion requirements specified in Sections 5.01.1 and 5.01.2 in either year, then CITY  
1051 may assess liquidated damages in accordance with Section 19.03.

1052           5.02.2 For calendar year 2021 and 2022, if CONTRACTOR does not meet the  
1053 minimum diversion requirement specified in Sections 5.01.3 in either year, then, at CITY's option,  
1054 either (a) CITY may assess liquidated damages in accordance with Section 19.03, or (b)  
1055 CONTRACTOR shall implement additional diversion program(s) at no cost to CITY or rate payers  
1056 (such program(s) to be proposed by CONTRACTOR and approved by CITY, such approval not  
1057 to be unreasonably withheld).

1058           5.02.3 For calendar years 2023 and onwards, if CONTRACTOR does not meet  
1059 the minimum diversion requirement specified in Sections 5.01.4, then, at CITY's option, either (a)  
1060 CITY may assess liquidated damages in accordance with Section 19.03, or (b) CONTRACTOR  
1061 shall implement additional diversion program(s) at no cost to CITY or rate payers (such  
1062 program(s) to be proposed by CONTRACTOR and approved by CITY, such approval not to be  
1063 unreasonably withheld). In addition, regardless of which option CITY chooses, if CONTRACTOR  
1064 does not meet the minimum diversion requirement in any calendar year from 2023 onwards, in its  
1065 sole reasonable discretion, CITY may declare CONTRACTOR ineligible to receive a term  
1066 extension in accordance with Section 2.02.

1067           5.02.4 Notwithstanding the foregoing provisions and without waiving CITY's rights  
1068 and remedies under this Agreement for CONTRACTOR's non-performance, in the event  
1069 CONTRACTOR is unable to meet the minimum diversion requirements set forth in Section 5.01,  
1070 CITY may, in its sole reasonable discretion, elect not to assess liquidated damages for  
1071 CONTRACTOR's non-performance, pursuant to Section 19.03, and CONTRACTOR may be  
1072 eligible to receive a term extension in accordance with Section 2.02, so long as CONTRACTOR  
1073 demonstrates to CITY's reasonable satisfaction that (a) CONTRACTOR undertook, in good faith,  
1074 comprehensive efforts, in accordance with best industry practices, to meet the minimum diversion  
1075 requirements under Section 5.01 but was unable to do so for reasons outside of CONTRACTOR's  
1076 control and (b) CONTRACTOR implemented additional diversion program(s) at no cost to CITY  
1077 or rate payers (such program(s) to be proposed by CONTRACTOR and approved by CITY, such  
1078 approval not to be unreasonably withheld), as provided under Section 5.13 and Section 25.02.

1079           5.03 Diversion Rate Calculation. For purposes of determining CONTRACTOR has met its  
1080 diversion requirements under this Agreement, CITY and CONTRACTOR agree the annual  
1081 diversion rate will be calculated using the following formula: "the tons of Commercial, MFD and  
1082 SFD materials Collected by CONTRACTOR from the provision of Collection Services in CITY that  
1083 are delivered to the Materials Recovery Facility, Organic Waste Processing Facility, or any other  
1084 processing facility approved by CITY, or that are otherwise handled in a manner that counts as  
1085 diversion under applicable CalRecycle regulations (in each case, net of all residue from  
1086 processing), divided by the total tons of materials Collected in the City of Half Moon Bay by  
1087 CONTRACTOR from the provision of Collection Services in each calendar year."

1088           5.03.1 As part of the Quarterly Reports submitted in accordance with Section  
1089 16.03, CONTRACTOR shall provide documentation acceptable to CITY in its sole but reasonable  
1090 discretion stating and supporting each calendar quarter's diversion rate. Diversion from other  
1091 sources other than CONTRACTOR'S Collection and diversion efforts (such as source reduction  
1092 or reuse, recyclables diverted by other solid waste enterprises, collection of materials that are not

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1093 the subject of this Agreement, or the efforts of self-haulers) shall not be counted as diversion  
1094 achieved by CONTRACTOR.

1095           5.04 End Uses for Organic Waste. CONTRACTOR shall divert Organic Waste materials  
1096 Collected through weekly Organic Waste Collection, Christmas tree Collection, and Debris Box  
1097 Collection from disposal. CONTRACTOR must provide or arrange for end uses for such Organic  
1098 Waste that provides diversion credits for CITY according to regulations established by the  
1099 CalRecycle. CONTRACTOR shall divert through uses other than as Alternative Daily Cover  
1100 (ADC) or Beneficial Reuse with the exception of Overs Fraction of the organics generated through  
1101 the composting process.

1102           5.05 Use of Alternative Daily Cover (ADC) or Beneficial Reuse. CONTRACTOR may not  
1103 utilize Organic Waste as Alternative Daily Cover (ADC) or Beneficial Reuse with the exception of  
1104 Overs Fraction of the organics generated through the composting process.

1105           5.06 Changes in the Market Conditions for Recyclable Materials. Upon notice to and prior  
1106 approval by CITY, CONTRACTOR may deem additional materials or groups of materials  
1107 Recyclable Materials if they become capable of recycling at CONTRACTOR's facilities in or near  
1108 the Service Area. CONTRACTOR reserves the right, upon written notice to and prior written  
1109 approval by CITY, to discontinue acceptance of any category of Recyclable Materials as a result  
1110 of market conditions related to such materials, which approval shall not be unreasonably withheld  
1111 by CITY. Such CITY approval for reducing the type of Recyclable Materials discontinued shall not  
1112 exceed 12 months. Discontinued acceptance of Recyclable Materials pursuant to this Section  
1113 shall not relieve CONTRACTOR of CONTRACTOR'S Diversion Requirements set forth in Section  
1114 5.01 of this Agreement.

1115           5.07 Warranties and Representations. CONTRACTOR warrants and represents that it is  
1116 aware of and familiar with CITY's waste stream, and that it has the ability to and will provide the  
1117 programs and services required to be provided by it hereunder, with a view to facilitating CITY's  
1118 meeting or exceeding the diversion requirements as set forth in Section 5.01. CONTRACTOR  
1119 further warrants that it understands the diversion requirements of the Applicable Laws  
1120 (including, without limitation, amounts of Solid Waste to be diverted, time frames for diversion,  
1121 and any other requirements) governing this Agreement (including AB 341, AB 939, AB 1594, AB  
1122 1826, SB 1016 and all amendments and related subsequent legislation), and that it shall provide  
1123 such programs and services without imposing any costs or fees other than those set forth in  
1124 Exhibit 1 (as adjusted), unless new programs are required by the State or CITY which are not  
1125 called out herein, in which case Maximum Service Rates may be adjusted in accordance with this  
1126 Agreement. The programs identified herein are minimum requirements that must be met, and  
1127 CONTRACTOR may (but is not required to) implement other programs that may be necessary to  
1128 achieve the forgoing.

1129           5.08 Mutual Cooperation. CITY shall cooperate in good faith, so long as there is no  
1130 additional cost to CITY, with CONTRACTOR in CONTRACTOR's efforts to meet CITY'S diversion  
1131 and other compliance requirements imposed by AB 939 and other such Applicable Laws, and to  
1132 meet the diversion requirements of this Agreement and the State. In this regard, CITY'S  
1133 obligations shall include, without limitation, making such petitions and applications as may be  
1134 reasonably requested by CONTRACTOR for time extensions in meeting State diversion goals, or  
1135 other exceptions from the terms of such Applicable Laws, and to agree to authorize such changes  
1136 to CONTRACTOR'S Recycling or Solid Waste programs as may be reasonably requested by  
1137 CONTRACTOR for CONTRACTOR to satisfy diversion requirements.

1138           5.09 Waste Reduction and Program Implementation. CONTRACTOR shall be responsible  
1139 for providing data and information as reasonably requested by CITY regarding its programs and

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1140 services hereunder, for purposes including but not limited to CITY'S preparation of reports and  
1141 other information as may be required by any agency, including specifically, the State of California,  
1142 in order to comply with AB 939 and other such Applicable Laws.

1143           5.10 Compliance with Law. CONTRACTOR agrees that it will carry out its obligations  
1144 under this Agreement in a manner consistent with Applicable Laws including specifically AB 939,  
1145 AB 341, AB 1594, AB 1826 and SB 1016 and all amendments thereto.

1146           5.11 Failure To Meet Minimum Diversion Requirements. CONTRACTOR acknowledges  
1147 that its failure to meet the minimum diversion requirements set forth in Section 5.01 above may  
1148 result in the denial of a term extension and the imposition of liquidated damages in accordance  
1149 with Article 19, subject to the terms and conditions set forth in Section 5.02.4 above.

1150           5.12 Waste Generation/Characterization Studies. CONTRACTOR acknowledges that  
1151 CITY may need to perform Solid Waste generation and disposal characterization studies  
1152 periodically to comply with the requirements of the Applicable Laws, including AB 939.  
1153 CONTRACTOR agrees to participate and cooperate with CITY and its agents to accomplish such  
1154 studies, as reasonably requested by CITY, provided that such participation and cooperation can  
1155 be accomplished at no additional cost to CONTRACTOR and without substantially interfering with  
1156 CONTRACTOR's operations.

1157           5.13 Implementation of Additional Diversion Services. If CITY determines that  
1158 CONTRACTOR has not fulfilled its diversion requirements set forth in this Agreement, CITY may  
1159 require CONTRACTOR to implement additional diversion programs in accordance with Section  
1160 5.02.

1161           5.13.1 Pilot programs and innovative services which may entail new Collection or  
1162 processing methods, and use of new or alternative Solid Waste processing and disposal  
1163 technologies are included among the types of changes which CITY may direct. Any changes  
1164 under this Section shall be treated as City-Directed Changes under Section 25.02.

## 1165 **ARTICLE 6. Service Units**

1166           6.01 Service Units. Service Units shall include all the following categories of premises  
1167 which are in the Service Area as of the effective date of this Agreement, and all such premises  
1168 which may be added to the Service Area by means of annexation, new construction, or as  
1169 otherwise set forth in this Agreement during term of this Agreement:

1170                   6.01.1 SFD Service Units

1171                   6.01.2 MFD Service Units

1172                   6.01.3 Commercial Service Units

1173                   6.01.4 City Service Units

1174                   6.01.4.1 Any question as to whether a premise falls within one of  
1175 these categories shall be determined by the City Representative and the determination of the City  
1176 Representative shall be final.

1177           6.02 Service Unit Changes. CITY and CONTRACTOR acknowledge that during the term  
1178 of this Agreement, the number of Service Units for which CONTRACTOR will provide Collection  
1179 Services may increase or decrease, due to annexation, development, or other reasons.

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1180           6.03 Service Unit Additions. CONTRACTOR shall provide services described in this  
1181 Agreement to new Service Units within five (5) Work Days of receipt of notice from CITY or new  
1182 Service Unit to begin such service.

1183           6.04 Coordination with Street Sweeping. CITY and CONTRACTOR acknowledge that  
1184 CONTRACTOR may have to modify collection days to accommodate CITY's street sweeping  
1185 schedule.

1186           6.05 Route Map Update. CONTRACTOR shall revise the Service Unit route maps to  
1187 show the addition of Service Units added due to annexation and shall provide such revised maps  
1188 to the City Representative as requested.

## 1189   ARTICLE 7.   SFD Collection Services

1190           7.01 SFD Collection Services. These services shall be governed by the following terms  
1191 and conditions:

1192                   7.01.1 Conditions of Service. CONTRACTOR shall provide SFD Collection  
1193 Service to all SFD Service Units in the Service Area whose Garbage is properly containerized in  
1194 Garbage Carts, Recyclable Materials are properly containerized in Recycling Carts, except as set  
1195 forth in Section 7.04.4; and Organic Waste is properly containerized in Organic Waste Carts  
1196 except as set forth in Section 7.05.5. The Garbage, Recycling and Organic Waste Carts will be  
1197 Collected at least once a week. CONTRACTOR shall offer Garbage Carts in 20, 32, and 64-gallon  
1198 cart sizes, Recyclable Materials Carts in 64-gallon size, and Organic Waste Carts in 96-gallon  
1199 cart size. The size of the Garbage Cart shall be determined between the SFD Service Recipient  
1200 and CONTRACTOR. The base SFD Garbage Collection Service shall include Recycling  
1201 Collection Service as described in Section 7.04.1 below, and Organic Waste Collection Service  
1202 as described in Section 7.05.1 below, at no additional cost to the Service Recipient.

1203                           7.01.1.1       Curbside Collection Service. SFD Curbside Collection shall  
1204 be done where Garbage, Recyclable Materials and Organic Waste Carts are placed within five  
1205 (5) feet of the curb, swale, or at edge of street pavement for streets without curbs. This shall apply  
1206 to both public and private streets. CONTRACTOR may charge for Curbside Collection at the rates  
1207 as set forth in **Exhibit 1**.

1208                           7.01.1.2       On-Premise Collection Service – Physical Disability. A SFD  
1209 Service Recipient, and all other adults living at the Service Unit residing therein, that has  
1210 disabilities that prevent him/her from being physically able to place Garbage, Recyclable  
1211 Materials, or Organic Waste Carts at the curb for collection shall receive On-premise Collection  
1212 Service where all Garbage, Recyclable Materials, and Organic Waste Carts are Collected from a  
1213 side-yard, backyard, or other off-street location agreed on between CONTRACTOR and the  
1214 Service Recipient. CONTRACTOR shall provide this service at no additional cost to the Curbside  
1215 collection rates as set forth in **Exhibit 1**.

1216                           7.01.1.3       Upon customer request, CONTRACTOR shall place a  
1217 vacation hold on existing residential customers for up to one month per calendar year, provided  
1218 that the residential property is not occupied during the vacation hold collection stop period. Any  
1219 rate charges shall be prorated by CONTRACTOR in accordance with the residential customer's  
1220 request to suspend service.

1221           7.02 Frequency and Scheduling of Service. Except as set forth in Sections 7.06 (Curbside  
1222 Christmas Tree Collection), 7.07 (Bulky Waste Collection Service), 7.10 (Curbside Used Oil and  
1223 Oil Filters Collection), and 7.11 (SFD Debris Box Collection Service), curbside SFD Collection

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1224 Services shall be provided one (1) time per week on a scheduled route basis. SFD Collection  
1225 Services shall be scheduled so that a SFD Service Unit receives SFD Garbage Collection Service,  
1226 SFD Recycling Collection Service, and SFD Organic Waste Collection Service on the same Work  
1227 Day.

1228 7.03 SFD Garbage Collection Service. This service will be governed by the following  
1229 additional terms and conditions:

1230 7.03.1 Disposal Facility. All Garbage collected as a result of performing SFD  
1231 Garbage Collection Services shall be transported to, and disposed of, at the Disposal Facility.  
1232 Failure to comply with this provision shall result in the levy of liquidated damages as specified in  
1233 this Agreement and may result in CONTRACTOR being in default under this Agreement.

1234 7.03.2 Additional Garbage Carts. Upon notification to CONTRACTOR by CITY or  
1235 a Service Recipient that additional Garbage Carts are requested, CONTRACTOR shall deliver  
1236 such Garbage Carts to such Service Recipient within five (5) Work Days. CONTRACTOR may  
1237 charge for each additional Garbage Cart at the same rate the Service Recipient is charged for  
1238 their initial Garbage Cart, as set forth in **Exhibit 1** or as may be adjusted under the terms of this  
1239 Agreement.

1240 7.04 SFD Recycling Collection Service. This service will be governed by the additional  
1241 following terms and conditions:

1242 7.04.1 Base SFD Recycling Service. All SFD Service Recipients subscribing to  
1243 SFD Garbage Collection Service shall receive weekly collection of one (1) 64 gallon Recycling  
1244 Cart at no additional charge to the Service Recipient.

1245 7.04.2 Material Recovery Facility. All Recyclable Materials Collected as a result  
1246 of performing Recycling Services shall be delivered to a Materials Recovery Facility. Failure to  
1247 comply with this provision shall result in the levy of liquidated damages as specified in this  
1248 Agreement. All expenses related to Recyclable Materials processing and marketing will be the  
1249 sole responsibility of CONTRACTOR.

1250 7.04.3 Additional Recycling Carts. CONTRACTOR shall provide additional SFD  
1251 Recycling Carts to SFD Collection Service Recipients within five (5) days of request at the rates  
1252 set forth in **Exhibit 1**, and provided that additional carts are used by Service Recipients for the  
1253 purposes of setting out additional Recyclable Materials for regular weekly Recycling Collection  
1254 Service.

1255 7.04.4 Overages. Corrugated cardboard or other recyclable materials that will not  
1256 fit inside the Recycling Cart may be flattened, bagged and/or bundled and placed beside the  
1257 Recycling Cart.

1258 7.04.5 Recycling - Changes to Work. Should changes in law arise that necessitate  
1259 any additions or deletions to the work described herein including the type of items included as  
1260 Recyclable Materials, the parties shall negotiate any necessary cost changes and shall enter into  
1261 an amendment to this Agreement covering such modifications to the work to be performed and  
1262 the compensation to be paid before undertaking any changes or revisions to such work.

1263 7.04.6 SFD Recyclable Materials Disposal. CONTRACTOR shall ensure that the  
1264 Recyclable Materials Collected pursuant to this Agreement is not disposed of in a landfill, except  
1265 residue resulting from processing.

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1266           7.05 SFD Organic Waste Collection Service. This service includes collection of Green  
1267 Waste and Food Waste together in Organic Waste Carts. This service will be governed by the  
1268 following terms and conditions:

1269           7.05.1 Base SFD Organic Waste Service. All SFD Service Recipients subscribing  
1270 to SFD Garbage Collection Service shall receive weekly collection of one (1) 96 gallon Organic  
1271 Waste Cart at no additional charge to the Service Recipient.

1272           7.05.2 Organic Waste Processing Services. CONTRACTOR shall ensure that all  
1273 Organic Waste Collected pursuant to this Agreement is diverted from the landfill in accordance  
1274 with AB 939 and any subsequent or other applicable legislation and regulations.

1275           7.05.3 Organic Waste Processing Facility. CONTRACTOR shall deliver all  
1276 Collected Organic Waste to a fully permitted Organic Waste Processing Facility or a fully permitted  
1277 Organic Waste transfer station. All expenses related to Organic Waste processing and marketing  
1278 will be the sole responsibility of CONTRACTOR.

1279           7.05.4 Organic Waste Disposal. CONTRACTOR shall ensure that the Organic  
1280 Waste Collected pursuant to this Agreement is not disposed of in a landfill, except residue  
1281 resulting from processing.

1282           7.05.5 Additional Organic Waste Carts. CONTRACTOR shall provide additional  
1283 SFD Organic Waste Carts to SFD Service Recipients within five (5) days of request at the rates  
1284 set forth in **Exhibit 1**, and provided that additional carts are used by SFD Service Recipients for  
1285 the purposes of setting out additional Organic Waste Materials for regular weekly Organic Waste  
1286 Collection Service.

1287           7.05.6 Kitchen Food Waste Pails. CONTRACTOR shall provide Kitchen Food  
1288 Waste Pails to SFD Service Recipients that request them within five (5) days of request at no  
1289 additional cost provided that pails are used by SFD Service Recipients for the collection of food  
1290 waste.

1291           7.06 Curbside Christmas Tree Collection. CONTRACTOR shall Collect Christmas trees  
1292 from all SFD Service Units as part of the SFD Organic Waste Collection Services.  
1293 CONTRACTOR shall provide this service beginning on the first Work Day after December 25 until  
1294 the third Friday in January, or such other dates that are approved by CITY.

1295           7.06.1 Contaminated Christmas Trees. Christmas trees that are flocked or  
1296 contain tinsel or other decorations may be delivered to the Disposal Facility at the discretion of  
1297 CONTRACTOR.

1298           7.07 Bulky Waste Collection Service. This service will be governed by the following terms  
1299 and conditions:

1300           7.07.1 Conditions of Service. CONTRACTOR shall provide SFD Bulky Waste  
1301 Collection Service to all SFD Service Units in the Service Area whose Bulky Waste have been  
1302 placed within five (5) feet of the curb, swale, paved surface of the public or private roadway,  
1303 closest accessible roadway, or other such location agreed to by CONTRACTOR and Service  
1304 Recipient, that will provide safe and efficient accessibility to CONTRACTOR'S collection crew and  
1305 vehicle. Each SFD Service Unit in the Service Area shall be entitled to receive free Bulky Waste  
1306 Collection Service a maximum of two (2) collection times per calendar year. Bulky Waste  
1307 Collection Service shall be a combination of loose Large Items not exceeding an approximate  
1308 equivalent of three (3) cubic yards per collection. This may include Large Items such as TVs,  
1309 couches, mattresses, refrigerators, stoves, and water heaters. In accordance with the "Additional  
1310 Bulky Waste Collection" service rates as set forth in **Exhibit 1**, CONTRACTOR shall be

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1311 compensated for the cost of Collecting Large Items in excess of (a) a single collection of over  
1312 three (3) cubic yards, or (b) more than two (2) Bulky Waste Collections per calendar year.

1313           7.07.2 Frequency of Service. SFD Service Recipients must call at least forty-eight  
1314 (48) hours in advance to schedule SFD Bulky Waste Collection Service. Collection will occur on  
1315 the customer's regular collection day.

1316           7.07.3 Large Items Containing Freon. In the event CONTRACTOR Collects Large  
1317 Items that contain Freon, CONTRACTOR shall ensure that the Freon is removed by a certified  
1318 specialist so that, if practicable, the Large Items are not subject to regulation as Hazardous Waste  
1319 under applicable state and federal laws or regulations. CONTRACTOR may charge for collecting  
1320 Large Items containing Freon in accordance with the Maximum Service Rates in **Exhibit 1**.

1321           7.07.4 CITY Direction of Large Items. CITY reserves the right to direct  
1322 CONTRACTOR under Section 25.02 to deliver Large Items Collected pursuant to this Section to  
1323 a designated site or sites for the purpose of reuse or recycling of such Large items, provided that  
1324 CITY shall only direct CONTRACTOR to deliver Large Items to sites that (i) reuse or recycle such  
1325 materials in a manner that counts as diversion, and (ii) do not charge CONTRACTOR or CITY to  
1326 accept and reuse or recycle such materials. CONTRACTOR shall have no obligation to dispose  
1327 of the Large Items or Large Item residue remaining at the directed site or sites after reusers and  
1328 recyclers have removed reusable or recyclable Large Items. Delivery of such Large Items shall  
1329 count as diversion by CONTRACTOR for purposes of the diversion requirement described in  
1330 Section 5.01.

1331           7.08 Hard to Service Areas. Notwithstanding any term or definition set forth in this  
1332 Agreement, CONTRACTOR, at no additional cost, shall manually collect SFD Garbage,  
1333 Recyclable Materials, Organic Waste, and Bulky Waste from a SFD Service Unit under the  
1334 following conditions:

1335           7.08.1 Where topography, street conditions, or limited street access for police, fire,  
1336 or safety vehicles prevents CONTRACTOR'S collection vehicle access for Collecting Garbage,  
1337 Recycling, Organic Waste, and Large Items for collection.

1338           7.09 Curbside Used Motor Oil, Household Battery, and Cell Phone Collection.  
1339 CONTRACTOR shall provide curbside collection of used motor oil, household batteries, and cell  
1340 phones as part of CONTRACTOR'S regularly scheduled SFD Recycling Collection Service, at no  
1341 additional cost to the SFD Service Recipients.

1342           7.09.1 CONTRACTOR shall provide customers upon request with leak-proof used  
1343 oil containers and heavy duty zip-lock bags for used batteries and cell phones. Customers will be  
1344 allowed to recycle up to two (2) gallons of used motor oil each week using this service. All used  
1345 motor oil, batteries and cell phones must be properly containerized and bagged in accordance  
1346 with CONTRACTOR's instructions and set out next to, or on top of, the Recycling Cart.

1347           7.10 Household Hazardous Waste (HHW), Sharps and E-Waste Collection and  
1348 Recycling. These services shall be governed by the following terms and conditions:

1349           7.10.1 Household Hazardous Waste (HHW). CONTRACTOR shall assist the City  
1350 in arranging and advertising up to two HHW collection events per Agreement Year, at no  
1351 additional cost to the City and Service Recipients. If there are less than two HHW events  
1352 scheduled in an Agreement Year, CONTRACTOR will coordinate with the City to identify and  
1353 connect residents to alternative options to safely dispose of HHW.

1354           7.10.2 Sharps. CONTRACTOR shall coordinate with the Coastside Fire District  
1355 (District) to provide monthly sharps collection service at Station 40, 1191 Main Street at no

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1356 additional cost to the District, City, or Service Recipients. If the District opts out of participating in  
1357 this program, CONTRACTOR shall identify a new location for the collection service and/or  
1358 implement an equivalent program, as approved by the City.

1359           7.10.3 E-Waste Recycling. Twice per Agreement Year, at no additional cost to  
1360 SFD and MFD Service Recipients, CONTRACTOR shall provide a centralized location for Service  
1361 Recipients to drop-off E-Waste. The location, date and time of each event shall be mutually  
1362 agreed upon by the CONTRACTOR and the CITY.

1363           7.10.4 Ox Mountain Landfill Recycling Drop-off Center. In addition to the twice per  
1364 year E-waste drop-off events, Contractor shall provide free drop-off of recyclables, electronic  
1365 waste, mattresses, used oil and household batteries for SFD and MFD Service Recipients at Ox  
1366 Mountain Landfill Monday through Saturday during normal hours of operation.

1367           7.11 SFD Debris Box Collection Service. Upon twenty-four (24) hours request by a SFD  
1368 Service Unit for a Debris Box Container, CONTRACTOR shall provide a Debris Box Container at  
1369 the Service Unit. Such SFD Debris Box Collection Service shall be on a temporary basis not to  
1370 exceed seven (7) days without collection, emptying, and replacement of the Debris Box Container.

1371           7.11.1 Charges for Debris Box Containers shall be in accordance with **Exhibit 1B**  
1372 of this Agreement.

1373           7.11.2 CONTRACTOR shall provide SFD Debris Box Collection Services with as  
1374 little disturbance as possible and without obstructing alleys, roadways, driveways, sidewalks, or  
1375 mailboxes. CONTRACTOR shall only place Debris Boxes in strict adherence with CITY'S right-  
1376 of-way requirements and Municipal Code.

## 1377 **ARTICLE 8. MFD Collection Services**

1378           8.01 MFD Collection Services. These services will be governed by all conditions of  
1379 service as specified in Article 9 of this Agreement, with the following exceptions:

1380           8.01.1 Base MFD Recycling Service. All MFD Service Recipients subscribing to  
1381 MFD Garbage Collection Service shall receive weekly collection of the equivalent volume of one  
1382 (1) 32 gallon Recycling Cart per individual Dwelling Unit in the MFD complex at no additional cost.  
1383 The actual configuration of Recycling Cart and/or Bin sizes to be provided at no additional cost  
1384 shall be based on the total equivalent volume, and configured in a manner determined by the  
1385 Service Recipient in consultation with the CONTRACTOR. Section 9.03.2 of this Agreement,  
1386 pertaining to Commercial Service Recipients, shall not apply to MFD Service Recipients.

1387           8.01.2 Base MFD Organic Waste Service. All MFD Service Recipients subscribing  
1388 to MFD Garbage Collection Service shall receive weekly collection of the equivalent volume of  
1389 one (1) 20 gallon Organic Waste Cart per individual Dwelling Unit in the MFD complex at no  
1390 additional cost. The actual configuration of Organic Waste Cart and/or Bin sizes to be provided at  
1391 no additional cost shall be based on the total equivalent volume, and configured in a manner  
1392 determined by the Service Recipient in consultation with the CONTRACTOR. Section 9.04.2 of  
1393 this Agreement, pertaining to Commercial Service Recipients, shall not apply to MFD Service  
1394 Recipients.

1395           8.01.3 Kitchen Food Waste Pails. Upon request, CONTRACTOR shall provide  
1396 MFD Service Units with one (1) Kitchen Food Waste Pail for each individual Dwelling Unit within  
1397 the MFD Service Unit complex, as provided in Section 3.07.4.

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1398                   8.01.4 MFD Bulky Waste Collection Service. This service will be governed by the  
1399 following terms and conditions:

1400                   8.01.4.1           Conditions of Service. CONTRACTOR shall provide MFD  
1401 Bulky Waste Collection Service to all MFD Service Units in the Service Area whose Bulky Waste  
1402 have been placed within five (5) feet of the curb, swale, paved surface of the public or private  
1403 roadway, closest accessible roadway, or other such location agreed to by CONTRACTOR and  
1404 MFD Service Unit management, that will provide safe and efficient accessibility to  
1405 CONTRACTOR'S collection crew and vehicle. Each MFD Service Unit in the Service Area shall  
1406 be entitled to receive free Bulky Waste Collection Service a maximum of two (2) collection times  
1407 per calendar year. Bulky Waste Collection Service shall be a combination of loose Large Items  
1408 not exceeding an approximate equivalent volume per collection of 0.5 cubic yards multiplied by  
1409 the number of individual Dwelling Units within the MFD Service Unit. For example, an MFD  
1410 Service Unit consisting of 6 units would receive a total of 3 cubic yards of free Bulky Waste  
1411 Collection Service per collection, to be allocated among those units as the MFD Service Unit  
1412 management deems appropriate. Bulky Waste Collection Service shall be a combination of loose  
1413 Large Items, which may include Large Items such as TVs, couches, mattresses, refrigerators,  
1414 stoves, and water heaters. In accordance with the "Additional Bulky Waste Collection" service  
1415 rates as set forth in **Exhibit 1**, CONTRACTOR shall be compensated for the cost of Collecting  
1416 Large Items in excess of (a) a single collection exceeding the equivalent of 0.5 cubic yards per  
1417 individual Dwelling Unit, or (b) more than two (2) Bulky Waste Collections per calendar year.

1418                   8.01.4.2           Frequency of Service. MFD Service Unit management must  
1419 call at least forty-eight (48) hours in advance to schedule MFD Bulky Waste Collection Service.  
1420 Collection will occur on the day agreed to between the MFD Service Unit management and  
1421 CONTRACTOR.

1422                   8.01.4.3           Large Items Containing Freon. In the event CONTRACTOR  
1423 Collects Large Items that contain Freon, CONTRACTOR shall ensure that the Freon is removed  
1424 by a certified specialist so that, if practicable, the Large Items are not subject to regulation as  
1425 Hazardous Waste under applicable state and federal laws or regulations. CONTRACTOR may  
1426 charge for collecting Large Items containing Freon in accordance with the Maximum Service  
1427 Rates in **Exhibit 1**.

1428                   8.01.4.4           CITY Direction of Large Items. CITY reserves the right to  
1429 direct CONTRACTOR under Section 25.02 to deliver Large Items Collected pursuant to this  
1430 Section to a designated site or sites for the purpose of reuse or recycling of such Large Items,  
1431 provided that CITY shall only direct CONTRACTOR to deliver Large Items to sites that (i) reuse  
1432 or recycle such materials in a manner that counts as diversion, and (ii) do not charge  
1433 CONTRACTOR or CITY to accept and reuse or recycle such materials. CONTRACTOR shall  
1434 have no obligation to dispose of the Large Items or Large Item residue remaining at the directed  
1435 site or sites after reusers and recyclers have removed reusable or recyclable Large Items.  
1436 Delivery of such Large Items shall count as diversion by CONTRACTOR for purposes of the  
1437 diversion requirement described in Section 5.01.

1438                   8.01.5 Curbside Christmas Tree Collection. CONTRACTOR shall Collect  
1439 Christmas trees from all MFD Service Units as part of the MFD Organic Waste Collection  
1440 Services. CONTRACTOR shall provide this service beginning on the first Work Day after  
1441 December 25 until the third Friday in January, or such other dates that are approved by CITY.

1442                   8.01.5.1           Contaminated Christmas Trees. Christmas trees that are  
1443 flocked or contain tinsel or other decorations may be delivered to the Disposal Facility at the  
1444 discretion of CONTRACTOR.

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### 1445 ARTICLE 9. Commercial Collection Services

1446 9.01 Commercial Collection Services. These services will be governed by the  
1447 following terms and conditions:

1448 9.01.1 Conditions of Service. CONTRACTOR shall provide Commercial Garbage  
1449 Collection Service, Commercial Recycling Collection Service, Commercial Organic Waste  
1450 Collection Service, and Commercial Debris Box Collection Service to all Commercial Service  
1451 Units in the Service Area whose Garbage, Recyclable Materials, and Organic Waste are properly  
1452 containerized in Bins, Carts, or Debris Boxes as appropriate where the Bins, Carts or Debris  
1453 Boxes are accessible as set forth in Section 9.01.3. CONTRACTOR shall offer Garbage,  
1454 Recyclable Materials, and Organics Carts in 20, 32, 64 and 96-gallon cart sizes. CONTRACTOR  
1455 shall offer Garbage, Recyclable Materials, and Organic Waste Bins in 1, 2, 3, 4, and 6-cubic yard  
1456 sizes. CONTRACTOR shall offer Debris Boxes in 20, 30 and 40-cubic yard sizes, as well as a 10-  
1457 cubic yard size for dirt, concrete and asphalt only. The size of the container and the frequency  
1458 (above the minimum) of collection shall be determined between the Service Recipient and  
1459 CONTRACTOR. However, the size and frequency shall be sufficient to provide that no Garbage,  
1460 Recyclable Materials, or Organic Waste Materials need be placed outside the Bin, Cart or Debris  
1461 Box. The base Commercial Garbage Collection Service shall include Recycling Collection Service  
1462 as described in Section 9.03.2 below, and Organic Waste Collection Service as described in  
1463 Section 9.04.2 below, at no additional cost to the Service Recipient.

1464 9.01.2 Required Capacity. CONTRACTOR shall provide Commercial Recycling  
1465 Collection Service and Organic Waste Collection Service to all Commercial Service Units in the  
1466 Service Area at the rates set forth in Exhibit 1. For each Service Unit, CONTRACTOR shall offer  
1467 a minimum capacity of Commercial Recycling Collection and Commercial Organic Waste  
1468 Collection Service which is appropriate in relationship to the total cubic yards collected weekly for  
1469 Commercial Garbage Collection Service.

1470 9.01.3 Accessibility. CONTRACTOR shall collect all Garbage, Recycling, or  
1471 Organic Waste Bins or Carts that are readily accessible to CONTRACTOR'S crew and vehicles  
1472 and not blocked. However, CONTRACTOR shall provide "push services" and/or "key services" as  
1473 necessary during the provision of Commercial Collection Services and in accordance with the  
1474 "push services" and/or "key services" service rate as set forth in **Exhibit 1** which is attached  
1475 to and included in this Agreement or as may be adjusted under the terms of this  
1476 Agreement. Push services shall include, but not be limited to moving manually or by a specialized  
1477 "scout" truck the Bins or Carts from their storage location for Collection and returning the Bins or  
1478 Carts to their storage location. Key services shall include the provision of a master lock and key  
1479 by CONTRACTOR to the Service Address for the purpose of locking the Service Recipient's carts  
1480 or bins.

1481 9.01.4 Manner of Collection. CONTRACTOR shall provide Commercial Collection  
1482 Service with as little disturbance as possible and shall leave any Bin or Cart at the same point it  
1483 was originally located without obstructing alleys, roadways, driveways, sidewalks or mail boxes.

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1484           9.02 Commercial Garbage Collection Service.

1485           9.02.1 Conditions of Service. CONTRACTOR shall provide Commercial Garbage  
1486 Collection Service to all Commercial Service Units in the Service Area whose Commercial  
1487 Garbage is properly containerized in Garbage Bins or Carts, where the Garbage Bins or Carts  
1488 are accessible.

1489           9.02.2 Disposal Facility. All Commercial Garbage collected as a result of  
1490 performing Commercial Garbage Collection Services shall be transported to, and disposed of, at  
1491 the Disposal Facility. Failure to comply with this provision shall result in the levy of liquidated  
1492 charges as specified in this Agreement and may result in CONTRACTOR being in default under  
1493 this Agreement.

1494           9.02.3 Size and Frequency of Service. This service shall be provided as deemed  
1495 necessary and as determined between CONTRACTOR and the customer, but such service shall  
1496 be received no less than one (1) time per week with no exception for holiday(s) as set forth herein,  
1497 except that Collection Service scheduled to fall on a holiday may be rescheduled as determined  
1498 between the customer and CONTRACTOR as long as the minimum frequency requirement is  
1499 met. Service may be provided by Bin or Cart at the option of the customer. The size of the  
1500 container and the frequency (above the minimum) of Collection shall be determined between the  
1501 customer and CONTRACTOR. However, size and frequency shall be sufficient to provide that no  
1502 Commercial Garbage need be placed outside the Bin or Cart. CONTRACTOR shall provide  
1503 containers as part of the Commercial Collection Service rates set forth in **Exhibit 1**. Customers  
1504 may provide their own Compactor, provided that the customer is completely responsible for its  
1505 proper maintenance and that such Compactor shall be of a type that can be serviced by  
1506 CONTRACTOR'S equipment.

1507           9.02.4 Commercial Garbage Overflow. In the case of repeated overflows of  
1508 Commercial Garbage, CONTRACTOR shall contact the Commercial Service Unit management  
1509 to arrange for an appropriate change in Garbage Bin or Cart size, collection frequency or both.  
1510 In the event CONTRACTOR cannot successfully contact the Commercial Service Unit  
1511 management after three attempts, or cannot reach an agreement with such management  
1512 regarding the change in service, CONTRACTOR shall advise the City Representative by written  
1513 communication or e-mail, of the details of the Commercial Garbage overages, and the attempts  
1514 at communication with the Commercial Service Unit management. The City Representative shall  
1515 respond to CONTRACTOR'S report and make a final written determination. Within five (5) Work  
1516 Days of receipt of the City Representative's written determination, CONTRACTOR shall change  
1517 the Collection Service in accordance with such written determination.

1518           9.02.5 Non-Collection. CONTRACTOR shall not be required to collect any  
1519 Commercial Garbage that is not placed in a Garbage Bin or Cart. CONTRACTOR shall also not  
1520 be required to collect any Container that is blocked by debris, or is otherwise obstructed in a  
1521 manner that prevents CONTRACTOR from accessing the Container for collection. In the event of  
1522 non-collection, CONTRACTOR shall affix to the Garbage Bin or Cart a Non-Collection Notice  
1523 explaining why collection was not made.

1524           9.03 Commercial Recycling Collection Service. This service will be governed by the  
1525 following terms and conditions:

1526           9.03.1 Conditions of Service. CONTRACTOR shall provide Commercial Recycling  
1527 Collection Service to all Commercial Service Units in the Service Area whose Recyclable  
1528 Materials are properly containerized in Recycling Bins, Carts or Debris Boxes, except as set forth  
1529 below, where the Recycling Bins, Carts, or Debris Boxes are accessible. CONTRACTOR shall

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1530 charge for collection of Recyclable Materials collected in Carts or Bins at the rate set forth in  
1531 **Exhibit 1**. Commercial Recycling Collection will occur Monday through Friday, and on Saturdays  
1532 upon request and as necessary.

1533           9.03.2 Base Commercial Recycling Service. All Commercial Service Recipients  
1534 subscribing to Commercial Garbage Collection Service shall receive weekly collection of the  
1535 equivalent volume of one (1) 96 gallon Recycling Cart per Service Recipient at no additional cost.  
1536 This equivalent volume may be provided in the form of up to two (2) smaller Cart sizes, if  
1537 requested by the Service Recipient and/or to help meet space constraints. In situations where  
1538 shared service is provided, the equivalent volume of one (1) 96 gallon Recycling Cart per  
1539 individual Commercial entity that is sharing service shall be provided at no additional cost, and  
1540 the actual configuration of Recycling Cart and/or Bin sizes to be provided shall be based on the  
1541 total equivalent volume, and configured in a manner determined by the Service Recipient in  
1542 consultation with the CONTRACTOR.

1543           9.03.3 Compliance with AB 341. CONTRACTOR will develop and maintain a  
1544 recycling program in compliance with AB 341, and implement such program upon the starting  
1545 date of this Agreement. CONTRACTOR will notify any covered businesses not participating in the  
1546 recycling program of the requirements to comply with the law, starting April 1, 2018.  
1547 CONTRACTOR will provide the volume of collection service that covered businesses require in  
1548 order to be in compliance with the law.

1549           9.03.4 Material Recovery Facility. All Recyclable Materials collected as a result  
1550 of performing Commercial Recycling Services shall be delivered to a Material Recovery Facility.  
1551 Failure to comply with this provision shall result in the levy of liquidated damages as specified in  
1552 this Agreement. All expenses related to Recyclable Materials processing and marketing will be  
1553 the sole responsibility of CONTRACTOR.

1554           9.03.5 Size and Frequency of Service. This service shall be provided as deemed  
1555 necessary and as determined between CONTRACTOR and the customer, but such service shall  
1556 be received no less than one (1) time per week with no exception for holiday(s) as set forth herein,  
1557 except that collection service scheduled to fall on a holiday may be rescheduled as determined  
1558 between the customer and CONTRACTOR as long as the minimum frequency requirement is  
1559 met. Service may be provided by Bin, Cart or Debris Box at the option of the customer. The size  
1560 of the container and the frequency (above the minimum) of collection shall be determined between  
1561 the customer and CONTRACTOR. However, size and frequency shall be sufficient to provide that  
1562 no Recyclable Materials need be placed outside the Bin, Cart or Debris Box. CONTRACTOR shall  
1563 provide containers as part of the Commercial Collection Service rates set forth in **Exhibit 1**.  
1564 Customers may provide their own Compactor, provided that the customer is completely  
1565 responsible for its proper maintenance and that such Compactor shall be of a type that can be  
1566 serviced by CONTRACTOR'S equipment.

1567           9.03.6 Additional Recycling Bins or Carts. CONTRACTOR shall provide  
1568 additional Commercial Recycling Bins and Carts to Commercial Service Recipients within five (5)  
1569 days of request at the rates listed in **Exhibit 1** provided that additional bins and carts are used by  
1570 Commercial Service Recipients for the purposes of setting out additional Recyclable Materials for  
1571 regular weekly Recycling Collection Service.

1572           9.04 Commercial Organic Waste Service. This service includes collection of Green Waste  
1573 and Food Waste together in Organic Waste Carts, Bins, Debris Boxes, and/or Compactors. This  
1574 service will be governed by the following terms and conditions:

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1575                   9.04.1 Conditions of Service. CONTRACTOR shall provide Commercial Organic  
1576 Waste Collection Service to all Commercial Service Units in the Service Area whose Organic  
1577 Waste materials are properly containerized in Organic Waste Bins, Carts, Debris Boxes, or  
1578 Compactors except as set forth below, where the Organic Waste Bins, Carts, debris Boxes, or  
1579 Compactors are accessible. CONTRACTOR shall charge for collection of Organic Waste  
1580 collected in Carts or Bins at the rate set forth in **Exhibit 1**. CONTRACTOR agrees that not all  
1581 Commercial and MFD Service Units will elect to receive Organic Waste Collection Service in  
1582 Carts, and that CONTRACTOR will provide Organic Waste Collection Bins upon request and as  
1583 necessary. Further, CONTRACTOR agrees that there are several Commercial Service Units that  
1584 utilize Compactors for collection of Organic Waste, and that CONTRACTOR will provide a  
1585 sufficient number of Carts or Bins and at a collection frequency to allow for any such Commercial  
1586 Service Unit to utilize the collection of Organic Waste. Commercial Organic Waste Collection will  
1587 occur Monday through Friday, and on Saturdays upon request and as necessary.

1588                   9.04.2 Base Commercial Organic Waste Service. All Commercial Service  
1589 Recipients subscribing to Commercial Garbage Collection Service shall receive weekly collection  
1590 of the equivalent volume of one (1) 32 gallon Organic Waste Cart per Service Recipient at no  
1591 additional cost. In situations where shared service is provided, the equivalent volume of one (1)  
1592 32 gallon Organic Waste Cart per individual Commercial entity that is sharing service shall be  
1593 provided at no additional cost, and the actual configuration of Organic Waste Cart and/or Bin sizes  
1594 to be provided shall be based on the total equivalent volume, and configured in a manner  
1595 determined by the Service Recipient in consultation with the CONTRACTOR.

1596                   9.04.3 Compliance with AB 1826. CONTRACTOR will develop and maintain an  
1597 organic waste recycling program in compliance with the AB 1826 schedule, and implement such  
1598 program upon the starting date of this Agreement. CONTRACTOR will notify any covered  
1599 businesses not participating in the recycling program of the requirements to comply with the law  
1600 starting April 1, 2018. CONTRACTOR will provide the volume of collection service that covered  
1601 businesses require in order to be in compliance with the law.

1602                   9.04.4 Organic Waste Processing Facility. All Organic Waste collected as a  
1603 result of performing Commercial Collection Services shall be delivered to an Organic Waste  
1604 Processing Facility. Failure to comply with this provision may result in the levy of liquidated  
1605 damages as specified in this Agreement and may result in CONTRACTOR being in default under  
1606 this Agreement. All expenses related to Organic Waste processing and marketing will be the sole  
1607 responsibility of CONTRACTOR.

1608                   9.04.5 Size and Frequency of Service. This service shall be provided as deemed  
1609 necessary and as determined between CONTRACTOR and the customer, but such service shall  
1610 be received no less than one (1) time per week with no exception for holiday(s) as set forth herein,  
1611 except that Collection Service scheduled to fall on a holiday may be rescheduled as determined  
1612 between the customer and CONTRACTOR as long as the minimum frequency requirement is  
1613 met. Service may be provided by Bin, Cart or Debris Box at the option of the customer. The size  
1614 of the container and the frequency (above the minimum) of collection shall be determined between  
1615 the customer and CONTRACTOR. However, size and frequency shall be sufficient to provide that  
1616 no Organic Waste Materials need be placed outside the Bin, Cart or Debris Box. CONTRACTOR  
1617 shall provide containers as part of the Commercial Collection Service rates set forth in **Exhibit 1**.  
1618 Customers may provide their own Compactor, provided that the customer is completely  
1619 responsible for its proper maintenance and that such Compactor shall be of a type that can be  
1620 serviced by CONTRACTOR'S equipment.

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1621                    9.04.6 Additional Organic Waste Bins or Carts. CONTRACTOR shall provide  
1622 additional Commercial Organic Waste Bins and Carts to Commercial Service Recipients at the  
1623 rates listed in **Exhibit 1** provided that additional Bins and Carts are used by Commercial Service  
1624 Recipients for the purposes of setting out additional Organic Waste materials for regular weekly  
1625 Organic Waste Collection Service.

1626                    9.05 Commercial Debris Box Collection Service. Upon request of a Commercial Service  
1627 Unit, CONTRACTOR shall provide a Commercial Debris Box Collection Service on a temporary  
1628 basis or permanent basis.

1629                    9.05.1 Charges for Debris Boxes shall be in accordance with **Exhibit 1** of this  
1630 Agreement.

1631                    9.05.2 CONTRACTOR shall provide Commercial Debris Box Collection Services  
1632 with as little disturbance as possible and without obstructing alleys, roadways, driveways,  
1633 sidewalks, or mail boxes. CONTRACTOR shall only place Debris Boxes in strict adherence with  
1634 CITY'S right-of-way requirements and Municipal Code.

### 1635 **ARTICLE 10. Additional Collection Services**

1636                    10.01 Collection from CITY Service Units, Public Locations, Library, and Fire Station 40.  
1637 At no cost to CITY, CONTRACTOR shall provide Garbage, Recycling, Organic Waste, and Debris  
1638 Box Collection Service to the Service Units and public containers listed in **Exhibit 2**, at the volume  
1639 and frequency set forth in **Exhibit 2**, including but not limited to the local library and Fire Station  
1640 40. CITY may change the CITY Service Units and public containers receiving service and the  
1641 volume and frequency of service by written notice to CONTRACTOR, provided the change does  
1642 not increase CONTRACTOR's total cost of providing services to City Service Units. Service may  
1643 be provided by Bin, Cart or Debris Box at the option of CITY. CONTRACTOR shall offer Carts,  
1644 Bins and Debris Boxes for all material types in the same container sizes and collection frequencies  
1645 offered to Commercial Service Recipients, as described in Article 9.

1646                    10.01.1 Accessibility. CONTRACTOR shall collect all carts, bins and debris  
1647 boxes that are readily accessible to CONTRACTOR'S crew and vehicles and not blocked.  
1648 CONTRACTOR shall provide "push services" and/or "key services" as necessary during collection  
1649 from CITY Service Units. Push services shall include, but not be limited to, dismounting from the  
1650 collection vehicle, moving the bins or carts from their storage location for collection and returning  
1651 the bins or carts to their storage location. Key services shall include the provision of a master  
1652 lock and key by CONTRACTOR to the Service Address for the purpose of locking the Service  
1653 Recipient's carts or bins.

1654                    10.01.2 Notification. CONTRACTOR will notify the City Representative  
1655 daily, by e-mail, of all situations that prevent or hinder collection from any CITY Service Unit,  
1656 unless otherwise directed by CITY.

1657                    10.02 CITY-Supported Events. CONTRACTOR shall provide Collection Services at the  
1658 CITY-supported events listed in **Exhibit 3**, and/or at any other CITY-supported events that are  
1659 held on CITY property and requested by CITY, at no additional cost to the CITY or its ratepayers.  
1660 Within any Agreement Year, CITY may substitute other events for those listed in **Exhibit 3**, and  
1661 may change the volume of services provided at CITY-supported events, so long as the total  
1662 annual cost to CONTRACTOR does not exceed the annual cost of providing the services for the  
1663 events that are listed in **Exhibit 3**.

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1664           10.03 City Code Enforcement Clean-Up Service. In response to the request of the City  
1665 Representative, CONTRACTOR shall within two (2) Work Days provide for collection of illegally  
1666 dumped materials from CITY Streets, public rights-of-way, and CITY-designated properties.  
1667 CONTRACTOR shall collect, transport and deliver the materials to the Disposal Facility, the  
1668 Materials Recovery Facility, or such other facility as is appropriate for the disposition of the  
1669 materials and approved by the City Representative. CONTRACTOR shall provide up to 1,000  
1670 cubic yards of this service per Agreement Year at no charge to CITY. For any excess volume,  
1671 CONTRACTOR may charge a fee in accordance with the Maximum Service Rates as specified  
1672 in **Exhibit 1**, as adjusted in accordance with this Agreement. Unused volume may not be carried  
1673 forward as a credit to subsequent years.

1674           10.03.1 Abandoned Waste Notification. CONTRACTOR shall direct its  
1675 collection vehicle drivers to note (i) the addresses of any premises at which the driver observes  
1676 that Garbage, Recyclable Material, and/or Organic Waste Material is accumulating; and (ii) the  
1677 address, or other location description, at which Garbage, Recyclable Material, and/or Organic  
1678 Waste has been dumped in an apparently unauthorized manner. This includes material  
1679 accumulating or deposited in CITY Streets, in public rights-of-way, or on vacant parcels to the  
1680 CITY. CONTRACTOR shall deliver the address or description to CITY within twenty-four hours  
1681 (24) of such observation.

1682           10.04 Non-CITY Large Venue and Event Collection Service. CONTRACTOR shall  
1683 provide Collection services, upon request, to any venue and/or event within the CITY Service  
1684 Area. Specifically, CONTRACTOR shall provide, at a minimum, Garbage and Recyclable  
1685 Materials Collection services, and shall also provide Organic Waste Collection services if one (1)  
1686 cubic yard or more of Organic Waste is generated per day at the Venue or Event. Organic Waste  
1687 Collection services, if provided, shall include collection of both Green Waste and Food Waste.  
1688 CONTRACTOR shall provide Collection as frequently as requested by the CITY or the event  
1689 organizer. CONTRACTOR shall provide an adequate number and type of Collection Container(s)  
1690 for the venue or event and shall coordinate its Collection services with CITY or event organizer.  
1691 Containers shall be appropriately labeled to collect Garbage, Recyclable Materials or Organic  
1692 Waste. Within ten (10) Business Days of CONTRACTOR receiving a request to supply an event  
1693 with Garbage, Recyclable Materials, Organic Waste Collection services, the CONTRACTOR will  
1694 either meet with or schedule a meeting with the event organizer to discuss the event's parameters,  
1695 including location, number of people attending, type of event, type of food being provided, and  
1696 other related issues. Once parameters of the event are determined, proper Containers will be  
1697 provided by CONTRACTOR, with emphasis on recycling and diversion of the materials  
1698 generated.

1699           10.04.1 Maximum Service Rates. CONTRACTOR may charge the  
1700 venue/event organizer at the Maximum Service Rates in accordance with Exhibit 1 for comparable  
1701 services provided to Commercial Service Units. Recyclable Materials Collection service shall be  
1702 provided at no additional cost to venues/events that subscribe to Garbage Collection.

1703           10.04.2 Reporting. The CONTRACTOR shall report the tonnage of each  
1704 material type Collected at each venue and event to the CITY and, upon CITY request, to the event  
1705 organizer. For venues and events which are required to comply with the Large Venues and Events  
1706 Recycling Law, codified at Public Resources Code Section 42648 et seq., CONTRACTOR shall  
1707 assist the venue or event organizer in preparing a Recycling Plan and reporting all information  
1708 required by those provisions of the law. CONTRACTOR shall be required to provide to CITY, at  
1709 a minimum, the following information for each venue or event:

1710                           10.04.2.1       List of large venues and events in Service Area.

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- 1711                            10.04.2.2      Physical and mailing addresses.
- 1712                            10.04.2.3      Contact name, address, phone number and email address.
- 1713                            10.04.2.4      Type of venue or event (e.g., museum, concert, sporting  
1714 event).
- 1715                            10.04.2.5      Status of the venue or event's written waste  
1716 diversion/Recycling Plan (for all venues and events which  
1717 are required to comply with the Large Venues and Events  
1718 Recycling Law), and a description of the extent in which the  
1719 plan has been implemented.
- 1720                            10.04.2.6      Service level provided (i.e., Solid Waste, Recyclable  
1721 Materials and Organic Waste).
- 1722                            10.04.2.7      Tons disposed and diverted, by material type.
- 1723                            10.04.2.8      Description of the scope and types of diversion programs  
1724 provided.
- 1725                            10.04.2.9      Any other information required by law.

1726                            10.05 Compost Giveaway and Shred Events. CONTRACTOR will coordinate with the  
1727 CITY to host up to three shred event annually. Two of the shred events will be held in conjunction  
1728 with "Bring Your Own Bucket" (BYOB) giveaway of compost to CITY residents, unless otherwise  
1729 approved by the CITY. The third shred event should be scheduled in partnership with the Senior  
1730 Coastsiders or with any other local organization identified by the CITY. The BYOB compost  
1731 giveaway will provide residents with free compost to enrich their gardens while also educating  
1732 residents on the benefits of home composting. In addition, CONTRACTOR representatives will  
1733 be on hand to distribute recycling guides and other educational material promoting waste  
1734 reduction and recycling. Households will be limited to three banker-size boxes at each shred  
1735 event. The compost giveaway will include a total of fifteen (15) cubic yards of compost per  
1736 giveaway. The dates and times for Compost Giveaway events will be mutually agreed upon  
1737 between the CONTRACTOR and the CITY Representative.

1738                            10.06 School Tours and Scholarships. CONTRACTOR shall provide busing for Cabrillo  
1739 Unified School District Schools located in Half Moon Bay and tours of the Ox Mountain Landfill,  
1740 up to five times per school year. Additionally, CONTRACTOR shall provide one one thousand-  
1741 dollar (\$1,000) scholarship per calendar year to a high school student residing in the City limits or  
1742 attending Half Moon Bay High School to assist with their secondary education. Selection criteria  
1743 will be determined through consultation with the CITY and administered in the spring semester.

1744                            10.07 Poplar Beach Cleanup. Twice per Agreement Year, at no additional cost to the  
1745 CITY or Service Recipients, CONTRACTOR will coordinate cleanups at Poplar Beach in  
1746 collaboration with the CITY, Chamber and other local organizations.

1747                            10.08 Street Sweeping Services. CONTRACTOR shall provide Street Sweeping  
1748 Services throughout the term of this Agreement, in accordance with the following terms and  
1749 conditions.

1750                            10.08.1            Manner of Service. CONTRACTOR shall provide a complete sweep  
1751 of all Curb Miles on all publicly maintained CITY Streets. Within any Curb Mile, CONTRACTOR  
1752 shall be responsible for sweeping all curbs including Median Islands and the corners from any  
1753 cross street intersecting the subject street. CONTRACTOR shall obey all laws governing the

## FRANCHISE AGREEMENT

1754 operation of the sweepers on a public street, and shall perform its operations so that sweepers  
1755 are traversing their routes in the normal direction of traffic.

1756                   10.08.2           CONTRACTOR shall furnish all materials, labor, supervision and  
1757 equipment necessary to perform all work required for regularly scheduled sweeping of all public  
1758 streets in the City at the frequency and within the time frames described in **Exhibit 4**. Within 90  
1759 days of the Effective Date, CONTRACTOR shall adopt a CITY approved street sweeping  
1760 schedule that follows the CITY approved refuse collection schedule, including adjustments for  
1761 Holidays. The sweep shall occur once a month on a designated weekly schedule as identified in  
1762 the sweep maps, except in specified areas that require weekly sweeping. Sweeping will not occur  
1763 on SFD collection days in the designated neighborhoods. CONTRACTOR may at times perform  
1764 additional sweeps on collection days to mitigate litter and spillage from overloaded containers at  
1765 CONTRACTOR'S own expense. Exceptions resulting from equipment breakdowns shall be  
1766 immediately reported to the CITY with a catch-up schedule.

1767                   10.08.3           CONTRACTOR shall also provide an annual 500-hour time bank  
1768 for unscheduled sweeping and related services as described in **Exhibit 4** or as otherwise  
1769 assigned by the CITY upon 24-hour notice. Emergency incidents including vehicle accidents, illicit  
1770 discharges, and other emergencies shall be responded to within two hours or less depending on  
1771 the severity of the incident.

1772                   10.08.4           Maps. CONTRACTOR shall provide the Street Sweeping Service  
1773 route maps to the CITY Representative upon request, within ninety (90) days from receipt of  
1774 written notice. The maps shall be provided in a format that can be posted to the CITY website.

1775                   10.08.5           Sweeping Method. Unweepable items that impede sweeping,  
1776 such as palm fronds, rocks, trash and debris shall be removed from the sweeping path and  
1777 properly disposed of by the operator rather than driving around them. Items that impede sweeping  
1778 and are immovable such as construction debris and impaired vertical or horizontal clearance by  
1779 tree limbs shall be reported to the CITY immediately for correction. CONTRACTOR is not  
1780 responsible for areas missed due to parked cars or other personal property. Sweeper operators  
1781 shall immediately report to CONTRACTOR and the CITY all illicit discharges observed during  
1782 routes. CONTRACTOR shall train all operators to recognize illicit discharges and stormwater  
1783 pollution sources prior to work as street operators and annually thereafter, using CITY-approved  
1784 training materials. Such training shall be documented for review by the CITY.

1785                   10.08.5.1       In areas where drainage is a problem, CONTRACTOR shall  
1786 make as many passes as necessary to remove debris from standing water. In addition, all sand,  
1787 dirt, rocks, gravel, vegetation, and other sweepable debris shall be removed from the street during  
1788 the sweeping operation. If standing water is over the top of curb, then CONTRACTOR shall not  
1789 be required to sweep that specific area. Sweeper operators shall report drainage problems to  
1790 CONTRACTOR and CITY on a monthly basis, or as deemed appropriate by CONTRACTOR.

1791                   10.08.6           Standards of Service. All areas swept under this Agreement shall  
1792 be thoroughly cleaned. All debris shall be picked up by the sweeper unit and disposed of at  
1793 CONTRACTOR's expense as outlined in this Section. Sweeping shall include the removal of all  
1794 sand, gravel, dirt, litter, vegetation, and any and all other debris that accumulates between  
1795 sweeps. Curb lines shall be swept along both sides of the roadway, or to the edge of pavement  
1796 where no curb exists, along all curbs on raised medians, over all portions of painted medians,  
1797 painted left and right turn pockets, and all intersection cross gutters. Sweeping shall normally  
1798 require one pass over an area. CONTRACTOR shall make additional passes or make such extra  
1799 effort required to adequately clean the street to the satisfaction of the CITY. Extra effort shall be  
1800 required when sweeping equipment leaves a dirt/silt smear in its swept path. The service

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1801 standards in this Section may be reviewed and modified as conditions warrant to maintain  
1802 cleanliness by the CITY or as necessary to comply with any regulatory permits issued to CITY.

1803                   10.08.7       Water. CONTRACTOR shall obtain water services from the  
1804 appropriate water utility or CITY, if deemed appropriate, for the water necessary in the street  
1805 sweeping operation, and the cost of the water shall be borne by CONTRACTOR.

1806                   10.08.7.1       When possible, and in accordance with applicable laws and  
1807 regulations, including Title 22 of the California Code of Regulations, CONTRACTOR shall use  
1808 reclaimed or tertiary recycled water.

1809                   10.08.7.2       CONTRACTOR shall not discharge liquid waste from the  
1810 sweeper units onto CITY streets or into the storm drain system.

1811                   10.08.7.3       Washing of sweepers on CITY property is prohibited. Any  
1812 and all washing of sweeper units shall be compliant with Section 12.07. CONTRACTOR shall  
1813 implement best management practices when loading water into the street sweepers to prevent  
1814 any overflow/potable water discharges into the storm drain system.

1815                   10.08.8       Sweeper Speed. CONTRACTOR shall operate the sweepers at a  
1816 speed of not more than five (5) miles per hour in residential areas and eight (8) miles per hour in  
1817 commercial areas when sweeping or when the sweeper brooms are down, unless  
1818 CONTRACTOR can demonstrate that the sweeper can operate efficiently and safely at a higher  
1819 speed. CITY will use industry standards, Environmental Protection Agency information, and the  
1820 sweeper manufacturers' recommendations on the speed of sweepers when considering speeds  
1821 greater than six (6) miles per hour.

1822                   10.08.9       Width of Sweeper Path. CONTRACTOR shall sweep a path, with  
1823 all brooms down, with a width of not less than eight (8) feet unless parked vehicles, structures, or  
1824 other objects prohibit the safe sweeping of this path width. The path shall begin at the face of the  
1825 curb, and include the flow line of the gutter. Unless blocked by parked cars, Garbage Carts,  
1826 Recycling Carts, or Organics Carts the face of the curb and gutter shall always be included within  
1827 the sweeper path. On those residential streets with no curb, the width of the sweeper path shall  
1828 be not less than eight (8) feet measured from the edge of the pavement toward the center of the  
1829 street.

1830                   10.08.10       Street Sweeping Frequency.

1831                   10.08.10.1       Residential Streets. CONTRACTOR shall provide Street  
1832 Sweeping Service for each Curb Mile of residential streets in the CITY once a month on a  
1833 scheduled route basis. However, in those instances where the scheduled Street Sweeping  
1834 Service day falls on a Holiday, CONTRACTOR shall adjust the route schedule as set forth in  
1835 Section 3.09.

1836                   10.08.10.2       Commercial Streets. CONTRACTOR shall provide Street  
1837 Sweeping Service for each Curb Mile of commercial streets no earlier than 2:00 a.m. in the CITY's  
1838 downtown area once per week on a scheduled route basis. However, in those instances where  
1839 the scheduled Street Sweeping Service day falls on a Holiday, CONTRACTOR shall adjust the  
1840 route schedule as set forth in Section 3.09.

1841                   10.08.10.3       Other Areas. CONTRACTOR shall provide Street  
1842 Sweeping Service for additional areas, as described in **Exhibit 4** at a frequency as provided in  
1843 **Exhibit 4.**

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1844                            10.08.10.4    Change in Frequency. The CITY may direct CONTRACTOR  
 1845 to change the frequency of street sweeping for any CITY street. CONTRACTOR shall implement  
 1846 CITY-directed changes in frequency within fifteen (15) Work Days of receipt of written notice from  
 1847 the CITY Representative to adjust sweeping frequency. Any changes under this Section shall be  
 1848 treated as CITY-directed changes under Section 25.02.

1849                            10.08.11        Street Sweeping Hours of Service.

1850                            10.08.11.1     Residential Streets. CONTRACTOR shall provide Street  
 1851 Sweeping Service on residential streets commencing no earlier than 6:00 a.m. and terminating  
 1852 no later than 4:00 p.m. Monday-Friday. Street Sweeping Services shall take place five days per  
 1853 week. The hours, days, or both of service may be extended due to extraordinary circumstances  
 1854 or conditions with the prior written consent of the CITY Representative. Sweeping in residential  
 1855 areas shall be coordinated with Collection Services to ensure that sweeping occurs after collection  
 1856 of all Carts has been completed on a specific street.

1857                            10.08.11.2     Commercial Streets. CONTRACTOR shall provide Street  
 1858 Sweeping Service on commercial streets commencing no earlier than 2:00 a.m. and terminate no  
 1859 later than 6:00 a.m. Monday-Friday. Street Sweeping Service shall take place five days per week.  
 1860 The hours, days, or both of service may be extended due to extraordinary circumstances or  
 1861 conditions with the prior written consent of the CITY Representative. The CITY may restrict Street  
 1862 Sweeping hours in the downtown area or other areas where noise or traffic negatively affects the  
 1863 surrounding neighborhoods.

1864                            10.08.11.3     Other Areas. Designated collector, arterial streets and CITY  
 1865 facilities may be swept on a schedule as provided in **Exhibit 4**.

1866                            10.08.12        Street Changes. CITY and CONTRACTOR acknowledge that it  
 1867 may be necessary or desirable to add or delete CITY Streets for which CONTRACTOR will  
 1868 provide Street Sweeping Services or necessary to temporarily modify sweeping schedules. CITY  
 1869 will provide notice of any such changes to CONTRACTOR which may be caused by the following:

1870                            10.08.12.1     Construction or development on or along a street.

1871                            10.08.12.2     Pavement maintenance activities, including the chip seal  
 1872 program or the slurry seal program.

1873                            10.08.12.3     Special sweeping on alternative schedule.

1874                            10.08.12.4     Other legitimate reasons that make sweeping impractical as  
 1875 determined by the CITY Representative.

1876                            10.08.13        Street Additions. As new streets are constructed and accepted by  
 1877 CITY, CITY may, at CITY'S sole option, designate such streets as part of the Service Area for the  
 1878 purposes of Street Sweeping Services. If the CITY Representative designates such streets as  
 1879 part of the Service Area, CONTRACTOR shall provide Street Sweeping Service on such streets  
 1880 under the terms and conditions of this Agreement within fifteen (15) Work Days of receipt of written  
 1881 notice from the CITY Representative to begin service.

1882                            10.08.14        Street Deletions. CITY may require some CITY Streets to be  
 1883 temporarily or permanently removed from the list of scheduled streets for which CONTRACTOR  
 1884 provides Street Sweeping Service under this Agreement. CONTRACTOR shall immediately  
 1885 cease providing Street Sweeping Service to any CITY Street upon receipt of written notice from  
 1886 the CITY Representative to stop such service. When a CITY Street has been temporarily removed  
 1887 from the list of scheduled streets, CONTRACTOR shall resume Street Sweeping Service on such

## FRANCHISE AGREEMENT

1888 street in the next regularly scheduled cycle following the receipt of written notice from the CITY  
1889 Representative to resume service.

1890                   10.08.15       Revised Maps. CONTRACTOR shall revise the Street Sweeping  
1891 Service route maps to show permanent addition or deletion of CITY Streets and shall provide  
1892 such revised maps to the CITY Representative upon request, within ninety (90) days from receipt  
1893 of written notice. The maps shall be provided in a format that can be posted to the CITY website.

1894                   10.08.16       Hazardous Waste. CONTRACTOR shall not be required to remove  
1895 any Hazardous Waste from the street surface. If, in the course of performing Street Sweeping  
1896 Services, any suspected Hazardous Waste is encountered, CONTRACTOR shall immediately  
1897 report the location to the CITY's Police Department, the CITY Representative, and any other  
1898 responsible agency.

1899                   10.08.17       Disposal of Sweep Waste. CONTRACTOR shall transport and  
1900 deliver to the Disposal Facility all Sweep Waste collected as a result of performing Street  
1901 Sweeping Services in a manner that meets AB 939 or other waste diversion requirements  
1902 established per CalRecycle. In the event the Disposal Facility is closed on a Work Day or is  
1903 otherwise unable to accept the Sweep Waste for disposal, CONTRACTOR shall transport and  
1904 dispose of the Sweep Waste at such other legally permitted Disposal Facility approved by the  
1905 CITY Representative. Debris recycling and processing shall be by mutual agreement between the  
1906 CONTRACTOR and the CITY and shall not be calculated as part of the minimum annual diversion  
1907 rate required in Article 5.

1908                   10.08.18       Spillage. During hauling, all Sweep Waste shall be contained,  
1909 covered and enclosed so that leaking, spilling and blowing of the Sweep Waste is prevented.  
1910 CONTRACTOR shall be responsible for the immediate clean-up of any spillage caused by  
1911 CONTRACTOR.

1912                   10.08.18.1     Not less than forty-five (45) Work Days prior to  
1913 commencement of Street Sweeping Services, CONTRACTOR shall submit to the CITY  
1914 Representative, Service Area maps precisely defining the Sweeper Routes for review and  
1915 approval by the CITY Representative. The route maps shall include the days of the month  
1916 sweeping shall occur, the sweeping schedules in adjacent areas, the areas of the CITY to be  
1917 swept, the start and finish of each route, the location of each dumpsite, and any special needs  
1918 such as early starts, and late finishes.

1919                   10.08.18.2     The CITY Representative may provide written comments on  
1920 the preliminary maps to CONTRACTOR no later than twenty (20) Work Days after receipt of the  
1921 maps from CONTRACTOR. CONTRACTOR shall revise the maps to reflect such comments and  
1922 return them to the CITY Representative within twenty (20) Work Days after receipt of the CITY  
1923 Representative's comments.

1924                   10.08.18.3     Upon approval by the CITY Representative of the final  
1925 Sweeper Route maps, CONTRACTOR shall develop and maintain the Sweeping Routes on a  
1926 computerized mapping system that is compatible with CITY'S mapping system to the extent  
1927 possible. Street Sweeping maps provided to the CITY shall be in a format that is suitable for  
1928 posting to the CITY website.

1929                   10.08.18.4     Changes in maps shall be provided by the CITY, and  
1930 CONTRACTOR shall update the maps in CONTRACTOR's system every month. Such changes  
1931 shall also be reflected in CONTRACTOR's printed route maps.

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1932                           10.08.19       Service Route Changes. CONTRACTOR shall submit to the CITY  
1933 Representative, in writing, any proposed route change (including maps thereof) not less than  
1934 forty-five (45) Work Days prior to the proposed date of implementation.

1935                           10.08.19.1      The CITY Representative may provide written comments to  
1936 CONTRACTOR on such proposed change no later than ten (10) Work Days after receipt of the  
1937 proposal from CONTRACTOR, and CONTRACTOR shall revise the routes to reflect such  
1938 comments and return them to the CITY Representative within ten (10) Work Days of receipt of  
1939 such comments.

1940                           10.08.19.2      CONTRACTOR shall not implement any route changes  
1941 without the prior written approval of the CITY Representative. If the approved route change will  
1942 change the day on which Street Sweeping Service will occur, CONTRACTOR shall notify the  
1943 affected Service Recipients of route changes not less than thirty (30) Work Days before the  
1944 proposed date of implementation in a manner approved by the CITY Representative.

1945                           10.08.20       Other CITY Sweep Service. If during the term of this Agreement,  
1946 circumstances exist that require work associated with the Street Sweeping Service program that  
1947 is not specifically provided for in this Agreement, the CITY Representative may require  
1948 CONTRACTOR to perform such other associated work ("OAW").

1949                           10.08.20.1      When CONTRACTOR performs OAW, the labor, materials,  
1950 and equipment used in the performance of such work shall be subject to the prior written approval  
1951 of the CITY Representative.

1952                           10.08.20.2      Examples of OAW that CONTRACTOR may be required to  
1953 perform include: performance of special sweeps, flood clean-up, street sanitation for parades and  
1954 celebrations, CITY requested clean-up services, and any contingency where sweeper and  
1955 supporting sweeper equipment could assist in a particular instance.

1956                           10.08.20.3      CONTRACTOR shall provide certain OAW services within  
1957 24 hours of CITY request, including but not limited to sweeping of a spill, accident, or other  
1958 situations as deemed necessary by the CITY.

1959                           10.08.21       Street Sweeping Quality of Work. The standards of performance  
1960 which CONTRACTOR is obligated to meet are those good street sweeping practices which leave  
1961 the service area in a debris and dirt free condition.

1962                           10.08.22       Street Sweeping Equipment.

1963                           10.08.22.1      General Provisions. All Street Sweeping Service equipment  
1964 used by CONTRACTOR in the performance of services under this Agreement shall be of a high  
1965 quality, adequate to meet standards of service provided for in this Section, and shall be primarily  
1966 regenerative air in design, however mechanical broom or vacuum systems may be appropriate  
1967 and in conformance with the City's Storm Water Permit. All vehicles to be used shall comply with  
1968 the provisions of Article 12 for collection vehicles.

1969                           10.08.22.2      Collection Vehicles. The collection vehicles shall be  
1970 designed and operated so as to prevent collected materials from escaping from the collection  
1971 vehicles. Hoppers shall be closed on top and on all sides with screening material to prevent  
1972 collected materials from leaking, blowing or falling from the collection vehicles.

1973                           10.08.22.3      Clean Air Collection Vehicles. During the term of this  
1974 Agreement, to the extent required by law, CONTRACTOR shall provide its Street Sweeping  
1975 vehicles to be in full compliance with all Applicable Laws, including State and federal clean air

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1976 requirements that are adopted or proposed to be adopted, including, but not limited to, the  
 1977 California Air Resources Board Heavy Duty Engine Standards as currently proposed to be  
 1978 contained in California Code of Regulations, title 13, sections 2020 et seq., the Federal EPA's  
 1979 Highway Diesel Fuel Sulfur regulations and all other applicable air pollution control laws.

1980                               10.08.22.4    Vehicle Noise Level. All Street Sweeping operations shall  
 1981 be conducted as quietly as possible and must comply with Applicable Laws, including federal EPA  
 1982 noise emission regulations, currently codified at Code of Federal Regulations, title 40, Part 205.

1983                               10.08.22.5    Reserve Equipment. CONTRACTOR shall have available  
 1984 to it, at all times, reserve collection and Street Sweeping Service equipment that can be put into  
 1985 service and operation within one (1) hour of any breakdown. Such reserve equipment shall  
 1986 correspond in size and capacity to the equipment used by CONTRACTOR to perform  
 1987 CONTRACTOR's duties under this Agreement.

1988                               10.08.22.6    All equipment shall be maintained in good mechanical  
 1989 condition, including brushes and brooms that shall be replaced at regular intervals.  
 1990 CONTRACTOR shall immediately clean any vehicle fluids (hydraulic fluids, lubricating oils, etc.)  
 1991 that leak or spill from equipment into the street or public right of way.

1992                               10.08.22.7    Sweeping equipment shall not be stored on CITY property  
 1993 or in the public right of way unless mechanical failure prevents immediate removal. In the event  
 1994 of mechanical failure, all efforts must be made to remove the equipment from the public right of  
 1995 way as soon as possible. The CITY must approve any overnight storage in public right of way or  
 1996 on CITY property.

1997                               10.08.22.8    All equipment is subject to inspection by the CITY at any  
 1998 time.

1999                               10.08.22.9    All sweepers shall have an operational strobe and back-up  
 2000 alarm and shall conform to all CITY, San Mateo County, State and federal safety requirements.

2001                               10.08.23    Staffing. All Street Sweeper operators shall abide by the  
 2002 requirements set forth in Article 28 of this Agreement.

2003                               10.08.24    Communication. CONTRACTOR shall have direct communication  
 2004 with all sweeping operators in the field utilizing radios or cellular telephones. Each sweeper  
 2005 operator shall have the ability to communicate verbal information immediately to CITY staff, Police  
 2006 and Fire Department personnel, residents, and to report illicit storm water discharges and  
 2007 hazardous street or drainage conditions to the CITY. CONTRACTOR shall also report missed  
 2008 routes and citizen complaints and resolution to the CITY on a weekly basis, when applicable.

2009                               10.08.25    CONTRACTOR shall supply a 24-hour message telephone number  
 2010 to the CITY Traffic Engineer so that the CITY can notify CONTRACTOR of traffic counter  
 2011 installations.

2012                               10.08.26    Drivers shall be aware of their locations in order to raise their  
 2013 brooms and avoid destruction of traffic counter cables. CONTRACTOR shall use due diligence to  
 2014 avoid traffic counter cables.

2015                               10.08.27    Deficiencies and Corrections. The CITY may also make regular  
 2016 unannounced inspections of Street Sweeping locations if a swept area is deemed to be below  
 2017 acceptable performance standards, the substandard section shall be re-swept within 24 hours of  
 2018 notification. CONTRACTOR shall re-sweep at their own expense. The CITY shall be notified of  
 2019 the completed re-sweep.

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2020                    10.08.28      CITY Storm Water Permit. CONTRACTOR shall meet street  
 2021 sweeping requirements included in the CITY's current Storm Water Discharge Permit (Order NO.  
 2022 R2-2009-0074, NPDES NO. CAS612008) as it may be amended, revised, or reissued from time  
 2023 to time.

### 2024 **ARTICLE 11. Collection Routes**

2025                    11.01 Collection Route Changes. CONTRACTOR shall submit to CITY, in writing, any  
 2026 proposed route change (including maps thereof) not less than sixty (60) calendar days prior to  
 2027 the proposed date of implementation. To the extent possible, CONTRACTOR will provide the map  
 2028 data in an electronic format that is compatible with the format used by CITY. CONTRACTOR shall  
 2029 not implement any route changes to SFD Service Recipients without the prior review of the City  
 2030 Representative. If the route change will change the collection day for a Service Recipient,  
 2031 CONTRACTOR shall notify those Service Recipients in writing of route changes not less than  
 2032 thirty (30) days before the proposed date of implementation.

2033                    11.02 Collection Route Audits. CITY reserves the right to conduct audits of  
 2034 CONTRACTOR'S collection routes. CONTRACTOR shall cooperate with CITY in connection  
 2035 therewith, including permitting CITY employees or agents, designated by the City Representative,  
 2036 to ride in the collection vehicles in order to conduct the audits. CONTRACTOR shall have no  
 2037 responsibility or liability for the salary, wages, benefits or worker compensation claims of any  
 2038 person designated by the City Representative to conduct such audits.

### 2039 **ARTICLE 12. Collection Vehicles**

2040                    12.01 General Provisions. All collection vehicles used by CONTRACTOR in the  
 2041 performance of services under this Agreement shall be of a high quality. CONTRACTOR shall  
 2042 replace its current Collection vehicles in accordance with the replacement schedule set forth in  
 2043 **Exhibit 11**.

2044                    12.02 Vehicle Registration, Licensing and Inspection. Upon request by CITY,  
 2045 CONTRACTOR shall submit documentation to CITY Representative to verify that each of  
 2046 CONTRACTOR'S collection vehicles is in compliance with all registration, licensing and  
 2047 inspection requirements of the California Highway Patrol, the California Department of Motor  
 2048 Vehicles, and any other applicable governmental body. CONTRACTOR shall not use any vehicle  
 2049 to perform Collection Services that is not in compliance with applicable registration, licensing and  
 2050 inspection requirements. Each vehicle shall comply, at all times, with all applicable statutes, laws  
 2051 or ordinances of any public agency. Routine inspections by the California Highway Patrol will be  
 2052 required bi-annually and certificates for said inspection shall be filed with CITY upon request.

2053                    12.03 Clean Air Vehicles. During the term of this Agreement, to the extent required by  
 2054 law, CONTRACTOR shall provide for its collection vehicles to be in full compliance with all then-  
 2055 applicable local, State and federal clean air requirements, including, but not limited to, the  
 2056 California Air Resources Board Heavy Duty Engine Standards; the Federal EPA's Highway Diesel  
 2057 Fuel Sulfur regulations, and any other applicable air pollution controls.

2058                    12.04 Vehicle Noise Level. All collection operations shall be conducted as quietly as  
 2059 possible and must comply with U.S. EPA noise emission regulations currently codified at 40 CFR  
 2060 Part 205, and other applicable State, County, and City noise control regulations.

2061                    12.05 Safety Equipment. All collection equipment used by CONTRACTOR shall have  
 2062 appropriate safety markings including, but not limited to, highway lighting, flashing and warning

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2063 lights, clearance lights, and warning flags. All such safety markings shall be subject to the  
2064 approval of CITY (if different from the markings commonly used by CONTRACTOR) and shall be  
2065 in accordance with the requirements of the California Vehicle Code, as may be amended from  
2066 time to time. All collection vehicles shall be equipped with audible back-up warning devices.

2067         12.06 Vehicle Signage and Painting. Collection vehicles shall have signage in letters of  
2068 contrasting color, at least four (4) inches high, on each side and the rear of each vehicle that  
2069 clearly states that the collection vehicle is servicing the City of Half Moon Bay, provides  
2070 CONTRACTOR'S name, CONTRACTOR'S customer service telephone number, and the number  
2071 of the vehicle. No advertising shall be permitted other than the name of CONTRACTOR except  
2072 promotional advertisement of the Recyclable Materials and Organic Waste programs.  
2073 CONTRACTOR shall repaint all vehicles (including vehicle striping) during the term of this  
2074 Agreement on a frequency as necessary to maintain a positive public image as reasonably  
2075 determined by the City Representative, but CONTRACTOR shall not be required to repaint any  
2076 vehicle more than once every eight (8) years.

2077         12.07 Vehicle Maintenance. CONTRACTOR shall maintain collection vehicles in a clean  
2078 condition and in good repair at all times and ensure that no Collected materials, oil, grease, or  
2079 other substances will blow, fall out, escape or leak out of the vehicle, with the exceptions of vehicle  
2080 emission. All parts and systems of the collection vehicles shall operate properly and be  
2081 maintained in a condition reasonably satisfactory to CITY. CONTRACTOR shall wash all  
2082 collection vehicles at least once a week.

2083         12.08 Maintenance Log. CONTRACTOR shall maintain a maintenance log for all  
2084 collection vehicles. The log shall at all times be accessible to CITY by physical inspection upon  
2085 request of City Representative, and shall show, at a minimum, each vehicles' CONTRACTOR  
2086 assigned identification number, date purchased or initial lease, dates of performance of routine  
2087 maintenance, dates of performance of any additional maintenance, and description of additional  
2088 maintenance performed.

2089         12.09 Equipment Inventory. On or before April 30, 2018, and by April 30<sup>th</sup> annually  
2090 thereafter as part of CONTRACTOR'S annual report to CITY, CONTRACTOR shall provide to  
2091 CITY an inventory of collection vehicles and major equipment used by CONTRACTOR for  
2092 collection or transportation and performance of services under this Agreement. The inventory  
2093 shall indicate each collection vehicle by CONTRACTOR-assigned identification number, DMV  
2094 license number, the age of the chassis and body, type of fuel used, the type and capacity of each  
2095 vehicle, the number of vehicles by type, the date of acquisition, the decibel rating and the  
2096 maintenance status. CONTRACTOR shall submit to the City Representative by e-mail an updated  
2097 inventory annually to CITY or more often at the request of the City Representative. Each vehicle  
2098 inventory shall be accompanied by a certification signed by CONTRACTOR that all collection  
2099 vehicles meet the requirements of this Agreement.

2100         12.10 Reserve Equipment. CONTRACTOR shall have available to it, at all times, reserve  
2101 collection equipment which can be put into service and operation within one (1) hour of any  
2102 breakdown. Such reserve equipment shall correspond in size and capacity to the equipment used  
2103 by CONTRACTOR to perform its contractual duties.

## 2104 **ARTICLE 13. Customer Service**

2105         13.01 Customer Service Program. CONTRACTOR shall develop, implement, and  
2106 maintain a Customer Service Program to ensure that all services provided under this Agreement  
2107 are provided at high quality and in accordance with CONTRACTOR'S Customer Service Plan

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2108 attached as **Exhibit 8** of this Agreement. CONTRACTOR'S Customer Service Plan may be  
2109 revised from time to time, at CONTRACTOR'S discretion, provided that any amendments to the  
2110 Plan shall be approved by the City Representative. Approval of any amendments by City  
2111 Representative shall not be unreasonably withheld.

2112       13.02 CONTRACTOR'S Office. CONTRACTOR shall maintain an office within San  
2113 Mateo County that provides telephone access using a local number to residents and businesses  
2114 of the CITY and is staffed by trained and experienced Customer Service Representatives (CSRs).  
2115 Such office shall be equipped with sufficient telephones that all Collection Service related calls  
2116 received during normal business hours are answered within five (5) rings, and shall have  
2117 responsible persons in charge during collection hours and shall be open during normal business  
2118 hours, 8:00 a.m. to 5:00 p.m. on regularly scheduled Work Days (Monday through Friday) and  
2119 when SFD holiday service is scheduled to be provided on Saturdays. CONTRACTOR shall  
2120 provide either a telephone answering service or mechanical device to receive Service Recipient  
2121 inquiries during those times when the office is closed. Calls received after normal business hours  
2122 shall be addressed the next Work Day morning.

2123       13.03 Emergency Contact. CONTRACTOR shall provide the City Representative with  
2124 an emergency phone number where CONTRACTOR can be reached outside of the required  
2125 office hours within a two (2) hour response time.

2126       13.04 Multilingual Service. CONTRACTOR shall at all times maintain the capability of  
2127 responding to telephone calls in English and Spanish.

2128       13.05 Service Recipient Calls. During office hours, CONTRACTOR shall maintain  
2129 a telephone answering system capable of accepting at least four (4) incoming calls at one (1)  
2130 time. CONTRACTOR shall record all calls including any inquiries, service requests and  
2131 complaints into a customer service log.

2132               13.05.1 Response to Calls. All incoming calls will be answered within five  
2133 (5) rings. Any call "on-hold" in excess of one and one half (1.5) minutes shall have the option to  
2134 remain "on-hold" or to be switched to a message center where Service Recipient can leave a  
2135 message. CONTRACTOR'S customer service representative shall return all Service Recipient  
2136 calls. For all messages left before 3:00 p.m., all "call backs" shall be attempted a minimum of one  
2137 time prior to 6:00 p.m. on the day of the call. For messages left after 3:00 p.m., all "call backs"  
2138 shall be attempted a minimum of one time prior to noon the next Work Day. CONTRACTOR shall  
2139 make a minimum of three (3) attempts within twenty-four (24) hours of the receipt of the call. If  
2140 CONTRACTOR is unable to reach the Service Recipient on the next Work Day, CONTRACTOR  
2141 shall send a postcard to the Service Recipient on the second Work Day after the call was received,  
2142 indicating that CONTRACTOR has attempted to return the call.

2143       13.06 Website. CONTRACTOR shall develop and maintain a website dedicated to  
2144 services provided in CITY that is accessible by the public. The website shall include answers to  
2145 frequently asked questions, rates for Collection Services, listing and description of Recyclable  
2146 Materials and Organic Waste, Collection Service schedules and maps, and other related topics.  
2147 CONTRACTOR shall arrange for CITY'S website to include an e-mail link to CONTRACTOR and  
2148 a link to CONTRACTOR'S website. CONTRACTOR'S website shall provide the public the ability  
2149 to e-mail complaints to CONTRACTOR and request services or service changes.  
2150 CONTRACTOR'S website shall also promote reuse and recycling, and shall present graphics and  
2151 statistics illustrating the City's progress toward becoming a Zero Waste Community, resources  
2152 the community can use to support Zero Waste and Sustainability efforts, other CITY  
2153 environmental programs, and other materials as requested by CITY. CITY shall review and  
2154 approve any changes to CONTRACTOR'S current website.

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### 2155 ARTICLE 14. Public Outreach Services

2156           14.01 Public Outreach Services. CONTRACTOR, at its own expense, shall prepare,  
2157 submit and implement an annual (Agreement Year) Public Education and Outreach Plan that  
2158 incorporates key features of CONTRACTOR'S Diversion Plan (**Exhibit 9**) and Education and  
2159 Outreach Plan (**Exhibit 10**). The proposed annual plan must be submitted annually for CITY  
2160 approval no later than April 30, 2018, and no later than April 30<sup>th</sup> each Agreement Year thereafter  
2161 as part of CONTRACTOR'S annual report to CITY. The program must include specific steps  
2162 designed to increase diversion and participation, for CITY's residents, businesses and Public  
2163 Schools, and may include billing inserts, newsletters, participation at public events, and  
2164 sponsorship of Earth Day activities. Public outreach campaigns should target certain diverted  
2165 materials or "problem" areas of CONTRACTOR'S Service Area where improvements can be  
2166 maximized. Targets of outreach should be based on local trends and recycling patterns based on  
2167 information obtained by both the City Representative and CONTRACTOR staff. CONTRACTOR  
2168 shall provide space in CONTRACTOR'S public outreach materials, such as mailers, flyers and  
2169 newsletters, for CITY to include announcements, community information, articles, and  
2170 photographs. Public School outreach shall correspond with the school year and should target  
2171 student, faculty and staff participation in the diversion of Recyclable Materials and Organic Waste.

2172           14.02 Recycling Specialist. The CITY may, at any time during the term of this  
2173 Agreement, request that CONTRACTOR provide for a Recycling Specialist dedicated to providing  
2174 support for recycling and sustainability programs, including performing commercial waste audits  
2175 and outreach and support to commercial and multi-family accounts. If requested, the cost of this  
2176 position will be funded by the Monthly Administrative Support Payment described in Section  
2177 4.03.3. The Recycling Specialist may be asked to meet with key CITY staff to review performance  
2178 on diversion programs. CONTRACTOR may, with approval of the City Representative, use  
2179 subcontractors to perform some or all the duties normally assigned to the Recycling Specialist.  
2180 The Recycling Specialist will advise appropriate personnel within a business on methods and  
2181 recommendations to increase recycling and decrease solid waste, the selection of collection  
2182 services and container sizes to maximize diversion, and the potential cost savings if a business  
2183 takes recommended actions to increase diversion; educate and train staff and janitors on best  
2184 practices for recycling, waste reduction and availability and use of in-house recycling containers;  
2185 educate personnel on how to maximize diversion; and provide educational materials, posters,  
2186 labels, and memos.

2187           14.03 Annual Collection Service Notice. Prior to the beginning of each Agreement Year  
2188 during the term of this Agreement, CONTRACTOR shall publish and distribute separate notices  
2189 to all SFD Service Units regarding the SFD Collection Service, to all MFD Service Units regarding  
2190 MFD Collect Service, and to all Commercial Service Units regarding Commercial Collection  
2191 Service. To the extent appropriate, based on the category of customer receiving the notice, it shall  
2192 contain at a minimum: definitions of the materials to be collected, procedures for setting out the  
2193 materials, collection and disposal options for unacceptable materials such as Hazardous Waste,  
2194 maps of the Service Area indicating the day of the week that Collection Service will be provided,  
2195 and CONTRACTOR's customer service phone number and website address. The notice shall  
2196 also include anticipated service rates. The notice shall be provided in English and Spanish, and  
2197 shall be distributed by CONTRACTOR no later than March 1<sup>st</sup> each Agreement Year.

2198           14.04 Additional Outreach Programs and Services. CONTRACTOR shall provide  
2199 additional public outreach services and programs as requested by CITY at a price to be mutually  
2200 agreed upon between CONTRACTOR and the City Representative and included in the Maximum  
2201 Service Rates. In the event CONTRACTOR and the City Representative cannot reach a mutually

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2202 agreed upon price for the requested service or program, CITY shall have the right to procure the  
2203 service of other vendors or contractors to provide the requested public outreach service.

2204           14.05 News Media Relations. When practicable, CONTRACTOR shall notify the City  
2205 Representative by e-mail or phone of all requests for news media interviews related to the  
2206 Collection Services program within twenty-four (24) hours of CONTRACTOR'S receipt of the  
2207 request. When practicable, before responding to any inquiries involving controversial issues or  
2208 any issues likely to affect participation or Service Recipient perception of services,  
2209 CONTRACTOR will discuss CONTRACTOR'S proposed response with the City Representative.

2210           14.05.1           Copies of draft news releases or proposed trade journal articles  
2211 related to the Collection Services program shall be submitted to CITY for prior review and approval  
2212 at least five (5) Work Days in advance of release, except where CONTRACTOR is required by  
2213 any law or regulation to submit materials to any regulatory agency in a shorter period of time, in  
2214 which case CONTRACTOR shall submit such materials to CITY simultaneously with  
2215 CONTRACTOR'S submittal to such regulatory agency.

2216           14.05.2           Copies of articles related to the Collection Services program  
2217 resulting from media interviews or news releases shall be provided to CITY within five (5) Work  
2218 Days after publication.

### 2219 **ARTICLE 15. Emergency Service Provisions**

2220           15.01 Emergency Services. In the event of a tornado, major storm, earthquake, fire,  
2221 natural disaster, or other such event, the City Representative may grant CONTRACTOR a  
2222 variance from regular routes and schedules. As soon as practicable after such event,  
2223 CONTRACTOR shall advise the City Representative when it is anticipated that normal routes and  
2224 schedules can be resumed. The City Representative shall make an effort through the local news  
2225 media to inform the public when regular services may be resumed. The clean-up from some  
2226 events may require that CONTRACTOR hire additional equipment, employ additional personnel,  
2227 or work existing personnel on overtime hours to clean debris resulting from the event.  
2228 CONTRACTOR shall receive additional compensation, above the normal compensation  
2229 contained in this Agreement, to cover the costs of rental equipment, additional personnel,  
2230 overtime hours and other documented expenses based on the rates set forth in **Exhibit 1** to this  
2231 Agreement provided CONTRACTOR has first secured written authorization and approval from  
2232 CITY through the City Representative.

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### 2233 ARTICLE 16. Record Keeping & Reporting Requirements

#### 2234 16.01 Record Keeping.

2235 16.01.1 Accounting Records. CONTRACTOR shall maintain full, complete  
 2236 and separate financial, statistical and accounting records, pertaining to cash, billing, and  
 2237 provisions of all Collection Services provided under this Agreement, prepared on an accrual basis  
 2238 in accordance with generally accepted accounting principles. Such records shall be subject to  
 2239 audit and inspection. Gross Revenues derived from provision of the Collection Services shall be  
 2240 recorded in the accounts of CONTRACTOR. These records shall be separate from other records  
 2241 maintained by CONTRACTOR for the provision of other services outside the scope of this  
 2242 Agreement as may be provided by CONTRACTOR. CONTRACTOR shall maintain and preserve  
 2243 all cash, billing and disposal records for a period of not less than five (5) fiscal years following the  
 2244 close of each of CONTRACTOR'S fiscal years.

2245 16.01.2 Contractor Payments to CITY. CONTRACTOR shall maintain  
 2246 records of all payments made to CITY for all items listed in Section 4.03.

2247 16.01.3 Tonnage Records. CONTRACTOR shall maintain records of the  
 2248 quantities of (i) Garbage, Recyclable Material, and Organic Waste collected, processed,  
 2249 composted, and disposed under the terms of this Agreement, and (ii) Recyclable Materials and  
 2250 Organic Waste, by material type, purchased, sold, donated or given for no compensation, and  
 2251 residue disposed.

2252 16.01.4 Records. CONTRACTOR shall maintain all other records  
 2253 reasonably related to provision of Collection Services, whether or not specified in this Article 16  
 2254 or elsewhere in the Agreement.

2255 16.02 Reporting Requirements. Quarterly reports shall be submitted to the City  
 2256 Representative no later than thirty (30) calendar days after the end of the reporting quarter on  
 2257 January 30<sup>th</sup>, April 30<sup>th</sup>, July 30<sup>th</sup>, and October 30<sup>th</sup> and annual reports shall be submitted to the  
 2258 City Representative no later than forty-five (45) days after the end of each preceding calendar  
 2259 year (January through December). If the due date falls on a Saturday, the report shall be due on  
 2260 the preceding Friday, and if the due date falls on a Sunday, the report will be due the following  
 2261 Monday. Quarterly and annual reports shall be submitted electronically via e-mail. Reports shall  
 2262 be submitted in a format mutually agreed upon between CITY and CONTRACTOR.

2263 16.03 Quarterly Reports. Quarterly reports to CITY shall include:

2264 16.03.1 Garbage Data. The number of SFD, MFD, CITY and Commercial  
 2265 Service Units and the number of Garbage Bins, Carts, Debris Boxes and Compactors by size and  
 2266 Service Unit type. A listing of the tonnage from all Collection Services, including Bulky Waste  
 2267 Collection Service, collected, diverted and disposed by CONTRACTOR at the Disposal Facility  
 2268 for the preceding quarter sorted between SFD, MFD, Commercial and City Service Units. Any  
 2269 tonnages diverted and disposed from large venues and events during the reporting period shall  
 2270 be broken out separately. All tonnage data should be compared to the corresponding tonnage  
 2271 data from the prior year comparable period.

2272 16.03.2 Recycling Data. The number of gross tons collected by material  
 2273 type for SFD, MFD, City and Commercial Recycling Collection Service, including Recyclable  
 2274 Materials collected as part of Bulky Waste Collection Service, for the preceding quarter. Indicate  
 2275 quarterly totals and location for residue disposed. Any tonnages diverted and disposed from large  
 2276 venues and events during the reporting period shall be broken out separately. All tonnage data  
 2277 shall be compared to the corresponding tonnage data from the prior year comparable period.

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2278                   16.03.3           Organic Waste Data. The number of gross tons collected for SFD,  
2279 MFD, City and Commercial Organic Collection Service, including Green Waste collected as part  
2280 of Bulky Collection Service, for the preceding quarter. Indicate the number of Organic Waste  
2281 Bins, Carts, Debris Boxes, Compactors, and Kitchen Food Waste Pails distributed by size and  
2282 Service Unit type. Indicate quarterly totals and location for residue disposed. Any tonnages  
2283 diverted and disposed from large venues and events during the reporting period shall be broken  
2284 out separately. All tonnage data shall be compared to the corresponding tonnage data from the  
2285 prior year comparable period.

2286                   16.03.4           Diversion Rate. CONTRACTOR shall provide documentation  
2287 acceptable to CITY in its sole discretion stating and supporting the calendar quarter's diversion  
2288 rate, as calculated in accordance with the provisions of Article 5. Any tonnages diverted and  
2289 disposed from large venues and events during the reporting period shall be counted towards the  
2290 calculated diversion rate. Tonnages collected as a result of street sweeping services shall not be  
2291 counted towards the calculated diversion rate.

2292                   16.03.5           Public Education and Information Activities. CONTRACTOR shall  
2293 report on all public education and information activities undertaken during the period, including  
2294 distribution of bill inserts, collection notification tags, community information and events, school  
2295 visits, tours and other activities related to the provision of Collection Services. This report shall  
2296 discuss the impact of these activities on Recycling and Organic Waste program participation and  
2297 provide details of events and activities planned for the next period.

2298                   16.03.6           AB 341 and 1826 Compliance Data. CONTRACTOR shall report  
2299 the total number of Commercial and/or MFD Service Units serviced and the number of containers,  
2300 container sizes and frequency of collection for Garbage, Recyclable Materials and Organic Waste  
2301 for each Commercial and/or MFD Service Unit. CONTRACTOR shall also provide the following  
2302 information, separately for both AB 341 and AB 1826:

2303                               16.03.6.1       The total number of Commercial Service Units that fall under  
2304 the AB 341/1826 thresholds, and the total number of those Commercial Service Units that are not  
2305 subscribed to Recycling/Organics Collection Service.

2306                               16.03.6.2       A summary of the type of follow-up outreach that was  
2307 provided to those Commercial Service Units that fall under the threshold that are not subscribed  
2308 to Recycling/Organics Collection Service.

2309                               16.03.6.3       The total number of MFD Service Units that fall under the  
2310 AB 341/1826 thresholds, and the total number of those MFD Service Units that are not subscribed  
2311 to Recycling/Organics Collection Service.

2312                               16.03.6.4       A summary of the type of follow-up outreach that was  
2313 provided to those MFD Service Units that fall under the threshold that are not subscribed to  
2314 Recycling/Organics Collection Service.

2315                   16.03.7           Processing and Marketing Data. Recycling and Organic Waste  
2316 processing and marketing issues or conditions occurring during the previous quarter (such as  
2317 participation, setouts, contamination, etc.) and possible solutions, discussed separately for SFD,  
2318 MFD, Commercial and CITY programs.

2319                   16.03.8           Customer Service Data. A summary narrative of praises,  
2320 compliments, and problems encountered with collection and processing activities and actions  
2321 taken. Indicate type and number of Non-Collection Notices left at Service Recipient locations. A  
2322 copy of the customer service log, including a summary of the type and number of complaints and

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2323 their resolution. Copies of a written record of all calls related to missed pickups and responses to  
2324 such calls.

2325                   16.03.9       Operational Problems and Actions Taken. Indicate instances of  
2326 property damage or injury (other than property damage or injury to CONTRACTOR's property or  
2327 personnel), significant changes and/or challenges in operations, and market factors.

2328                   16.03.10      Customer Base Data. CONTRACTOR shall provide customer base  
2329 data consisting of the number of SFD, MFD, and Commercial Service Units billed, and City  
2330 Collection Services sorted by service type, container size, number of containers, and frequency  
2331 of collection.

2332                   16.03.11      Summary of Historical and Proposed Activities. CONTRACTOR  
2333 shall provide a narrative of activities undertaken during the quarter and those planned or proposed  
2334 for the upcoming quarter.

2335                   16.03.12      Large Venue and Event Collection Data. CONTRACTOR shall  
2336 provide all data outlined in Section 10.04.2 for each venue / event serviced during the reporting  
2337 period.

2338                   16.03.13      Street Sweeping Summary. A summary of the Curb Miles swept,  
2339 total Curb Miles missed, total tonnage disposed, recycled or composted, and the estimated  
2340 amount of water used in the street sweeping vehicles.

2341                   16.03.14      Summary of Contractor Payments to CITY. CONTRACTOR shall  
2342 report all payments made to CITY as specified in Section 4.03, and CONTRACTOR'S Gross  
2343 Revenues delineated by SFD, MFD, Commercial, and City Collection Service for the reporting  
2344 period.

2345                   16.04 Annual Reports. The annual report submitted to CITY shall include all quarterly  
2346 reports in Sections 16.03.1 through 16.03.13 summarized by quarter and averaged for the  
2347 calendar year. For all annual reports beginning with the report for calendar year 2019,  
2348 CONTRACTOR shall also include a historical comparison of the last calendar year and the  
2349 average of all calendar years. Annual reports to CITY shall also include:

2350                   16.04.1       Gross Revenues and Franchise Fees.

2351                               16.04.1.1      A summary of the prior calendar year's Gross Revenues  
2352 broken down by SFD, MFD and Commercial Service Units.

2353                               16.04.1.2      A summary of the prior calendar year's franchise fees paid.

2354                   16.04.2       Account Data. Account data for SFD, MFD, Commercial Service  
2355 Units and City Service Units including the total number of accounts serviced, and the number of  
2356 accounts, account names and addresses of collection locations per each service category.

2357                   16.04.3       Equipment Inventory. Updated complete inventory of collection and  
2358 major processing equipment including stationary, rolling stock and collection containers by type  
2359 and size, and fulfilling all requirements of Section 12.09.

2360                   16.04.4       Public Education Plan. Updated Public Education Plan for the new  
2361 Agreement Year, in accordance with the requirements of Section 14.01.

2362                   16.04.5       Container Cleanings, Replacements and Exchanges. An  
2363 accounting of the number of Carts, Bins and Debris Boxes that were cleaned, replaced or  
2364 exchanged during the calendar year, and an accounting of the number of Kitchen Food Waste  
2365 Pails that were delivered to SFD and MFD Service Recipients during the calendar year.

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2366                    16.04.6            Public Education and Information Activities. Public education and  
2367 information activities undertaken during the calendar year, including distribution of newsletters,  
2368 billing inserts, other notices, collection notification tags, community information and events, tours  
2369 and other activities related to the provision of services.

2370                    16.04.7            Donated Services. A listing of any services beyond the scope of this  
2371 Agreement that were donated to CITY or Service Recipients.

2372                    16.04.8            Summary of Historical and Proposed Activities. CONTRACTOR  
2373 shall provide a narrative of activities undertaken during the calendar year and those planned or  
2374 proposed for the upcoming calendar year. CONTRACTOR shall provide information describing if  
2375 the activity was undertaken in the previous year or not and if not why it was added. For those  
2376 activities that are not being continued, CONTRACTOR shall describe the reason the activity has  
2377 been discontinued and the activity that is replacing it.

2378                    16.05 Additional Reporting. CONTRACTOR shall furnish CITY with any additional  
2379 reports as may reasonably be required, such reports to be prepared within a reasonable time  
2380 following the reporting period. In addition, CONTRACTOR shall furnish to CITY information  
2381 regarding CONTRACTOR's activities under this Agreement that is needed for CITY to prepare its  
2382 reports to CalRecycle.

### 2383 **ARTICLE 17. Nondiscrimination**

2384                    17.01 Nondiscrimination. In the performance of all work and services under this  
2385 Agreement, CONTRACTOR shall not discriminate against any person on the basis of such  
2386 person's race, sex, color, national origin, religion, marital status, age, disability or sexual  
2387 orientation. CONTRACTOR shall comply with all applicable local, state and federal laws and  
2388 regulations regarding nondiscrimination, including those prohibiting discrimination in employment.

### 2389 **ARTICLE 18. Service Inquiries and Complaints**

2390                    18.01 CONTRACTOR'S Customer Service. CONTRACTOR shall at all times  
2391 provide office staff and office hours, including personnel to answer phones and phone answering  
2392 capabilities when CONTRACTOR'S office is closed, as specified in Article 13 of this Agreement.  
2393 All service inquiries and complaints regarding CONTRACTOR's services shall be directed to  
2394 CONTRACTOR. A representative of CONTRACTOR shall be available to receive the complaints  
2395 during normal business hours. All service complaints will be handled by CONTRACTOR in a  
2396 prompt, courteous, and efficient manner. In the case of a dispute between CONTRACTOR and  
2397 a Service Recipient, the matter will be reviewed and a decision made by the City Representative.

2398                    18.01.1            CONTRACTOR will utilize a customer service log to maintain a  
2399 record of all inquiries and complaints in a manner prescribed by CITY.

2400                    18.01.2            For those complaints related to missed Collections that are received  
2401 by 12:00 noon on a Work Day, CONTRACTOR will return to the Service Unit address and collect  
2402 the missed Carts or Bins before leaving the Service Area for the day. For those complaints related  
2403 to missed collections that are received after 12:00 noon on a Work Day, CONTRACTOR shall  
2404 have until the end of the following Work Day to resolve the complaint. For those complaints  
2405 related to repair or replacement of carts or bins, the appropriate Articles of this Agreement shall  
2406 apply.

2407                    18.01.3            CONTRACTOR agrees that it is in the best interest of CITY that all  
2408 Garbage, Recyclable Materials, and Organic Waste be collected on the scheduled collection day.

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2409 Accordingly, missed Collections will normally be collected as set forth herein regardless of the  
2410 reason that the collection was missed. However, in the event a Service Recipient reports missed  
2411 collection service more than two (2) times in any consecutive two (2) month period the City  
2412 Representative will work with CONTRACTOR to determine an appropriate resolution to that  
2413 situation. In the event CONTRACTOR believes any complaint to be without merit, CONTRACTOR  
2414 shall notify the City Representative by e-mail. The City Representative will investigate all disputed  
2415 complaints and render a decision.

2416 **ARTICLE 19. Quality of Performance of Contractor**

2417 19.01 Intent. CONTRACTOR acknowledges and agrees that one of CITY'S primary  
2418 goals in entering into this Agreement is to ensure that the Collection Services are of the highest  
2419 caliber, that Service Recipient satisfaction remains at the highest level, that maximum diversion  
2420 levels are achieved, and that materials collected are put to the highest and best use to the extent  
2421 feasible.

2422 19.02 Service Supervisor. CONTRACTOR has designated a supervisor to be in charge  
2423 of the Collection Service within the Service Area. At least thirty (30) calendar days prior to  
2424 replacing the designated supervisor CONTRACTOR shall notify CITY in writing of the name and  
2425 qualifications of the new service supervisor. CONTRACTOR shall ensure that such replacement  
2426 is an individual with like qualifications and experience. The supervisor shall be available to the  
2427 City Representative through the use of a mobile telephone at all times that CONTRACTOR is  
2428 providing Collection Services. In the event the supervisor is unavailable due to illness or vacation,  
2429 CONTRACTOR shall designate an acceptable substitute who shall be available and who has the  
2430 authority to act in the same capacity as the supervisor. The service supervisor shall provide CITY  
2431 with an emergency phone number where the supervisor can be reached outside of normal  
2432 business hours.

2433 19.03 Liquidated Damages. The parties further acknowledge that consistent and reliable  
2434 Collection Service is of utmost importance to CITY and that CITY has considered and relied on  
2435 CONTRACTOR'S representations as to its quality of service commitment in awarding the  
2436 Agreement to it. The parties further recognize that some quantified standards of performance are  
2437 necessary and appropriate to ensure consistent and reliable service and performance. The parties  
2438 further recognize that if CONTRACTOR fails to achieve these performance standards, or fails to  
2439 submit required documents in a timely manner, CITY, and CITY'S residents and businesses will  
2440 suffer damages and that it is and will be impractical and extremely difficult to ascertain and  
2441 determine the exact amount of damages. Therefore, without prejudice to CITY'S right to treat  
2442 such non-performance as an event of default under Article 24, the parties agree that the liquidated  
2443 damages amount defined in this Article represent reasonable estimates of the amount of such  
2444 damages considering all of the circumstances existing on the effective date of this Agreement,  
2445 including the relationship of the sums to the range of harm to CITY, customers and the community  
2446 as a whole that reasonably could be anticipated and the anticipation that proof of actual damages  
2447 would be costly or impractical. In placing their initials at the places provided, each party specifically  
2448 confirms the accuracy of the statements made above and the fact that each party has had ample  
2449 opportunity to consult with legal counsel and obtain an explanation of the liquidated damage  
2450 provisions at the time that the Agreement was made.

2451 CITY Initial Here \_\_\_\_\_ CONTRACTOR Initial Here \_\_\_\_\_

2452 CONTRACTOR agrees to pay (as liquidated damages and not as penalty) the following amounts:

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<b>LIQUIDATED DAMAGES</b>		
<b>Item</b>		<b>Amount</b>
a.	Failure or neglect to respond to each complaint by the close of the next working day.	\$100 per incident per Service Recipient.
b.	Failure to wash collection vehicles at least once per week.	\$100 per incident.
c.	Failure to have a vehicle operator properly licensed.	\$100 per incident per day.
d.	Failure to maintain office hours as required by this Agreement.	\$100 per incident per day.
e.	Failure to timely submit to CITY all payments and reports as required under the provisions of this Agreement.	\$100 per incident per day.
f.	Failure to display CONTRACTOR'S name and customer service phone number on collection vehicles.	\$100 per incident per day.
g.	Failure to collect a missed collection by close of the next Work Day upon notice to CONTRACTOR.	\$100 per incident per day.
h.	Failure to repair or replace damaged carts or bins within the time required by this Agreement.	\$100 per incident per day.
i.	Failure to deliver or exchange carts or bins within the time required by this Agreement.	\$100 per incident per day.
j.	Failure to meet vehicle noise requirements.	\$100 per incident per day.
k.	Failure to maintain collection hours as required by this Agreement.	\$250 per incident per day.
l.	Failure to have CONTRACTOR personnel in proper uniform.	\$250 per incident per day.
m.	Failure to repair damage to customer property caused by CONTRACTOR or its personnel, after notice by CITY or the customer to CONTRACTOR.	\$500 per incident per location.
n.	Failure to repair damage to CITY property caused by CONTRACTOR or its personnel, after notice by CITY to CONTRACTOR.	\$500 per incident.
o.	Failure to repair damage to City streets directly caused by CONTRACTOR beyond normal operating wear and tear, after notice by CITY to CONTRACTOR.	\$500 per incident and the actual reasonable cost of repair to CITY'S satisfaction—no cost to CITY.

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<b>LIQUIDATED DAMAGES</b>		
<b>Item</b>		<b>Amount</b>
p.	Failure to clean up spillage or litter caused by CONTRACTOR within two (2) hours after notice by CITY to CONTRACTOR.	\$500 per incident per location.
q.	Failure to properly cover materials in collection vehicles.	\$500 per incident.
r.	Changing residential collection days without proper notification to the City Representative.	\$500 per incident per day.
s.	Commingling material collected as Garbage with material collected as Recyclable Materials.	\$500 per incident.
t.	Disposal of Recyclable Materials or Organic Waste that has been separately collected by Contractor at a Disposal Facility without first obtaining the required permission of CITY.	\$500 per load.
u.	Failure to deliver any Collected materials to a CITY approved Disposal Facility, or to a legally permitted Materials Recovery Facility or Organic Waste Processing Facility, except as otherwise expressly provided in this Agreement.	\$5,000 each failure.
v.	Commingling of materials collected inside and outside the City of Half Moon Bay in the same collection vehicle without prior City approval.	\$1,000 per incident.
w.	Failure to meet the minimum annual diversion requirements set forth in Article 5.	The current disposal cost/ton for each ton under the diversion requirement.
x.	Failure to maintain all Carts, Bins, and Debris Boxers in good working order and with proper labeling in accordance with the requirements of Section 3.07. This also includes any instances of malfunctioning used oil containers, which are described in Section 7.09.1.	\$100 per incident per day.
y.	Failure to replace, repair, or exchange Carts, Bins, and Debris Boxes in accordance with the requirements of Section 3.07.	\$100 per incident per day.

2453           19.04 Procedure for Review of Liquidated Damages. The City Representative may  
2454 assess liquidated damages pursuant to this Article 19 on a monthly or quarterly basis. At the end  
2455 of each month during the term of this Agreement, the City Representative may issue a written  
2456 notice to CONTRACTOR (“Notice of Assessment”) of the liquidated damages assessed and the  
2457 basis for each assessment.

2458                   19.04.1           The assessment shall become final unless, within thirty (30)  
2459 calendar days of the date of the notice of assessment, CONTRACTOR provides a written request

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2460 for a meeting with the City Representative to present evidence that the assessment should not  
2461 be made.

2462 19.04.2 The City Representative shall schedule a meeting between  
2463 CONTRACTOR and the City Manager or the City Manager’s designee as soon as reasonably  
2464 possible after timely receipt of CONTRACTOR’S request.

2465 19.04.3 The City Manager or the City Manager’s designee shall review  
2466 CONTRACTOR’S evidence and render a decision sustaining or reversing the liquidated damages  
2467 as soon as reasonably possible after the meeting. Written notice of the decision shall be provided  
2468 to CONTRACTOR.

2469 19.04.4 In the event CONTRACTOR does not submit a written request for  
2470 a meeting within thirty (30) calendar days of the date of the Notice of Assessment, the City  
2471 Representative’s determination shall be final and CONTRACTOR shall submit payment to CITY  
2472 no later than fifteen (15) calendar days following final determination. Alternatively, at the sole  
2473 option of CITY, if monies are owed to CONTRACTOR, CITY may deduct the liquidated damages  
2474 from amounts otherwise due to CONTRACTOR.

2475 19.04.5 CITY’s right to assess liquidated damages against CONTRACTOR  
2476 under this Article shall be in addition to any other rights and remedies CITY may have against  
2477 CONTRACTOR for its non-performance and CITY’S assessment or collection of liquidated  
2478 damages shall not prevent CITY from exercising any other right or remedy, including the right to  
2479 terminate this Agreement, for CONTRACTOR’S failure to perform the work and services in the  
2480 manner set forth in this Agreement.

2481 19.05 Lockouts. Because it is the intent of this Agreement that CONTRACTOR shall  
2482 consistently provide the highest level of services to the residents of the CITY, CONTRACTOR  
2483 shall never institute a lockout of any or all of its employees unless CONTRACTOR has previously  
2484 provided to CITY an alternate plan of continuing the highest level of services during the  
2485 reasonably foreseeable period of such a lockout with ample fully trained substitutes for all such  
2486 locked out employees, and CITY has approved such alternate plan in writing prior to such lockout  
2487 being instituted by CONTRACTOR. In addition, CONTRACTOR shall fully defend, indemnify and  
2488 hold harmless CITY against anything whatsoever related to any such lockout to the extent and as  
2489 provided in Article 23 hereof, including but not limited to any claims, proceedings, or suits against  
2490 CITY relating to any such lockout. Compliance with this Section shall in no way prevent the  
2491 imposition of liquidated damages pursuant to Sections 19.03 and 19.04 hereof if CONTRACTOR  
2492 fails to meet the standards or violates any provision as set forth in Section 19.03 a. through y.  
2493 hereof.

2494 **ARTICLE 20. Billing Audit and Performance Reviews**

2495 20.01 Billing Audit and Performance Reviews

2496 20.01.1 Selection and Cost. CITY may conduct billing audit and  
2497 performance reviews (“reviews”) of CONTRACTOR’S performance during the term of this  
2498 Agreement. The reviews will be performed by a qualified firm under contract to CITY. CITY shall  
2499 have the final responsibility for the selection of the firm but may seek and accept comments and  
2500 recommendations from CONTRACTOR. CITY may conduct two (2) reviews during the base 10-  
2501 year term of this Agreement, and one (1) additional review during the potential extension period  
2502 of up to five years. For each review, CONTRACTOR will be responsible for a maximum cost of  
2503 **Thirty Thousand Dollars (\$30,000)**. This amount will be submitted to the CITY in advance of  
2504 each review, and this amount may be escalated annually each April 1<sup>st</sup> by the same percentage

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2505 as the annual average percentage change in the CPI index, subject to the terms and conditions  
2506 set forth in Section 4.02.2.

2507                   20.01.2       Purpose. The reviews shall be designed to verify that customer  
2508 billing rates have been properly calculated and they correspond to the level of service received  
2509 by the customer, verify that Franchise Fees, and other fees required under this Agreement have  
2510 been properly calculated and paid to CITY, verify CONTRACTOR'S compliance with the reporting  
2511 requirements and performance standards of the Collection Service Agreement, and verify the  
2512 diversion percentages reported by CONTRACTOR. CITY (or its designated consultant) may  
2513 utilize a variety of methods in the execution of the performance review and billing audit, including  
2514 analysis of relevant documents, on-site and field observations, and interviews. CITY (or its  
2515 designated consultant) will review and document the items in the Agreement that require  
2516 CONTRACTOR to meet specific performance standards, submit information or reports, perform  
2517 additional services, or document operating procedures, that can be objectively evaluated. This  
2518 information will be formatted in a "compliance checklist" with supporting documentation and  
2519 findings tracked for each of the identified items. The review will specifically include a determination  
2520 of CONTRACTOR's compliance with the diversion requirements of Article 5, and the public  
2521 outreach and education requirements of Article 14. CITY (or its designated consultant) may review  
2522 the customer service functions and structure utilized by CONTRACTOR. This may include  
2523 CONTRACTOR's protocol for addressing customer complaints and service interruption  
2524 procedures. Complaint logs may be reviewed, along with procedures and systems for tracking  
2525 and addressing complaints. On-site and field observations by CITY (or its designated consultant)  
2526 may include, but are not necessarily limited to:

2527                   20.01.2.1       Interviews and discussions with Contractor's administration  
2528 and management personnel;

2529                   20.01.2.2       Review and observation of Contractor's customer service  
2530 functions and structure;

2531                   20.01.2.3       Review of public education and outreach materials;

2532                   20.01.2.4       Interviews and discussions with Contractor's financial and  
2533 accounting personnel;

2534                   20.01.2.5       Interviews with route dispatchers, field supervisors and  
2535 managers;

2536                   20.01.2.6       Interviews with route drivers;

2537                   20.01.2.7       Interviews with vehicle maintenance staff and observation  
2538 of maintenance practices; and

2539                   20.01.2.8       Review of on-route collection services, including  
2540 observation of driver performance and collection productivity and visual inspection of residential  
2541 routes before and after collection to evaluate cart placement and cleanliness of streets.

2542                   20.01.3       CONTRACTOR'S Cooperation. CONTRACTOR shall cooperate  
2543 fully with the review and provide all requested data, including operational data, financial data and  
2544 other data reasonably requested by CITY within thirty (30) Work Days.

2545                   20.01.4       Additional Billing Audit and Performance Review. In the event that  
2546 the Billing Audit and Performance Review concludes that CONTRACTOR is not in compliance  
2547 with all terms and conditions of this Agreement and such non-compliance is material, CITY may  
2548 conduct an Additional Billing Audit and Performance Review to ensure that CONTRACTOR has

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2549 cured any such area of non-compliance. CONTRACTOR shall be responsible for the cost of any  
2550 such Additional Billing Audit and Performance Review, subject to the maximum in Section  
2551 20.01.1.

2552       20.02 City Requested Program Review. CITY reserves the right to require  
2553 CONTRACTOR to periodically conduct reviews of the SFD and MFD and Commercial Garbage,  
2554 Recyclable Materials, and Organic Waste collection programs, provided that such reviews are  
2555 reasonable and can be accomplished at no additional cost to CONTRACTOR and without  
2556 interfering with CONTRACTOR's operations. Such reviews could assess one or more of the  
2557 following performance indicators: average volume of recyclable materials per setout per  
2558 customer, average volume of green waste and/or food scraps per setout per customer,  
2559 participation level, contamination levels, etc. Prior to the program evaluation review, CITY and  
2560 CONTRACTOR shall meet and discuss the purpose of the review and agree on the method,  
2561 scope, and data to be provided by CONTRACTOR.

2562       20.03 Cooperation with Other Program Reviews. If CITY wants to collect program data,  
2563 perform field work, conduct route audits to investigate customer participation levels and setout  
2564 volumes and/or evaluate and monitor program results related to Garbage, Recyclable Materials  
2565 and Organic Waste collected in CITY by CONTRACTOR, CONTRACTOR shall cooperate with  
2566 CITY or its agent(s) as reasonably requested by CITY, provided that such cooperation can be  
2567 accomplished at no additional cost to CONTRACTOR and without interfering with  
2568 CONTRACTOR's operations.

## 2569 **ARTICLE 21. Performance Bond**

2570       21.01 Performance Bond. A performance bond must be furnished by CONTRACTOR  
2571 within fifteen (15) calendar days of notification to CONTRACTOR that the Agreement has been  
2572 executed. CONTRACTOR shall furnish to CITY, and keep current, a performance bond in a form  
2573 with language that is reasonably acceptable to CITY, for the faithful performance of this  
2574 Agreement and all obligations arising hereunder in an amount of **One Million Dollars**  
2575 **(\$1,000,000)**. After April 1, 2021, and annually thereafter, CONTRACTOR may request in writing  
2576 that the CITY allow the performance bond to be reduced to fifteen percent (15%) of the  
2577 CONTRACTOR's prior annual Gross Revenues. The City shall, at the sole option of the City,  
2578 respond to the request in writing within forty-five (45) days of receipt of the written request. Nothing  
2579 in this Agreement shall require that the CITY approve the request of the CONTRACTOR, nor shall  
2580 the CITY have any obligation to provide CONTRACTOR with its reasoning for approving or  
2581 denying the request.

2582       21.02 Renewal. Beginning April 1, 2018, and each April 1<sup>st</sup> thereafter, CONTRACTOR  
2583 shall have the performance bond renewed annually and be executed by a surety company that is  
2584 an admitted surety company licensed to do business in the State of California and has an "A:VII"  
2585 or better rating by A. M. Best or Standard and Poors, or that is otherwise acceptable to CITY.

2586       21.03 Letter of Credit. As an alternative to the performance bond required by Section  
2587 21.01, at CITY'S option, CONTRACTOR may deposit with CITY an irrevocable letter of credit in  
2588 an amount as set forth in Section 21.01. If allowed, the letter of credit must be issued by an FDIC  
2589 insured banking institution chartered to do business in the State of California, in CITY'S name,  
2590 and be callable at the discretion of CITY. Nothing in this Article shall, in any way, obligate CITY  
2591 to accept a letter of credit in lieu of the performance bond.

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2592 **ARTICLE 22. Insurance**

2593           22.01 Insurance Policies. CONTRACTOR shall secure and maintain throughout the term  
2594 of this Agreement insurance against claims for injuries to persons or damages to property, which  
2595 may arise from or in connection with CONTRACTOR'S performance of work or services under  
2596 this Agreement. CONTRACTOR'S performance of work or services shall include performance by  
2597 CONTRACTOR'S employees, agents, representatives and subcontractors.

2598           22.02 Minimum Scope of Insurance. Insurance coverage shall be at least this broad:

2599                           22.02.1.1       Commercial General Liability: Insurance Services Office  
2600 (ISO) Occurrence Form CG 0001 or its equivalent, or, if approved by CITY, Claims Made Form  
2601 No. CG0 0002. Automobile Liability: Insurance Services Office Form No. CA 0001, or its  
2602 equivalent, code 1 "any auto".

2603                           22.02.2       Workers' Compensation Insurance as required by the State of  
2604 California and Employers Liability Insurance.

2605                           22.02.3       Hazardous Waste and Environmental Impairment Liability  
2606 Insurance.

2607           22.03 Minimum Limits of Insurance. CONTRACTOR shall maintain insurance limits no  
2608 less than:

2609                           22.03.1       Commercial General Liability: **Five Million Dollars (\$5,000,000)**  
2610 combined single limit per occurrence, **Ten Million Dollars (\$10,000,000)** annual aggregate;  
2611 including products and completed operations coverage.

2612                           22.03.2       Automobile Liability: **Three Million Dollars (\$3,000,000)** combined  
2613 single limit per accident for bodily injury and property damage.

2614                           22.03.3       Workers' Compensation and Employers Liability: Workers'  
2615 Compensation insurance as required by the State of California, with statutory limits, and  
2616 Employers Liability insurance with limits of **One Million Dollars (\$1,000,000)** per accident.

2617                           22.03.4       Hazardous Waste and Environmental Impairment Liability: **Ten**  
2618 **Million Dollars (\$10,000,000)** per occurrence, **Twenty Million Dollars (\$20,000,000)** policy  
2619 aggregate covering liability arising from the release of waste materials and/or irritants,  
2620 contaminants or pollutants. Such coverage shall, if commercially available without involvement of  
2621 CITY, automatically broaden in its form of coverage to include legislated changes in the definition  
2622 of waste material and/or irritants, contaminants or pollutants.

2623           22.04 Deductibles and Self-Insured Retention. Any deductibles or self-insured retention  
2624 must be declared to, and approved by, CITY. CITY shall not withhold approval of any Deductible  
2625 or Self-Insured Retention amounts where CONTRACTOR can demonstrate a successful history  
2626 of adequately funding such Deductibles or Self-Insured Retention amounts on a regular basis.

2627           22.05 Endorsements. The liability policies are to contain, or be endorsed to contain, the  
2628 following provisions:

2629                           22.05.1       CITY, its officers, employees, agents and volunteers are to be  
2630 covered as additional insureds with respect to liability arising out of automobiles owned, leased,  
2631 hired or borrowed by or on behalf of CONTRACTOR; products and completed operations of  
2632 CONTRACTOR; liability arising out of work or operations performed by or on behalf of  
2633 CONTRACTOR, including material parts or equipment furnished in connection with such work or

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2634 operations; and with respect to Hazardous Waste, Pollution and/or Environmental Impairment  
2635 Liability.

2636                   22.05.2           CONTRACTOR'S insurance coverage (except for Workers'  
2637 Compensation) shall be primary insurance as respects CITY, its officers, officials, employees,  
2638 agents and volunteers. Any insurance or self-insurance maintained by CITY, its officers, officials,  
2639 employees, agents or volunteers shall be excess of CONTRACTOR'S insurance and shall not  
2640 contribute with it.

2641                   22.05.3           CONTRACTOR'S insurance shall apply separately to each insured  
2642 against whom claim is made or suit is brought, except with respect to the limits of the insurer's  
2643 liability, and except for Workers' Compensation cover.

2644                   22.05.4           The Automobile Liability policy shall be endorsed to delete the  
2645 Pollution and/or the Asbestos exclusion, or documentation shall be provided that CONTRACTOR  
2646 carries environmental pollution liability coverage for Solid Waste transported by CONTRACTOR.  
2647 The Automobile Liability policy shall also be endorsed to add the Motor Carrier act endorsement  
2648 (MCS-90) TL 1005, TL 1007 and /or other endorsements required by federal or state authorities.

2649                   22.06 Waiver of Subrogation CONTRACTOR hereby agrees to waive subrogation  
2650 against CITY which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of  
2651 the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be  
2652 necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be  
2653 endorsed with a waiver of subrogation in favor of CITY for all work performed by CONTRACTOR,  
2654 its employees, agents and subcontractors.

2655                   22.07 Cancellation. Each insurance policy required by this clause shall be occurrence-  
2656 based or an alternate form as approved by CITY and endorsed to state that coverage shall not  
2657 be suspended, voided, cancelled by either party, reduced in coverage or limits except after thirty  
2658 (30) days' prior written notice by certified mail, return receipt requested, has been given to CITY.

2659                   Any failure to comply with reporting provisions of the policies shall not affect  
2660 CONTRACTOR'S obligations to CITY, its officers, officials, employees, agents or volunteers.

2661                   22.08 Claims Made Coverage. If General Liability or Hazardous Waste and  
2662 Environmental Impairment Liability coverage is written on a claims-made form:

- 2663                   1.     The "Retro Date" must be shown, and must be before the date of the contract  
2664                   or the beginning of contract work.
- 2665                   2.     Insurance must be maintained and evidence of insurance must be provided for  
2666                   at least five (5) years after completion of the contract of work
- 2667                   3.     If coverage is canceled or non-renewed, and not replaced with another claims-  
2668                   made policy form with a "Retro Date" prior to the contract effective date,  
2669                   CONTRACTOR must purchase "extended reporting" coverage for a minimum  
2670                   of five (5) years after completion of contract work.
- 2671                   4.     A copy of the claims reporting requirements must be submitted to CITY for  
2672                   review.

2673                   22.09 Acceptability of Insurers. Insurance is to be placed with insurers admitted to  
2674 transact business in California with a current A.M. Best's rating of no less than A:VII. If pollution  
2675 and/or Environmental Impairment and/or errors and omission coverage are not available from an  
2676 admitted insurer, the coverage may be written with CITY's permission, by a non-admitted  
2677 insurance company. A non-admitted company should have an A.M. Best's rating of A:X or higher

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2678           22.10 Verification of Coverage. CONTRACTOR shall furnish CITY with original  
2679 certificates and amendatory endorsements effecting coverage required by this clause. All  
2680 certificates and endorsements are to be received and approved by CITY before work commences.  
2681 However, failure to obtain the required documents prior to the work beginning shall not waive  
2682 CONTRACTOR's obligation to provide them. CITY reserves the right to require complete, certified  
2683 copies of all required insurance policies, including endorsements required by these specifications,  
2684 at any time.

2685           22.11 Subcontractors. CONTRACTOR shall include all subcontractors as insureds  
2686 under its policies or require and verify that all subcontractors maintain insurance meeting all the  
2687 requirements of this contract.

2688                   22.11.1           Proof of insurance shall be mailed to the following address or any  
2689 subsequent address as may be directed in writing by CITY.

**John Doughty, Public Works Director (or His Designee)**  
**Half Moon Bay City Hall**  
**501 Main Street**  
**Half Moon Bay, CA 94019**

2690  
2691  
2692  
2693  
2694  
2695           22.12 Modification of Insurance Requirements. The insurance requirements provided in  
2696 this Agreement may be modified or waived by CITY, in writing, upon the request of  
2697 CONTRACTOR, if CITY determines such modification or waiver is in the best interest of CITY  
2698 considering all relevant factors, including exposure to CITY.

2699 **ARTICLE 23. Indemnification**

2700           23.01 Indemnification of CITY. CONTRACTOR shall defend, with counsel reasonably  
2701 acceptable to CITY, indemnify and hold harmless, to the fullest extent allowed by law, CITY, its  
2702 officers, officials, employees, volunteers, agents and assignees (collectively, "Indemnitees"), from  
2703 and against any and all loss, liability, penalties, forfeitures, claims, demands, actions, proceedings  
2704 or suits, in law or in equity, of every kind and description, (including, but not limited to, injury to  
2705 and death of any person and damage to property, or for contribution or indemnity claimed by third  
2706 parties) (collectively, "Loss") arising or resulting from: (i) the operation of CONTRACTOR, its  
2707 agents, employees, and/or subcontractors, in exercising the privileges granted to it by this  
2708 Agreement; (ii) the failure of CONTRACTOR, its agents, employees, and/or subcontractors to  
2709 comply in all respects with the provisions and requirements of this Agreement, applicable laws,  
2710 ordinances and regulations, and/or applicable permits and licenses; and (iii) the acts of  
2711 CONTRACTOR, its agents, employees, and/or subcontractors in performing services under this  
2712 Agreement for which strict liability is imposed by law. The foregoing indemnity shall apply  
2713 regardless of whether such Loss is also caused in part by any of the Indemnitees' negligence.

2714           23.02 The Losses indemnifiable under the foregoing indemnity may include, but are not  
2715 limited to, Losses arising out of or resulting from the following:

2716                   23.02.1           Personal injury (including, but not limited to, bodily injury, emotional  
2717 injury or distress, sickness, or disease) or death to persons, including, but not limited to, any  
2718 employees or agents of CONTRACTOR, CITY, or any subcontractor, or damage to property of  
2719 anyone, caused or alleged to be caused in whole or in part by any negligent act or omission of  
2720 CONTRACTOR, or anyone directly or indirectly employed by CONTRACTOR, or anyone for  
2721 whose acts CONTRACTOR may be liable;

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2722                    23.02.2            Penalties threatened, sought, or imposed on or against CITY by  
2723 reason of the violation by CONTRACTOR of any law, order, citation, rule, regulation, standard,  
2724 ordinance, or statute;

2725                    23.02.3            Alleged infringement of any intellectual property rights which may  
2726 be brought arising out of CONTRACTOR's work;

2727                    23.02.4            Claims and liens for labor performed or materials used or furnished  
2728 to be used on the job by CONTRACTOR, including all incidental or consequential damages from  
2729 such claims or liens;

2730                    23.02.5            CONTRACTOR's failure to fulfill any of the covenants set forth in  
2731 the Agreement;

2732                    23.02.6            Failure of CONTRACTOR to comply with the provisions of the  
2733 Agreement relating to insurance; and,

2734                    23.02.7            Any violation or infraction by CONTRACTOR of any law, order,  
2735 citation, rule, regulation, standard, ordinance, or statute in any way relating to the occupational,  
2736 health, or safety of employees.

2737 The indemnities set forth in this Section shall not be limited by the insurance requirements set  
2738 forth in the Agreement. CONTRACTOR's indemnification of Indemnitees will not include  
2739 indemnification for Losses which arise as the result of the active negligence of Indemnitees, or  
2740 the sole negligence or willful misconduct of Indemnitees.

2741                    23.03 CONTRACTOR's obligation to defend, hold harmless, and indemnify shall not be  
2742 excused because of CONTRACTOR's inability to evaluate liability or because CONTRACTOR  
2743 evaluates liability and determines that CONTRACTOR is not liable to the claimant.  
2744 CONTRACTOR must respond within thirty (30) days to the tender of a claim for defense and  
2745 indemnity by CITY, unless this time has been extended by CITY. If CONTRACTOR fails to accept  
2746 or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy  
2747 authorized by law, CITY may retain so much of the money due CONTRACTOR by virtue of this  
2748 Agreement as shall reasonably be considered necessary by CITY, to cover all anticipated costs  
2749 of the claim until final disposition has been made on the claim or suit for damages, or until  
2750 CONTRACTOR accepts or rejects the tender of defense, whichever occurs first. With respect to  
2751 third party claims against CONTRACTOR indemnifiable under Section 23.01, CONTRACTOR  
2752 waives any and all rights of any type to express or implied indemnity against the Indemnitees.

2753                    23.04 Hazardous Substances Indemnification. The CONTRACTOR shall indemnify,  
2754 defend with counsel reasonably acceptable to the CITY, and hold harmless the Indemnitees from  
2755 and against all claims, damages (including but not limited to special, consequential, natural  
2756 resources and punitive damages), injuries, hazardous materials response, remediation and  
2757 removal costs, losses, demands, liens, liabilities, causes of action, suits, legal or administrative  
2758 proceedings, interest, fines, charges, penalties, attorney's fees for the adverse party and  
2759 expenses (including but not limited to attorney's and expert witness fees and costs incurred in  
2760 connection with defending against any of the foregoing or enforcing this indemnity) of any kind  
2761 whatsoever paid, incurred or suffered by, or asserted against CITY or its officers, officials,  
2762 employees, agents, assigns, or successors (collectively, "Claims") arising from or attributable to  
2763 any repair, cleanup or detoxification, or preparation and implementation of any removal, remedial,  
2764 response, closure or other plan (regardless of whether undertaken due to governmental action)  
2765 concerning any Hazardous Waste released, threatened to be released, or spilled by  
2766 CONTRACTOR under this Agreement, or disposed of by CONTRACTOR under this Agreement  
2767 at any facility owned by CONTRACTOR or any of its affiliates. The foregoing indemnity is

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2768 intended to operate as an agreement pursuant to Section 107(e) of CERCLA, 42 U.S.C. Section  
2769 9607(c) and California Health and Safety Code Section 25364, to defend, hold harmless and  
2770 indemnify the CITY from liability.

2771           23.05 CalRecycle Diversion Goals. Notwithstanding any Liquidated Damages as may be  
2772 assessed by CITY under Article 19 for CONTRACTOR'S failure to meet its Diversion  
2773 Requirements as specified in Article 5, CONTRACTOR agrees to indemnify, hold harmless, and  
2774 defend CITY, with counsel selected by CONTRACTOR and reasonably acceptable to CITY, from  
2775 and against all fines or penalties imposed by the California Department of Resources Recycling  
2776 and Recovery ("CalRecycle") due to CITY's failure to meet the mandated diversion goals specified  
2777 in California Public Resources Code Section 41780 (and as may be as amended from time to  
2778 time) with respect to the materials Collected by CONTRACTOR, if and to the extent the failure to  
2779 meet such goals results from the failure of CONTRACTOR to perform its obligations under this  
2780 Agreement.

2781           23.06 Proposition 218 Indemnification. CONTRACTOR shall defend, with counsel  
2782 reasonably acceptable to the CITY, indemnify and hold harmless CITY from and against all  
2783 claims, actual damages (including, but not limited to, special and consequential damages), natural  
2784 resources damages, punitive damages, injuries, costs, response, remediation and removal costs,  
2785 losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative  
2786 proceedings, interest, fines, charges, penalties and expenses (including, but not limited to,  
2787 reasonable attorney's fees and expert witness fees and costs) (collectively, "Damages") arising  
2788 out of or resulting from third-party claims alleging that CITY's rate-setting process violated  
2789 Proposition 218, but only if and to the extent such claims (i) allege that CONTRACTOR'S direct  
2790 operational cost of providing Collection Services under this Agreement (as distinct from any fees,  
2791 costs or similar expenses payable to CITY or third parties hereunder) constituted a violation of  
2792 Proposition 218, and (ii) result from CONTRACTOR's provision of materially incorrect information  
2793 to CITY, and consistent with California Public Resources Code Section 40059.2.

2794           23.06.1           CITY shall fully cooperate with CONTRACTOR at no cost or  
2795 expenses to CONTRACTOR in defending such alleged violations.

2796           23.06.2           CITY shall indemnify and hold CONTRACTOR harmless from and  
2797 against any and all Damages to the extent those Damages arise out of or result from a  
2798 determination or third-party-claim that the violation of Proposition 218 resulted from fees, costs or  
2799 similar expenses that are payable to CITY or third parties hereunder (as distinct from the direct  
2800 operational cost of providing Collection Services) and are included in rates or any rate increase  
2801 hereunder.

2802           23.07 Consideration. It is specifically understood and agreed that the consideration  
2803 inuring to CONTRACTOR for the execution of this Agreement consists of the promises, payments,  
2804 covenants, rights and responsibilities contained in this Agreement.

2805           23.08 Obligation. The execution of this Agreement by CONTRACTOR shall obligate  
2806 CONTRACTOR to comply with the foregoing indemnification provisions; however, the collateral  
2807 obligation of providing insurance must also be fully complied with as set forth in Article 22 above.

2808           23.09 Damage by CONTRACTOR. If CONTRACTOR'S employees or subcontractors  
2809 cause any damage or loss to CITY property, including but not limited to CITY streets or curbs,  
2810 other than as a result of ordinary wear and tear, then CONTRACTOR shall repair such property  
2811 to the reasonable satisfaction of CITY, at CONTRACTOR's sole cost and expense. If  
2812 CONTRACTOR fails to do so within a reasonable period after CITY notifies CONTRACTOR of  
2813 the damage or loss, then CITY may affect the repair, and CONTRACTOR shall reimburse CITY

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2814 for CITY'S reasonable cost of repairing such damage or loss. Such reimbursement is not in  
2815 derogation of any right of CITY to be indemnified by CONTRACTOR for any such damage or loss.

### 2816 **ARTICLE 24. Default of Agreement**

2817           24.01 Termination. CITY may terminate this Agreement by giving CONTRACTOR thirty  
2818 (30) calendar days advance written notice, to be served as provided in Article 41, upon the  
2819 happening of any one of the following events. The termination right in this Section is in addition  
2820 to the termination rights provided for elsewhere in this Article 24.

2821           24.01.1           CONTRACTOR takes the benefit of any present or future  
2822 insolvency statute, or makes a general assignment for the benefit of creditors, or files a voluntary  
2823 petition in bankruptcy (court) or a petition or answer seeking an arrangement for its reorganization  
2824 or the readjustment of its indebtedness under the Federal bankruptcy laws or under any other law  
2825 or statute of the United States or any state thereof, or consents to the appointment of a receiver,  
2826 trustee or liquidator of all or substantially all of its property; or

2827           24.01.2           By order or decree of a Court, CONTRACTOR is adjudged bankrupt  
2828 or an order has been made approving a petition filed by any of its creditors or by any of the  
2829 stockholders of CONTRACTOR, seeking its reorganization or the readjustment of its  
2830 indebtedness under the Federal bankruptcy laws or under any law or statute of the United States  
2831 or of any state thereof, and such judgment or order is not stayed or vacated within sixty (60)  
2832 calendar days after the entry thereof; or

2833           24.01.3           By, or pursuant to, or under the authority of any legislative act,  
2834 resolution or rule or any order or decree of any Court or governmental board, agency or officer  
2835 having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or  
2836 substantially all of the property of CONTRACTOR, and such possession or control continues in  
2837 effect for a period of sixty (60) calendar days; or

2838           24.01.4           CONTRACTOR defaults, by failing or refusing to pay in a timely  
2839 manner the liquidated damages or other monies due CITY and said default is not cured within  
2840 thirty (30) calendar days of receipt of written notice by CITY to do so; or

2841           24.01.5           CONTRACTOR defaults, by failing or refusing to perform or  
2842 observe its obligations under this Agreement, and said default is not cured within thirty (30)  
2843 calendar days of receipt of written notice by CITY to do so. If by reason of the nature of such  
2844 default, the same cannot be remedied within thirty (30) calendar days following receipt by  
2845 CONTRACTOR of written demand from CITY to do so, then the cure period shall be extended for  
2846 such additional period as is reasonably required to cure the default, provided that CONTRACTOR  
2847 commences the remedy of such default within said thirty (30) calendar days following such written  
2848 notice, and having so commenced thereafter continues with diligence the curing thereof. In any  
2849 dispute concerning failure to commence remedying a default or diligence in pursuing a cure,  
2850 CONTRACTOR shall have the burden of proof to demonstrate (a) that the default cannot be cured  
2851 within thirty (30) calendar days, and (b) that it is proceeding with diligence to cure said default,  
2852 and such default will be cured within a reasonable period of time.

2853           24.02 Temporary Possession of CONTRACTOR's Equipment. Notwithstanding anything  
2854 contained herein to the contrary, if CONTRACTOR fails to provide Collection Services for a period  
2855 of three (3) consecutive Work Days, on the fourth (4th) Work Day CITY may take possession of  
2856 CONTRACTOR'S equipment, customer account and service records, and other property used in  
2857 providing Collection Services under this Agreement in order to provide interim Collection Services  
2858 until such time as CONTRACTOR is again able to perform Collection Services pursuant to this

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2859 Agreement; provided, however, if CONTRACTOR is unable for any reason or cause to resume  
2860 performance of Collection Service at the end of thirty (30) consecutive calendar days of  
2861 nonperformance of Collection Services, then this Agreement may be terminated by CITY upon  
2862 written notice to CONTRACTOR, and CITY may retain possession of such equipment, records  
2863 and other property used in providing Collection Services on an interim basis until CITY has made  
2864 other suitable arrangements for the provision of Collection Services, which may include award of  
2865 an agreement to another contractor. Notwithstanding any other provision in this Agreement to  
2866 the contrary, CITY's right to take interim possession of, or make use of, any of CONTRACTOR's  
2867 equipment, including, without limitation, vehicles, Carts, Bins and containers, shall not allow CITY  
2868 to assign ownership of such vehicles, Carts, Bins and containers to another contractor, and CITY  
2869 acknowledges that CONTRACTOR'S lender has a security interest in such equipment. In  
2870 addition, notwithstanding any other provision of this Agreement to the contrary, CITY's right to  
2871 take possession of such equipment, records and other property shall be limited to one hundred  
2872 eighty (180) days after the effective date of termination of this Agreement. After such time, such  
2873 assets shall be returned to CONTRACTOR or, if the parties mutually agree, CITY shall pay a  
2874 reasonable monthly rent to CONTRACTOR for CITY's use of the equipment.

2875           24.03 Diversion Not Default. Notwithstanding the foregoing or any other provision of this  
2876 Agreement to the contrary, CONTRACTOR's failure to meet the diversion requirements set forth  
2877 in Article 5 shall not be a default entitling CITY to terminate this Agreement (it being understood  
2878 that CITY shall have the remedies set forth in Article 2 (term extension) and Article 19 (liquidated  
2879 damages) with respect to any such failure).

2880           24.03.1           In the event that the Agreement is terminated, CONTRACTOR shall  
2881 furnish CITY with immediate access to all of its business records related to its customer and billing  
2882 accounts for collection services.

2883           24.04 Violations. Notwithstanding the foregoing and as supplemental and additional  
2884 means of termination of this Agreement under this Article, in the event that CONTRACTOR'S  
2885 record of performance shows that CONTRACTOR has frequently, regularly or repetitively  
2886 defaulted in providing Collection Services, and after written default notices from CITY has not  
2887 timely cured such defaults within the applicable cure periods set forth in Section 24.01.5, CITY in  
2888 its sole discretion may determine that CONTRACTOR is a "habitual violator", in which case  
2889 CONTRACTOR shall be deemed to have waived the right to any further notice or grace period to  
2890 correct any subsequent default. CITY shall thereupon issue CONTRACTOR a final warning citing  
2891 the circumstances for such determination, and any single default by CONTRACTOR of whatever  
2892 nature, subsequent to CONTRACTOR's receipt of such warning, shall be grounds for immediate  
2893 termination of the Agreement. In the event of any such subsequent default, CITY may terminate  
2894 this Agreement upon giving of final written notice to CONTRACTOR, such termination to be  
2895 effective upon the date specified in CITY'S written notice to CONTRACTOR, and all contractual  
2896 fees due hereunder plus any and all charges and interest shall be payable to said date, and  
2897 CONTRACTOR shall have no further rights hereunder. Immediately upon the specified date in  
2898 such final notice CONTRACTOR shall proceed to cease any further performance under this  
2899 Agreement.

2900           24.05 Effective Date. In the event of the aforesaid events specified above, and except  
2901 as otherwise provided in said subsections, termination shall be effective upon the date specified  
2902 in CITY'S written notice to CONTRACTOR and upon said date this Agreement shall be deemed  
2903 immediately terminated, and CITY shall have the right to call the performance bond and shall be  
2904 free to negotiate with other contractors for the operation of the herein specified services.

## FRANCHISE AGREEMENT

2905            24.06 Immediate Termination. CITY may terminate this Agreement immediately upon  
2906 written notice to CONTRACTOR in the event CONTRACTOR fails to provide and maintain the  
2907 performance bond as required by this Agreement, or if CONTRACTOR fails to obtain or maintain  
2908 insurance policies endorsements as required by this Agreement, or if CONTRACTOR offers or  
2909 gives any gift to any elected official, appointed officer or employee of CITY, or any relative or  
2910 spouse of such elected official, appointed officer or employee. For purposes of this Section, "gift"  
2911 shall be defined as set forth in California Government Code Section 82028 and the regulations of  
2912 the Fair Political Practices Commission at 2 C.C.R Sec 18940 et seq. as may be amended from  
2913 time to time.

2914            24.07 Termination Cumulative. CITY'S right to terminate this Agreement is cumulative  
2915 to any other rights and remedies provided by law or by this Agreement.

2916            24.08 Force Majeure. Notwithstanding any other provision of this Agreement to the  
2917 contrary, a party shall be excused from performing its obligations hereunder in the event it is  
2918 prevented from so performing by reason of any acts of God, such as landslides, lightning, fires,  
2919 storms, floods, pestilence, freezing, and earthquakes; explosions, power outages, sabotage, civil  
2920 disturbances, acts of a public enemy, wars, blockades, riots, or other industrial disturbances,  
2921 eminent domain, condemnation or other taking, or other events of a similar nature, not caused or  
2922 maintained by such party, which event is not reasonably within the control of the party claiming  
2923 the excuse from its obligations due to such event, to the extent such event has a significant and  
2924 material adverse effect on the ability of the party to perform its obligations thereunder. Force  
2925 Majeure shall not include fuel shortages, strikes, work stoppage or slowdown, sickout, lockout,  
2926 picketing or other concerted job action conducted by CONTRACTOR'S employees or directed at  
2927 CONTRACTOR or any of its subcontractors. Force Majeure shall include a Change in Law(s) to  
2928 the extent such Change in Law(s) prohibits a party's performance hereunder. Notwithstanding the  
2929 foregoing, (i) no failure of performance by any subcontractor of CONTRACTOR shall be a Force  
2930 Majeure unless such failure was itself caused by a Force Majeure; (ii) except as provided herein,  
2931 no event which merely increases CONTRACTOR'S cost of performance shall be a Force Majeure;  
2932 and (iii) no event, the effects of which could have been prevented by reasonable precautions,  
2933 including compliance with agreements and applicable laws, shall be a Force Majeure.

2934            24.09 Specified Default. If CONTRACTOR commits a Specified Default (as defined  
2935 below), then CONTRACTOR shall not be eligible for an extension of the term of this Agreement  
2936 pursuant to Section 2.02. For purposes of this Section 24.09, a "Specified Default" means (i) any  
2937 of the defaults specified in items (a) through (g) below, which is not cured within thirty (30)  
2938 calendar days of CONTRACTOR's receipt of a written demand by CITY to do so, which demand  
2939 specifies that the default, if uncured, will result in a Specified Default under this Section 24.09, or  
2940 (ii) any of the defaults specified in items (h) through (j) below are deemed non-curable and will  
2941 result in CONTRACTOR not being eligible for an extension of the term of the Agreement pursuant  
2942 to Section 2.02.

2943            (a) Failure to submit a quarterly report or an annual report by the date specified in  
2944 Section 16.02.

2945            (b) Failure to pay the Franchise Fee, or other CITY fees required to be paid under  
2946 Section 4.03, by the date specified in Section 4.03.

2947            (c) Failure to pay CITY (or CITY's consultant, if so requested by CITY) for the cost of a  
2948 performance review required to be paid by CONTRACTOR under Section 20.01.1 (and subject  
2949 to the maximum in such section) within thirty (30) days of receipt of an invoice therefor from CITY  
2950 or CITY's consultant, containing reasonable detail about charges incurred and time spent on the  
2951 review.

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2952 (d) Failure to replace carts, bins and trucks in accordance with the replacement schedule  
 2953 set forth in **Exhibit 11**, other than a failure resulting from failure by a manufacturer or supplier to  
 2954 deliver equipment on the schedule agreed with CONTRACTOR.

2955 (e) Failure to repair damage caused by CONTRACTOR to customer property or CITY  
 2956 streets, other than as a result of ordinary wear and tear, within ninety (90) days of written notice  
 2957 to CONTRACTOR by CITY.

2958 (f) More than one (1) documented incident in any calendar year of CONTRACTOR  
 2959 failing to comply with applicable federal, state or local clean-air standards in the performance of  
 2960 this Agreement.

2961 (g) Failure to provide a Recycling Specialist position (if requested by the CITY) having  
 2962 the duties set forth in Section 14.02.

2963 (h) Receipt at City Hall of more than ten (10) complaints from different customers in any  
 2964 calendar quarter regarding CONTRACTOR's performance hereunder, provided that the  
 2965 complaints represent actual "performance lapses" (i.e. breaches of this Agreement) by  
 2966 CONTRACTOR, and CONTRACTOR fails to remedy the performance lapse within thirty (30) days  
 2967 after receiving the complaint.

2968 (i) Final assessment under Article 19 of more than ten thousand dollars (\$10,000) in  
 2969 liquidated damages against CONTRACTOR resulting from incidents of performance lapses  
 2970 occurring in any calendar year, other than liquidated damages for failure to meet diversion  
 2971 requirements.

2972 (j) More than twenty-four (24) documented incidents in any calendar year of  
 2973 CONTRACTOR operating a collection vehicle on CITY streets that exceeds by more than one  
 2974 thousand (1,000) pounds the maximum weight allowed under the California Vehicle Code for such  
 2975 vehicle, unless CONTRACTOR is permitted to do so by CITY.

## 2976 **ARTICLE 25. Modifications to the Agreement**

2977 25.01 Agreement Modifications and Changes in Law(s). CITY and CONTRACTOR  
 2978 understand and agree that the California Legislature has the authority to make comprehensive  
 2979 changes in Garbage, Recyclables, or Organic Waste Management legislation and that these and  
 2980 other Changes in Law in the future which mandate certain actions or programs for counties or  
 2981 municipalities may require changes or modifications in some of the terms, conditions or  
 2982 obligations under this Agreement. CONTRACTOR agrees that the terms and provisions of the  
 2983 Municipal Code, as it now exists or as it may be amended in the future, shall apply to all of the  
 2984 provisions of this Agreement and the Service Recipients of CONTRACTOR located within the  
 2985 Service Area. In the event of any future Change in Law(s), including state or federally mandated  
 2986 modifications to CITY Municipal Code, materially alters the rights or obligations of CONTRACTOR  
 2987 or the services to be provided by CONTRACTOR in a manner that results in CONTRACTOR  
 2988 incurring increased operating costs or decreased revenues not covered by adjustments to  
 2989 Maximum Service Rates as provided for in Section 4.02 hereunder, then modifications to the  
 2990 Maximum Service Rates as otherwise established under this Agreement may be considered,  
 2991 pursuant to Section 4.02.6. Nothing contained in this Agreement shall require any party to perform  
 2992 any act or function contrary to law.

2993 25.01.1 Compensation Adjustments. In the event of a Material Change in  
 2994 Law(s), CONTRACTOR shall provide CITY with a written rate increase request for additional  
 2995 compensation to CONTRACTOR arising from the Material Change in Law(s). If the proposed

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2996 rate increase exceeds three percent (3%) and CITY does not agree with such rate increase, then  
 2997 either party, in addition to negotiating with the other party, may submit the matter to non-binding  
 2998 mediation upon the terms and conditions in Section 25.05.

2999           25.02 City-Directed Changes. CITY may direct CONTRACTOR to perform additional  
 3000 services (including new diversion programs, additional public education activities, etc.), eliminate  
 3001 programs, or modify the manner in which it performs existing services. However, changes in the  
 3002 minimum diversion requirement set forth in Article 5 of this Agreement is not among the changes  
 3003 that may be directed by CITY. Direction of Solid Waste to a processing or Disposal Facility other  
 3004 than that originally selected by CITY, pilot programs and innovative services which may entail  
 3005 new collection methods, targeted routing, different kinds of services, different types of collection  
 3006 vehicles, and/or new requirements for Service Recipients, are included among the kinds of  
 3007 changes which CITY may direct. CONTRACTOR shall be entitled to an adjustment in its  
 3008 compensation for providing such additional or modified services but not for the preparation of its  
 3009 proposal to perform such services. CONTRACTOR shall not be required to begin implementing  
 3010 a CITY-directed change until the associated Maximum Service Rate adjustment has been agreed  
 3011 upon and has taken effect.

3012           25.03 Service Proposal. Within thirty (30) calendar days of receipt of a request for a  
 3013 service change from CITY under Section 25.02, CONTRACTOR shall if requested by CITY submit  
 3014 a proposal to provide such service. At a minimum, the proposal shall contain a complete  
 3015 description of the following:

3016                   25.03.1           Collection methodology to be employed (equipment, manpower,  
 3017 etc.).

3018                   25.03.2           Equipment to be utilized (vehicle number, types, capacity, age,  
 3019 etc.).

3020                   25.03.3           Labor requirements (number of employees by classification).

3021                   25.03.4           Type of carts or bins to be utilized.

3022                   25.03.5           Provision for program publicity, education, and marketing.

3023                   25.03.6           Five (5) year projection of the costs of and (if applicable) revenue  
 3024 from the program's operations in an operating statement format including documentation of the  
 3025 key assumptions underlying the projections and the support for those assumptions, giving full  
 3026 effect to the savings or costs to existing services.

3027           25.04 Monitoring and Evaluation. If CITY requests, CONTRACTOR shall meet with  
 3028 CITY to describe the progress of any new Solid Waste or diversion program(s) and other service  
 3029 issues arising from the program(s). If applicable, CONTRACTOR shall document the results of  
 3030 the new program(s) on a monthly basis, including at a minimum the tonnage diverted by material  
 3031 type, the end use or processor of the diverted materials and the cost per ton for transporting and  
 3032 processing each type of material and other such information reasonably requested by  
 3033 CONTRACTOR and/or CITY necessary to evaluate the performance of each program.

3034                   25.04.1           At each meeting, CITY and CONTRACTOR shall have the  
 3035 opportunity to discuss revisions to the program. CITY shall have the right to terminate a program  
 3036 if CONTRACTOR is not complying with the terms and conditions agreed upon with CITY, and the  
 3037 termination is effected in accordance with such terms and conditions. Prior to such termination,  
 3038 CITY shall meet and confer with CONTRACTOR for a period of up to ninety (90) calendar days  
 3039 to resolve CITY'S concerns. After such termination, CITY may utilize a third party to perform  
 3040 these services, provided that (i) the services are outside the scope of the services contemplated

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3041 by this Agreement (such as street sweeping or curbside collection of household hazardous  
3042 waste), and (ii) the services do not conflict with CONTRACTOR's exclusive rights under Section  
3043 3.01.

3044           25.05 Dispute Resolution. All disputes relating to service or compensation changes  
3045 relating to a Material Change in Law(s) that meet the conditions specified in Section 25.01.1 shall  
3046 be resolved by the following procedures:

3047                   25.05.1.1       The party desiring mediation shall first give written notice  
3048 thereof to the other party to this Agreement, specifying the dispute to be mediated.

3049                   25.05.1.2       The mediation shall be held at Half Moon Bay, California, or  
3050 at such other location as may be mutually agreed among the parties. The mediation shall be  
3051 conducted according to and by a mediator chosen pursuant to the rules of the American  
3052 Arbitration Association. Each side shall bear its own costs in the mediation. The cost of the  
3053 mediator shall be shared equally between the parties.

3054                   25.05.1.3       At least ten (10) business days before the date of the  
3055 mediation, each side shall provide the mediator with a statement of its position and copies of all  
3056 supporting documents. Each party shall send to the mediation one or more persons who have  
3057 authority to negotiate on behalf of the party. If a subsequent dispute will involve third parties,  
3058 such as insurers or subcontractors, they shall also be asked to participate in the mediation.

### 3059 **ARTICLE 26. Legal Representation**

3060           26.01 Acknowledgement. It is acknowledged that each party was, or had the opportunity  
3061 to be, represented by counsel in the preparation of and contributed equally to the terms and  
3062 conditions of this Agreement and, accordingly, the rule that a contract or Agreement shall be  
3063 interpreted strictly against the party preparing the same shall not apply herein due to the joint  
3064 contributions of both parties.

### 3065 **ARTICLE 27. Financial Interest**

3066           27.01 Representation. CONTRACTOR warrants and represents that (i) to its knowledge,  
3067 no elected official, officer, agent or employee of CITY has a financial interest as defined in  
3068 California Government Code Section §87103, in this Agreement or the compensation to be paid  
3069 under it and, further, that (ii) no CITY employee who acts in CITY as a "purchasing agent" as  
3070 defined by local or state law, nor any elected or appointed officer of CITY, nor any spouse or child  
3071 of such purchasing agent, employee or elected or appointed officer, is a partner, officer, director  
3072 or proprietor of CONTRACTOR and, further, that (iii) no such CITY employee, purchasing agent,  
3073 CITY elected or appointed officer, or the spouse or child of any of them, alone or in combination,  
3074 has a "material interest" in CONTRACTOR. "Material interest" means direct or indirect ownership  
3075 of more than five percent (5%) of the total assets or capital stock of CONTRACTOR.

### 3076 **ARTICLE 28. Contractor's Personnel**

3077           28.01 Personnel Requirements. CONTRACTOR shall employ and assign qualified  
3078 personnel to perform all services set forth herein. CONTRACTOR shall be responsible for  
3079 ensuring that its employees comply with all applicable laws and regulations and meet all federal,  
3080 state and local requirements related to their employment and position.

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3081                    28.01.1            CITY may request the transfer of any employee of CONTRACTOR  
3082 who materially violates any provision hereof, or who is wanton, negligent, or discourteous in the  
3083 performance of his or her duties.

3084                    28.01.2            CONTRACTOR'S field operations personnel shall be required to  
3085 wear a clean uniform shirt bearing CONTRACTOR'S name. CONTRACTOR'S employees who  
3086 normally come into direct contact with the public, including drivers, shall bear some means of  
3087 individual identification such as a name tag or identification card.

3088                    28.01.3            Each driver of a collection vehicle shall at all times carry a valid  
3089 California driver's license and all other required licenses for the type of vehicle that is being  
3090 operated.

3091                    28.01.4            Each driver of a collection vehicle shall at all times comply with all  
3092 applicable state and federal laws, regulations and requirements.

3093                    28.01.5            CONTRACTOR'S employees, officers, and agents shall at no time  
3094 be allowed to identify themselves or in any way represent themselves as being employees of  
3095 CITY.

3096                    28.01.6            CONTRACTOR'S name and the Customer Service telephone  
3097 number shall be properly displayed on all collection vehicles.

### 3098    **ARTICLE 29. Exempt Waste**

3099                    29.01    CONTRACTOR shall not be required to collect or dispose of Exempt Waste, but  
3100 may offer such services at its option. All such collection and disposal of Exempt Waste is not  
3101 regulated under this Agreement, but if provided by CONTRACTOR shall be in strict compliance  
3102 with all federal, state and local laws and regulations.

### 3103    **ARTICLE 30. Independent Contractor**

3104                    30.01    In the performance of services pursuant to this Agreement, CONTRACTOR shall  
3105 be an independent contractor and not an officer, agent, servant or employee of CITY.  
3106 CONTRACTOR shall have exclusive control of the details of the services and work performed  
3107 and over all persons performing such services and work. CONTRACTOR shall be solely  
3108 responsible for the acts and omissions of its officers, agents, employees, contractors and  
3109 subcontractors, if any. Neither CONTRACTOR nor its officers, employees, agents, contractors or  
3110 subcontractors shall obtain any right to retirement benefits, Workers Compensation benefits, or  
3111 any other compensation or benefits which accrue to CITY employees, and CONTRACTOR  
3112 expressly waives any claim it may have or acquire to such compensation or benefits.

### 3113    **ARTICLE 31. Laws to Govern**

3114                    31.01    The law of the State of California shall govern the rights, obligations, duties and  
3115 liabilities of CITY and CONTRACTOR under this Agreement and shall govern the interpretation  
3116 of this Agreement.

### 3117    **ARTICLE 32. Consent to Jurisdiction**

3118                    32.01    The parties agree that any litigation between CITY and CONTRACTOR concerning  
3119 or arising out of this Agreement shall be filed and maintained exclusively in the Municipal or  
3120 Superior Courts of San Mateo County, State of California, or in the United States District Court

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3121 for the Northern District of California to the fullest extent permissible by law. Each party consents  
3122 to service of process in any manner authorized by California law.

### 3123 **ARTICLE 33. Assignment**

3124 33.01 No assignment of this Agreement or any right occurring under this Agreement shall  
3125 be made in whole or in part by CONTRACTOR without the express written consent of CITY. CITY  
3126 shall have full discretion to approve or deny, with or without cause, any proposed or actual  
3127 assignment by CONTRACTOR. Such approval shall not unreasonably be withheld. Any  
3128 assignment of this Agreement made by CONTRACTOR without the express written consent of  
3129 CITY shall be null and void and shall be grounds for CITY to declare a default of this Agreement  
3130 and immediately terminate this Agreement by giving written notice to CONTRACTOR, and upon  
3131 the date of such notice this Agreement shall be deemed immediately terminated, and upon such  
3132 termination all liability of CITY under this Agreement to CONTRACTOR shall cease, and CITY  
3133 shall have the right to call the performance bond and shall be free to negotiate with other  
3134 contractors, CONTRACTOR, or any other person or company for the service which is the subject  
3135 of this Agreement. In the event of any assignment, the assignee shall fully assume all the liabilities  
3136 of CONTRACTOR.

3137 33.02 CONTRACTOR shall be responsible for directing the work of CONTRACTOR'S  
3138 subcontractors and any compensation due or payable to CONTRACTOR'S subcontractor shall  
3139 be the sole responsibility of CONTRACTOR. The City Representative shall have the right to  
3140 require the removal of any approved subcontractor for reasonable cause.

3141 33.03 For purposes of this Article when used in reference to CONTRACTOR,  
3142 "assignment" shall include, but not be limited to (i) a sale, exchange or other transfer of at least  
3143 fifty-one percent (51%) of CONTRACTOR'S assets dedicated to service under this Agreement to  
3144 a third party; (ii) a sale, exchange or other transfer of outstanding common stock of  
3145 CONTRACTOR to a third party provided said sale, exchange or transfer results in a change of  
3146 control of CONTRACTOR (with control being defined as ownership of more than fifty percent  
3147 (50%) of CONTRACTOR'S voting securities); (iii) any dissolution, reorganization, consolidation,  
3148 merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow  
3149 arrangement, liquidation, or lease-back payments, or other transaction which results in a change  
3150 of control of CONTRACTOR; (iv) any assignment by operation of law, including insolvency or  
3151 bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution  
3152 being levied against this Agreement, appointment of a receiver taking possession of  
3153 CONTRACTOR'S property, or transfer occurring in the event of a probate proceeding; and (v)  
3154 any combination of the foregoing (whether or not in related or contemporaneous transactions)  
3155 which has the effect of any such transfer or change of control of CONTRACTOR. As used herein,  
3156 "third party" excludes affiliates of CONTRACTOR.

3157 33.04 CONTRACTOR acknowledges that this Agreement involves rendering a vital  
3158 service to CITY'S residents and businesses, and that CITY has selected CONTRACTOR to  
3159 perform the services specified herein based on (i) Contractor's experience, skill and reputation for  
3160 conducting its garbage, recyclable materials and organic Waste management operations in a  
3161 safe, effective and responsible fashion, at all times in keeping with applicable environmental laws,  
3162 regulations and best garbage, recycling and organic waste management practices, and (ii)  
3163 CONTRACTOR'S financial resources to maintain the required equipment and to support its  
3164 indemnity obligations to CITY under this Agreement. CITY has relied on each of these factors,  
3165 among others, in negotiating with CONTRACTOR to perform the services to be rendered by  
3166 CONTRACTOR under this Agreement.

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3167 **ARTICLE 34. Compliance with Laws**

3168 34.01 In the performance of this Agreement, CONTRACTOR shall comply with all  
3169 applicable laws, regulations, ordinances and codes of the federal, state and local governments,  
3170 including without limitation the Municipal Code of the CITY.

3171 34.02 CITY shall provide written notice to CONTRACTOR of any planned amendment of  
3172 the CITY Municipal Code that would substantially affect the performance of CONTRACTOR'S  
3173 services pursuant to this Agreement. Such notice shall be provided at least thirty (30) calendar  
3174 days prior to the City Council's approval of such an amendment.

3175 **ARTICLE 35. Permits and Licenses**

3176 35.01 CONTRACTOR shall obtain, at its own expense, all permits and licenses required  
3177 by law or ordinance and maintain same in full force and effect throughout the term of this  
3178 Agreement. CONTRACTOR shall provide proof of such permits, licenses or approvals and shall  
3179 demonstrate compliance with the terms and conditions of such permits, licenses and approvals  
3180 upon the request of the City Representative.

3181 **ARTICLE 36. Ownership of Written Materials**

3182 36.01 All reports, documents, brochures, public education materials, and other written,  
3183 printed, electronic or photographic materials developed by CITY or CONTRACTOR for CITY's  
3184 use or for public dissemination in connection with the services to be performed under this  
3185 Agreement, whether developed directly or indirectly by CITY or CONTRACTOR, may be used by  
3186 CITY without limitation or restrictions on the use of such materials by CITY. CONTRACTOR shall  
3187 not use any such materials specific to CITY in connection with any project not connected with this  
3188 Agreement without the prior written consent of the City Representative. This Article 36 does not  
3189 apply to ideas or concepts described in such materials and does not apply to the format of such  
3190 materials and does not apply to CONTRACTOR's website.

3191 **ARTICLE 37. Waiver**

3192 37.01 Waiver by CITY or CONTRACTOR of any breach for violation of any term covenant  
3193 or condition of this Agreement shall not be deemed to be a waiver of any other term, covenant or  
3194 condition or any subsequent breach or violation of the same or of any other term, covenant or  
3195 condition. The subsequent acceptance by CITY of any fee, tax, or any other monies, which may  
3196 become due from CONTRACTOR to CITY shall not be deemed to be a waiver by CITY of any  
3197 breach for violation of any term, covenant or condition of this Agreement.

3198 **ARTICLE 38. Prohibition Against Gifts**

3199 38.01 CONTRACTOR shall not offer any gifts to any elected official, appointed officer  
3200 or employee of CITY, or any relative or spouse of such elected official, appointed officer or  
3201 employee. For purposes of this Section, "gift" shall be defined as set forth in the Regulations of  
3202 the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.

3203 **ARTICLE 39. Point of Contact**

3204 39.01 The day-to-day dealings between CONTRACTOR and CITY shall be between  
3205 CONTRACTOR and City Representative.

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3206 **ARTICLE 40. Conflict of Interest**

3207 40.01 CONTRACTOR shall comply with CITY requirements for disclosure of potential  
3208 Conflicts of Interest as required by the California Fair Political Practices Commission and such  
3209 other applicable State or local laws or regulations, and will file all required disclosure statements  
3210 in a timely manner and as required by law or regulation.

3211 **ARTICLE 41. Notices**

3212 41.01 Except as provided herein, whenever either party desires to give notice to the  
3213 other, it must be given by written notice addressed to the party for whom it is intended, at the  
3214 place last specified and to the place for giving of notice in compliance with the provisions of this  
3215 paragraph. For the present, the parties designate the following as the respective persons and  
3216 places for giving of notice:

3217 As to CITY:

3218 **John Doughty, Public Works Director**  
3219 **Half Moon Bay City Hall**  
3220 **501 Main Street**  
3221 **Half Moon Bay, CA 94019**  
3222 **Telephone: (650) 726-8266**  
3223 **E-mail: jdoughty@hmbcity.com**

3224 As to CONTRACTOR:

3225 **Travis Armstrong, General Manager**  
3226 **Republic Services**  
3227 **1680 Edgeworth Avenue**  
3228 **Daly City, CA 94015**  
3229 **Telephone: (415) 604-9010**  
3230 **E-mail: TArmstrong2@republicservices.com**

3231 41.02 Notices shall be effective when received at the address as specified above.  
3232 Changes in the respective address to which such notice is to be directed may be made by written  
3233 notice. Facsimile transmission shall not be deemed acceptable notice. Receipt is deemed to have  
3234 taken place within three (3) working days of notice mailed by U.S. Postal Service return receipt  
3235 requested, or by email transmission with confirmation of receipt.

3236 41.03 Notice by CITY to CONTRACTOR of a collection or other Service Recipient  
3237 problem or complaint may be given to CONTRACTOR orally by telephone at CONTRACTOR'S  
3238 local office with confirmation sent as required above by the end of the Work Day.

3239 **ARTICLE 42. Transition to Next Contractor**

3240 42.01 In the event CONTRACTOR is not granted a franchise to continue to provide  
3241 Collection Services following the expiration or early termination of this Agreement,  
3242 CONTRACTOR shall cooperate fully with CITY and any subsequent contractors to assure a  
3243 smooth transition of services described in this Agreement. Such cooperation shall include but not  
3244 be limited to transfer of computer data, files and tapes containing customer account and service  
3245 information; providing routing information, route maps, vehicle fleet information, and list of Service  
3246 Recipients; providing a complete inventory of all carts and bins; providing adequate labor and

## **FRANCHISE AGREEMENT**

3247 equipment to complete performance of all Collection Services required under this Agreement;  
3248 offering to sell carts and bins at no more than fair market value to the subsequent contractor or  
3249 CITY; taking all actions necessary to transfer ownership of any sold carts and bins, as appropriate,  
3250 to the subsequent contractor or CITY, including transporting such containers to a location  
3251 designated by the City Representative; coordinating collection of materials set out in new  
3252 containers if new containers are provided for a subsequent Agreement before the expiration or  
3253 early termination of this Agreement; and providing other reports and data required by this  
3254 Agreement.

### 3255 **ARTICLE 43. Contractor's Records**

3256 43.01 CONTRACTOR shall maintain any and all letters, books of account, invoices,  
3257 vouchers, canceled checks, and other records or documents evidencing or relating to charges for  
3258 services or expenditures and disbursements charged to Service Recipients for a minimum period  
3259 of five (5) years, or for any longer period required by law, from the date of final payment to  
3260 CONTRACTOR pursuant to this Agreement.

3261 43.02 CONTRACTOR shall maintain all documents and records, which demonstrate  
3262 performance under this Agreement for a minimum period of five (5) years, or for any longer period  
3263 required by law, from the date of termination or completion of this Agreement.

3264 43.03 Any records or documents required to be maintained pursuant to this Agreement  
3265 shall be made available for inspection or audit, at any time during regular business hours, upon  
3266 written request by the City Representative, the City Attorney, City Auditor, City Manager, or a  
3267 designated representative of any of these officers. Copies of such documents shall be provided  
3268 to CITY for inspection at CITY offices when it is practical to do so. Otherwise, unless an alternative  
3269 site is mutually agreed upon, the records shall be available at CONTRACTOR'S address indicated  
3270 for receipt of notices in this Agreement. CITY's rights to inspect, audit or review confidential or  
3271 proprietary information of CONTRACTOR shall be subject to CITY entering into a reasonable  
3272 confidentiality agreement with CONTRACTOR. In addition, CITY will take reasonable measures,  
3273 subject to the requirements of applicable law, to prevent the dissemination of any such information  
3274 to third parties, and will promptly notify CONTRACTOR upon receipt of a request by a third party  
3275 under the Public Records Act to review or obtain such information.

3276 43.04 Where CITY has reason to believe that such records or documents may be lost or  
3277 discarded due to the dissolution, disbandment or termination of CONTRACTOR'S business, CITY  
3278 may, by written request or demand of any of the above named officers, require that custody of  
3279 the records be given to CITY and that the records and documents be maintained in City Hall.  
3280 Access to such records and documents shall be granted to any party authorized by  
3281 CONTRACTOR, CONTRACTOR'S representatives, or CONTRACTOR'S successor-in-interest.

### 3282 **ARTICLE 44. Entire Agreement**

3283 44.01 This Agreement and the Exhibits attached hereto constitute the entire Agreement  
3284 and understanding between the parties hereto, and it shall not be considered modified, altered,  
3285 changed or amended in any respect unless in writing and signed by the parties hereto.

### 3286 **ARTICLE 45. Severability**

3287 45.01 If any provision of this Agreement or the application of it to any person or situation  
3288 shall to any extent be held invalid or unenforceable, the remainder of this Agreement and the  
3289 application of such provisions to persons or situations other than those as to which it shall have

## FRANCHISE AGREEMENT

3290 been held invalid or unenforceable, shall not be affected, shall continue in full force and effect,  
3291 and shall be enforced to the fullest extent permitted by law.

### 3292 **ARTICLE 46. Right to Require Performance**

3293 46.01 The failure of either party at any time to require performance by the other party of  
3294 any provision hereof shall in no way affect the right of such party thereafter to enforce same. Nor  
3295 shall waiver by either party of any breach of any provision hereof be taken or held to be a waiver  
3296 of any succeeding breach of such provision or as a waiver of any provision itself.

### 3297 **ARTICLE 47. All Prior Agreements Superseded**

3298 47.01 This document supersedes all prior negotiations, correspondence, conversations,  
3299 agreements, contracts and understandings, whether oral or written, applicable to the matters  
3300 contained in this Agreement. Accordingly, it is agreed that no deviation from the terms of this  
3301 Agreement shall be predicated upon any prior representations, agreements, understandings or  
3302 contracts, whether oral or written.

### 3303 **ARTICLE 48. Headings**

3304 48.01 Headings in this document are for convenience of reference only and are not to be  
3305 considered in any interpretation of this Agreement.

### 3306 **ARTICLE 49. Exhibits**

3307 49.01 Each Exhibit referred to in this Agreement forms an essential part of this  
3308 Agreement. Each such Exhibit is a part of this Agreement and each is incorporated by this  
3309 reference.

### 3310 **ARTICLE 50. Representations and Warranties**

3311 CONTRACTOR, by acceptance of this Agreement, represents and warrants the conditions  
3312 presented in this Article, as of the date of CONTRACTOR's signature hereon.

3313 50.01 Corporate Status. CONTRACTOR is a corporation duly organized, validly  
3314 existing and in good standing under the laws of the State of California ("State"). CONTRACTOR  
3315 is qualified to transact business in the State and has the power to own its properties and to carry  
3316 on its business as now owned and operated and as required by this Agreement.

3317 50.02 Corporate Authorization. CONTRACTOR has the authority to enter this  
3318 Agreement and perform its obligations under this Agreement. The Board of Directors of  
3319 CONTRACTOR (or the shareholders, if necessary) has taken all actions required by law, its  
3320 articles of incorporation, its bylaws, or otherwise, to authorize the execution of this Agreement.  
3321 The Person signing this Agreement on behalf of CONTRACTOR represents and warrants that  
3322 they have the authority to do so. This Agreement constitutes the legal, valid, and binding obligation  
3323 of CONTRACTOR.

3324 50.03 Agreement Will Not Cause Breach. To the best of CONTRACTOR'S knowledge  
3325 after responsible investigation, the execution or delivery of this Agreement or the performance by  
3326 CONTRACTOR of its obligations hereunder does not conflict with, violate, or result in a breach:  
3327 (i) of any law or governmental regulation applicable to CONTRACTOR; or (ii) any term or condition

**FRANCHISE AGREEMENT**

3328 of any judgment, order, or decree of any court, administrative agency or other governmental  
3329 authority, or any Agreement or instrument to which CONTRACTOR is a party or by which  
3330 CONTRACTOR or any of its properties or assets are bound, or constitutes a default thereunder.

3331           50.04 No Litigation. To the best of CONTRACTOR'S knowledge after responsible  
3332 investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or by  
3333 any court or governmental authority, commission, board, agency or instrumentality, pending or  
3334 threatened against CONTRACTOR wherein an unfavorable decision, ruling or finding, in any  
3335 single case or in the aggregate would:

3336                   50.04.1           Materially adversely affect the performance by CONTRACTOR of  
3337 its obligations hereunder;

3338                   50.04.2           Adversely affect the validity or enforceability of this Agreement; or

3339                   50.04.3           Have a material adverse effect on the financial conditions of  
3340 CONTRACTOR, or any surety or entity guaranteeing CONTRACTOR'S performance under this  
3341 Agreement.

3342           50.05 CONTRACTOR'S Statements. CONTRACTOR'S information submitted to CITY,  
3343 which CITY has relied on in negotiating and entering this Agreement, does not: (i) contain any  
3344 untrue statement of a material fact, or (ii) omit to state a material fact that is necessary in order to  
3345 make the statements made, in light of the circumstances in which they were made, not misleading.

3346           50.06 CONTRACTOR'S Investigation. CONTRACTOR has made an independent  
3347 investigation (satisfactory to it) of the conditions and circumstances surrounding the Agreement  
3348 and the work to be performed hereunder. CONTRACTOR has taken such matters into  
3349 consideration in entering into this Agreement to provide services in exchange for the  
3350 compensation provided for under the terms of this Agreement.

3351 **ARTICLE 51. Effective Date**

3352 This Amendment No. 1 to the Agreement shall become effective at such time as it is properly  
3353 executed by CITY and CONTRACTOR.

3354

**FRANCHISE AGREEMENT**

3355 IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement on the day  
3356 and year first written above.

3357

3358 **CITY OF HALF MOON BAY**

**BFI Waste Systems of North America, LLC**

3359

3360

3361 *Rdn*

7/2/2021

*Travis Armstrong*

7/12/2021

3362 Robert Nisbet

Date

Travis Armstrong

Date

3363 City Manager

General Manager

3364

3365

3366

3367

02404159

3368

City of Half Moon Bay Business License Number

3369

3370

3371

3372 **The foregoing Agreement has been reviewed and approval is recommended:**

3373

3374 Resolution No. 2021-39

3375 Approved by City Council

3376

3377

3378 **Approved as to Form:**

3379

3380 *Catherine Engberg, City Attorney*

7/12/2021

3381 Catherine Engberg

Date

3382 City Attorney

3383

3384

3385 **Attest:**

3386

3387 *Jessica Blair*

7/12/2021

3388 Jessica Blair

Date

3389 City Clerk

3390