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2
3 AGREEMENT

4 BETWEEN

5 WEST VALLEY SOLID WASTE MANAGEMENT
6 AUTHORITY

7 AND

8 WEST VALLEY COLLECTION & RECYCLING, LLC

9 FOR THE

10 COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS,
11 GREEN WASTE, AND CONSTRUCTION AND DEMOLITION
12 DEBRIS, THE TRANSPORTATION OF SUCH MATERIALS TO
13 APPROPRIATE PLACES OF PROCESSING, RECYCLING,
14 COMPOSTING AND/OR DISPOSAL, AND THE PROCESSING OF
15 RECYCLABLE MATERIALS

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19 As of

20 March 14, 2006

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340 **RECITALS**

341 This Franchise Agreement (Agreement) is entered as of 14th day of March, 2006, by
342 and between the West Valley Solid Waste Management Authority (Authority) and
343 West Valley Collection & Recycling, LLC (Company), for the collection of Solid Waste,
344 Recyclable Materials, Green Waste, and Construction and Demolition Debris, the
345 transportation of such materials to appropriate places of processing, Recycling,
346 Composting and/or Disposal, and the Processing of Recyclable Materials.

347 **Recitals**

348 WHEREAS, the Legislature of the State of California, by enactment of the California
349 Integrated Waste Management Act of 1989 (AB 939) (California Public Resources
350 Code Section 40000 et seq.), has declared that it is in the public interest to authorize
351 and require local agencies to make adequate provisions for Solid Waste, Recyclable
352 Materials, Green Waste, and Construction and Demolition Debris handling within
353 their jurisdictions; and,

354 WHEREAS, effective October 1, 1997, the cities of Campbell, Monte Sereno, and
355 Saratoga, and the Town of Los Gatos formed the Authority pursuant to Government
356 Code Section 6500 et. Seq. to manage and oversee the Franchised Services originating
357 in the Cities of Campbell, Monte Sereno and Saratoga and the Town of Los Gatos;
358 and,

359 WHEREAS, among the powers granted the Authority is the power to arrange for the
360 Franchised Services; and,

361 WHEREAS, pursuant to California Public Resources Code Section 40059(a)(2), the
362 Board of Directors of the Authority has determined that the public health, safety, and
363 well-being require that an exclusive franchise be awarded to a qualified company for
364 the Franchised Services; and,

365 WHEREAS, the Company, through its proposal to the Authority, has proposed and
366 represented that it has the ability and capacity to provide for the Collection of Solid
367 Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris
368 within the Authority, the transportation of such material to appropriate places of
369 processing, Recycling, Composting and/or Disposal; the Processing of Recyclable

370 Materials; the diversion of materials in accordance with the Public Resources Code
371 and in a manner that will achieve the Authority's Diversion Goals; and,

372 WHEREAS, the Authority Board of Directors has determined through a competitive
373 procurement for services that Company, by demonstrated experience, reputation and
374 capacity, is qualified to provide the services described in this Agreement; and,

375 WHEREAS, the Authority Board of Directors desires that Company be engaged to
376 perform such services on the basis set forth in this Agreement; and,

377 WHEREAS, Authority and Company are mindful of the provisions of the laws
378 governing the safe Collection of Solid Waste, Recyclable Materials, Green Waste, and
379 Construction and Demolition Debris within the Authority, the transportation of such
380 material to appropriate places of processing, Recycling, Composting and/or Disposal,
381 and the Processing of Recyclable Materials, the Resource Conservation and Recovery
382 Act (RCRA) and the Comprehensive Environmental Response, Compensation and
383 Liability Act ("CERCLA"); and,

384 WHEREAS, the Authority Board of Directors declares its intention of maintaining
385 reasonable rates and quality service related to the Franchised Services, and other
386 services; and,

387 WHEREAS, Authority and Company (Parties) hereto have developed and desire to
388 enter said Agreement.

389 NOW, THEREFORE, in consideration of the premise above stated and the terms,
390 conditions, covenants and agreements contained herein, the Parties do hereby agree
391 as follows:

392 **ARTICLE 1**
393 **DEFINITIONS**

394 1.1 **AB 939**

395 "AB 939" means the California Integrated Waste Management Act of 1989 (California
396 Public Resources Code Section 40000 et seq.), as it may be amended from time to time.

397 1.2 **Agreement**

398 "Agreement" means this Franchise Agreement between Authority and Company for
399 the Collection of Solid Waste, Recyclable Materials, Green Waste, and Construction
400 and Demolition Debris within the Authority, the transportation of such material to
401 appropriate places of processing, Recycling, Composting and/or Disposal, and the
402 Processing of Recyclable Materials, including all exhibits and attachments, and any
403 amendments thereto.

404 1.3 **Approved Recycling Materials Processing Site**

405 "Approved Recycling Materials Processing Site" means the GreenTeam of San Jose's
406 Material Recovery Facility on 575 Charles Street in San Jose , California, which was
407 selected by Company and approved by the Authority in writing.

408 1.4 **Authority**

409 "Authority" means the West Valley Solid Waste Management Authority and the
410 geographic area of the Cities.

411 1.5 **Beneficial Use**

412 "Beneficial Use" means the processing of Green Waste for top dressing, weed
413 suppression, irrigation and erosion control, soil amendment, mulch, fuel, etc. (in a
414 manner that is not classified as disposal by the California Integrated Waste
415 Management Board) but does not include composting or landfill disposal.

416 1.6 **Billings**

417 "Billings" means any and all statements of charges for services rendered, howsoever
418 made, described or designated by Authority or Company, or made by others for
419 Authority or Company, to owners or occupants of property, including Residential

420 Property and Commercial Property, served by Company for the Collection of Solid
421 Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris
422 within the Authority, the transportation of such material to appropriate places of
423 processing, Recycling, Composting and/or Disposal, and the Processing of Recyclable
424 Materials.

425 1.7 **Board of Directors**

426 "Board of Directors" means the Board of Directors of the Authority.

427 1.8 **California Integrated Waste Management Act**

428 "California Integrated Waste Management Act" means Public Resources Code, Section
429 40000 et seq.

430 1.9 **City**

431 "City" means the City of Campbell, Monte Sereno, Saratoga, or the Town of Los Gatos
432 and includes all of the territory lying within their municipal boundaries as presently
433 existing or as such boundaries may be modified during the term of this Agreement.

434 1.10 **Cities**

435 "Cities" means the cities of Campbell, Monte Sereno, Saratoga, and the Town of Los
436 Gatos collectively and includes all of the territory lying within their boundaries as
437 presently existing or as such boundaries may be modified during the Term of this
438 Agreement.

439 1.11 **Collect (or Collection)**

440 "Collect" or "Collection" means to take physical possession, transport, and remove
441 Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
442 Debris within and from Authority.

443 1.12 **Commercial Property**

444 "Commercial Property" means commercial and industrial property upon which
445 business activity is conducted, including but not limited to retail sales, services,
446 wholesale operations, manufacturing and industrial operations, but excluding
447 businesses conducted upon Residential Property which are permitted under
448 applicable zoning regulations and are not the primary use of the property.

449 1.13 Company

450 "Company" means West Valley Collection & Recycling, LLC, a limited liability
451 company organized and operating under the laws of the State of California and its
452 managers, members, directors, employees and agents. It is a joint venture between
453 GreenWaste Recovery Inc., and Waste Connections of California, Inc., dba GreenTeam
454 of San Jose.

455 1.14 Company Compensation

456 "Company Compensation" means the revenue received by the Company from Billings
457 in return for providing services in accordance with this Agreement and any
458 amendments to this Agreement.

459 1.15 Company Party(ies)

460 "Company Party(ies) shall mean Company, officers, directors, or management or
461 fiscal employees (where "management employee" means any employee with direct or
462 indirect responsibility for direction or control over the Company's activities under
463 this Agreement and "fiscal" employee means an employee with direct or indirect
464 responsibility and control duties relating to financial matters under this Agreement).

465 1.16 Company's Proposal

466 "Company's Proposal" means the proposal submitted by Company and received on
467 November 15, 2005 by the Authority in response to the Authority's August 2005
468 Request for Proposals for the Collection of Solid Waste, Recyclable Materials, Green
469 Waste, and Construction and Demolition Debris within the Authority, the
470 transportation of such material to appropriate places of processing, Recycling,
471 Composting and/or Disposal, and the Processing of Recyclable Materials and certain
472 supplemental written materials, which are included as Exhibit 14 to this agreement
473 and are incorporated by reference.

474 1.17 Composting (or Compost)

475 "Composting" means a controlled biological decomposition of organic materials
476 yielding a safe and nuisance free compost product.

477 1.18 Compost Product

478 "Compost Product" means the product resulting from Composting.

479 **1.19 Construction and Demolition Debris**

480 "Construction and Demolition Debris" means construction materials resulting from
481 construction, remodeling, repair or demolition operations, as part of a total service
482 offered by a duly-licensed demolition company or the City, including rocks, soil, tree
483 remains, and other Green Waste which normally results from land clearing or land
484 development operations for a construction project and such materials as defined as
485 "construction and demolition debris" by applicable local ordinances in existence as of
486 the Effective Date of this Agreement. Construction and Demolition Debris shall be
487 source separated from Solid Waste at the site of generation and contain no more than
488 thirty percent (30%) by volume of residue.

489 **1.20 Construction and Demolition Debris Fee Component**

490 "Construction and Demolition Debris Fee Component" means the total of taxes and
491 fees assessed to the Designated Construction and Demolition Debris Processing Site
492 solely for purposes related to the processing operation.

493 **1.21 Construction and Demolition Debris Proprietary Rate**

494 "Construction and Demolition Debris Proprietary Rate" means the proprietary rate
495 charged by the Designated Construction and Demolition Debris Site for Processing of
496 Construction and Demolition Debris.

497 **1.22 Containers**

498 "Containers" means any and all types of Solid Waste, Recyclable Materials, Green
499 Waste, and Construction and Demolition Debris receptacles.

500 **1.23 Criminal Activity**

501 "Criminal Activity" means those activities described in Section 14.16.

502 **1.24 Curbside**

503 "Curbside" means the placement of containers for pickup, where such Container is
504 placed on the street or alley against the face of the curb, or where no curb exists the
505 Container is placed no more than five (5) feet from the outside edge of the street or
506 alleyway or as designated by the Authority.

507 1.25 **Customer**

508 "Customer" means the Person whom Company submits billing invoice to and collects
509 payment from for Collection services provided to a Premises. The Customer may be
510 the Occupant or Owner of the Premises provided that the Owner of the Premises shall
511 be responsible for payment of Collection services if an Occupant of a Premises, which
512 is identified as the Customer of Owner's Premises, fails to make such payment.

513 1.26 **Designated Construction and Demolition Debris Processing Site**

514 "Designated Construction and Demolition Debris Processing Site" means the
515 Guadalupe Landfill at 15999 Guadalupe Mines Road in San Jose unless the Authority
516 designates, in writing, a different Processing Site(s).

517 1.27 **Designated Disposal Site**

518 "Designated Disposal Site" means the Guadalupe Landfill at 15999 Guadalupe Mines
519 Road in San Jose unless the Authority designates, in writing, a different Disposal Site
520 in accordance with Section 6.11.

521 1.28 **Designated Drop-off Facility**

522 "Designated Drop-off Facility" means the GreenTeam of San Jose's Materials
523 Recovery Facility at 575 Charles Street in San Jose, unless the Company designates in
524 writing, with Authority approval, a different drop-off site.

525 1.29 **Designated Green Waste Processing Site**

526 "Designated Green Waste Processing Site" means the Guadalupe Landfill at 15999
527 Guadalupe Mines Road in San Jose unless the Authority designates, in writing, a
528 different Processing Site in accordance with Section 6.12.

529 1.30 **Designated Waste**

530 "Designated Waste" means non-Hazardous Waste which may pose special Disposal
531 problems because of its potential to contaminate the environment and which may be
532 Disposed of only in Class II Disposal Sites or Class III Disposal Sites pursuant to a
533 variance issued by the California Department of Health Services. Designated Waste
534 consists of those substances classified as Designated Waste by the State of California,
535 in California Code of Regulations Title 23, Section 2522 as may be amended from time
536 to time.

537 **1.31 Discarded Material**

538 "Discarded Material" means Solid Waste, Recyclable Materials, Green Waste, and
539 Construction and Demolition Debris placed by a Generator in a receptacle and/or at a
540 location that is designated for Collection pursuant to the Cities' Municipal Code.

541 **1.32 Disposal**

542 "Disposal" means the ultimate disposition of Solid Waste collected by Company at a
543 landfill in full regulatory compliance.

544 **1.35 Disposal Fee Component**

545 "Disposal Fee Component" means the total of taxes and fees assessed to the
546 Designated Disposal Site solely for Disposal purposes related to the waste operation.

547 **1.33 Disposal Proprietary Rate**

548 "Disposal Proprietary Rate" means the proprietary rate charged by the Designated
549 Disposal Site for Disposal of Solid Waste.

550 **1.34 Disposal Site(s)**

551 "Disposal Site(s)" mean the Solid Waste handling Facility or Facilities meeting all
552 applicable local, state, and federal licensing and permitting regulations utilized for the
553 ultimate Disposal of Solid Waste Collected by Company.

554 **1.36 Diversion Goal**

555 "Diversion Goal" means the means the target diversion ratio for each City, the
556 numerator of which is the annual tons of material from the Cities handled by the
557 Company which is not Disposed and the denominator of which is the total annual
558 tons of material from the Cities handled by the Company. The specific Diversion Goal
559 for each City will be negotiated based on the first six months experience, with target
560 goals not less than 33% for Campbell, 68% for Monte Sereno, 61% for Saratoga, and
561 42% for the Town of Los Gatos.

562 **1.37 Due Care**

563 "Due Care" means reasonable and sufficient care, so far as the circumstances demand
564 it; the absence of negligence including no violation of law.

565 1.38 Effective Date

566 "Effective Date" means the date on which the latter of the two Parties signs the
567 Agreement and the date on which Company may begin to take actions and incur costs
568 in preparation to provide Collection, Transportation, Processing, and Disposal
569 services required by this Agreement.

570 1.39 Environmental Laws

571 "Environmental Laws" means all federal and state statutes, county, local and City
572 ordinances concerning public health, safety and the environment including, by way of
573 example and not limitation, the Comprehensive Environmental Response,
574 Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource
575 Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33
576 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the
577 Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous
578 Waste Control Act, California Health and Safety Code §25100 et seq.; the California
579 Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the
580 Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the
581 Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code
582 §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and
583 regulations promulgated thereunder.

584 1.40 E-Waste Items

585 "E-Waste Items" means discarded electronic equipment such as, but not limited to,
586 television sets, computer monitors, central processing units (CPU's), laptop
587 computers, external computer hard drives, computer keyboards, computer mice,
588 computer printers, DVD's and VCR's.

589 1.41 Facility

590 "Facility" means any plant or site, owned or leased and maintained, operated or used
591 by Company for purposes of performing under this Agreement.

592 1.42 Fiscal Year

593 "Fiscal Year" means the period commencing July 1 of one year and concluding June 30
594 of the subsequent year for Company.

595 **1.43 Food Scraps**

596 "Food Scraps" means food scraps such as those discarded Organic Materials that will
597 decompose and/or putrefy including (i) all kitchen and table food waste, and animal
598 or vegetable waste that attends or results from the storage, preparation, cooking or
599 handling of food stuffs, and (ii) paper waste contaminated with Food Scraps. Food
600 Scraps is a subset of Organic Materials.

601 **1.44 Franchise**

602 "Franchise" means the special right granted by Authority for the Collection of Solid
603 Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris
604 within the Authority, the transportation of such material to appropriate places of
605 processing, Recycling, Composting and/or Disposal, and the Processing of Recyclable
606 Materials.

607 **1.45 Franchise Fee**

608 "Franchise Fee" means the fee paid by Company to City for the right to hold the
609 Franchise for the Collection of Solid Waste, Recyclable Materials, Green Waste, and
610 Construction and Demolition Debris within the Authority, the transportation of such
611 material to appropriate places of processing, Recycling, Composting and/or Disposal,
612 and the Processing of Recyclable Materials granted by this Agreement.

613 **1.46 Franchised Services**

614 "Franchised Services" mean the Collection of Solid Waste, Recyclable Materials, Green
615 Waste, and Construction and Demolition Debris within the Authority, the
616 transportation of such material to appropriate places of processing, Recycling,
617 Composting and/or Disposal, and the Processing of Recyclable Materials

618 **1.47 Garbage**

619 "Garbage" means putrescible animal, fish, food, fowl, fruit or vegetable matter, or any
620 form thereof, resulting from the preparation, storage, handling or consumption of
621 such substances.

622 **1.48 Generator**

623 "Generator" means any Person as defined by the Public Resources Code, whose act or
624 process produced Solid Waste, Recyclable Materials, or Green Waste as defined in the

625 Public Resources Code, or whose act first causes Solid Waste to become subject to
626 regulation.

627 **1.49 Green Waste**

628 "Green Waste" means tree trimmings, grass cuttings, dead plants, leaves, branches and
629 dead trees (not more than three (3) inches in diameter) and similar materials
630 generated and separated from other materials at the Premises

631 **1.51 Green Waste Processing Fee Component**

632 "Green Waste Processing Fee Component" means the total of taxes and fees assessed
633 to the Designated Green Waste Processing Site solely for Green Waste processing
634 purposes.

635 **1.50 Green Waste Processing Proprietary Rate**

636 "Green Waste Processing Proprietary Rate" means the proprietary rate for
637 transferring and processing Green Waste at the Designated Green Waste Processing
638 Site.

639 **1.52 Gross Revenues**

640 "Gross Revenues" means any and all revenue or compensation in any form to
641 Company or subsidiaries, or parent companies of Company, for the Collection of
642 Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
643 Debris within the Authority, the transportation of such material to appropriate places
644 of processing, Recycling, Composting and/or Disposal, and the Processing of
645 Recyclable Materials pursuant to this Agreement, in accordance with Generally
646 Accepted Accounting Principals, including, but not limited to, monthly customer fees
647 for the Collection of Solid Waste, Recyclable Materials, Green Waste, and
648 Construction and Demolition Debris within the Authority, the transportation of such
649 material to appropriate places of processing, Recycling, Composting and/or Disposal,
650 and the Processing of Recyclable Materials, without subtracting Franchise Fees or any
651 other cost of doing business, except for City surcharges.

652 **1.53 Gross Revenues Collected**

653 "Gross Revenues Collected" shall mean cash receipts collected by the Company for
654 the Collection of Solid Waste, Recyclable Materials, Green Waste, and Construction

655 and Demolition Debris within the Authority, the transportation of such material to
656 appropriate places of processing, Recycling, Composting and/or Disposal, and the
657 Processing of Recyclable Materials, without subtracting Franchise Fees or any other
658 cost of doing business, except City surcharges.

659 **1.54 Hazardous Substance**

660 "Hazardous Substance" shall mean any of the following: (a) any substances defined,
661 regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous
662 materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or
663 similarly identified as hazardous to human health or the environment, in or pursuant
664 to (i) the Comprehensive Environmental Response, Compensation and Liability Act of
665 1980, 42 USC §9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act,
666 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901
667 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety
668 Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et
669 seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations
670 promulgated thereunder to such enumerated statutes or acts currently existing or
671 hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical,
672 waste or pollutant identified as hazardous or toxic or regulated under any other
673 applicable federal, state or local environmental laws currently existing or hereinafter
674 enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's
675 ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

676 **1.55 Hazardous Waste**

677 "Hazardous Waste" means all substances defined as Hazardous Waste, acutely
678 Hazardous Waste, or extremely Hazardous Waste by the State of California in Health
679 and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or
680 recodifications of such statutes or identified and listed as Hazardous Waste by the US
681 Environmental Protection Agency (EPA), pursuant to the Federal Resource
682 Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments
683 thereto, and all rules and regulations promulgated thereunder.

684 **1.56 Household Hazardous Waste (HHW)**

685 "Household Hazardous Waste" means Hazardous Waste generated at residential
686 Premises within the Authority.

687 **1.57 Infectious Waste**

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

693 **1.58 Legislation**

694 "Legislation" means any code, ordinance, resolution or any other forms/enactment of
695 the governing body of City or Authority which now exists or which may hereafter be
696 adopted which constitutes law or regulation governing the operation of Company.

697 **1.59 Managers**

698 "Managers" means the Directors of the Company.

699 **1.60 Members**

700 "Members" means Waste Connections of California, Inc., a California Corporation
701 and GreenWaste Recovery Inc., a California Corporation.

702 **1.61 Missed Pick-up**

703 "Missed Pick-up" means failure of Company to pick up Solid Waste, Recyclable
704 Materials, and/or Green Waste that has been set out by the customer at the time, at
705 the weight, in the volume, in the proper container, with the lawful contents in
706 accordance with this Agreement, and at the prescribed level of service, as mutually
707 agreed upon by the customer and Company.

708 **1.62 Multi-Family Dwelling Unit**

709 "Multi-Family Dwelling Unit" means any Premises with five (5) or more units serviced
710 in a manner similar to Commercial Property, but used for residential purposes (not
711 including hotels or motels), irrespective of whether residence therein is transient,
712 temporary or permanent.

713 **1.63 Occupant**

714 "Occupant" means the Person who occupies a Premise.

715 **1.64 Organic Materials**

716 "Organic Materials" means those discarded materials that will decompose and/or
717 putrefy and that the Cities' Municipal Code permits, directs, and/or requires
718 Generators to separate from Solid Waste and Recyclable Materials for Collection in
719 separately designated Containers for Organic Materials Collection. Organic Materials
720 include Green Waste and Food Scrap such as but not limited to, green trimmings,
721 grass, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead
722 trees, small wood pieces, other types of organic yard waste, vegetable waste, fruit
723 waste, grain waste, dairy waste, meat waste, fish waste, paper contaminated with
724 Food Scrap or otherwise not accepted in the Recyclable Materials Collection program,
725 pieces of unpainted and untreated wood, and pieces of unpainted and untreated
726 wallboard. No Discarded Material shall be considered to be Organic Materials,
727 however, unless such material is separated from Solid Waste and Recyclable
728 Materials.

729 **1.64 Owner**

730 "Owner" means the Person holding the legal title to the real property constituting the
731 Premises to which Solid Waste, Recyclable Materials, and/or Green Waste Collection
732 service are to be provided under this Agreement.

733 **1.66 Parent Company**

734 "Parent Company" refers to a company owning more than fifty percent (50%) of the
735 shares of another company (subsidiary) or a company that has management control
736 over such subsidiary.

737 **1.67 Pass-Through Cost**

738 "Pass-Through Cost" means a cost to which no element of overhead, administrative
739 expense, profit, or other cost is added nor with respect to which any other amount is
740 credited, such that the specific amount of such cost is included without modification
741 in the calculations or reports to which such costs pertain.

742 **1.68 Person**

743 "Person" means any individual, firm, association, organization, partnership,
744 corporation, business trust, joint venture, the United States, the State of California, the
745 County of Santa Clara, towns, cities, and special purpose districts.

746 **1.69 Premises**

747 "Premises" means any land, or building, in Authority where Solid Waste, Recyclable
748 Materials, or Green Waste are generated or accumulated.

749 **1.70 Rate Year**

750 "Rate Year" means the twelve month period, commencing July 1, of one year and
751 concluding June 30 of the subsequent year, for which Company Compensation is
752 calculated.

753 **1.71 Rates**

754 "Rates" means the unit to be charged customers by Company for providing the
755 Collection of Solid Waste, Recyclable Materials, Green Waste, and Construction and
756 Demolition Debris within the Authority, the transportation of such material to
757 appropriate places of processing, Recycling, Composting and/or Disposal, and the
758 Processing of Recyclable Materials. Rates may be adjusted from time to time in
759 accordance with this Agreement.

760 **1.72 Recycling**

761 "Recycling" means recycling as defined in California Public Resources Code, Division
762 30, Part 1, Chapter 2, §40180 and includes the process of collecting, sorting, cleansing,
763 treating, and reconstituting materials that would otherwise become solid waste, and
764 returning them to the economic mainstream in the form of raw material for new,
765 reused, or reconstituted products which meet quality standards necessary to be used
766 in the market place. "Recycling" does not include transformation, as defined in Public
767 Resources Code §40201.

768 **1.73 Recyclable**

769 "Recyclable" means a material which can be processed into a form suitable for reuse
770 through reprocessing or re-manufacture consistent with the requirements of the
771 California Integrated Waste Management Act.

772 **1.74 Recyclable Materials**

773 "Recyclable Materials" means residential, commercial or industrial Source Separated
774 by-products of some potential economic value, set aside, handled, packaged, or
775 offered for Collection in a manner different from Garbage or Solid Waste. Recyclable

776 Materials shall include, but not be limited to: newspaper, including inserts; mixed
777 paper, including magazines, catalogs, envelopes, "junk mail", corrugated cardboard,
778 brown kraft (grocery) bags and brown kraft paper, paperboard, paper egg cartons,
779 office ledger paper, and telephone books; glass containers; aluminum beverage
780 containers; steel ("tin") cans and bimetal containers; small scrap metal, not exceeding
781 ten (10) pounds in weight and fitting into Recyclable Materials Collection Container;
782 plastic containers (numbers 1-7); milk and juice cartons with gabled top; aseptic
783 cartons; plastic film; polystyrene; textiles; and, used oil and used oil filters.

784 **1.75 Recycled**

785 "Recycled" means the act of having processed Recyclable Materials into a form
786 suitable for reuse and having marketed those processed materials for a use consistent
787 with the requirements of the California Integrated Waste Management Act for
788 Recycled materials. The act of marketing does not require that revenue is generated
789 from the processed materials.

790 **1.76 Vehicle Impact Fee**

791 "Vehicle Impact Fee" means the fee paid by Company to reimburse the Cities for
792 street maintenance costs incurred because of Collection Vehicles traveling on
793 Authority streets.

794 **1.77 Related-Party Entity**

795 "Related Party Entity" means any Affiliate which has financial transactions with
796 Company pertaining to this Agreement that has been approved by the Authority. For
797 the purposes of this Agreement and at the time of its execution, Related-Party Entities
798 shall include, but are not limited to: GreenWaste Recovery, Inc., and Waste
799 Connections of California, Inc.

800 **1.78 Residential Property**

801 "Residential Property" means property used for residential purposes, irrespective of
802 whether such dwelling units are rental units or are owner-occupied.

803 **1.79 Roll-Off Container**

804 "Roll-Off Container" means any unit, container, or enclosure including, but not limited
805 to sizes ranging from 8 to 40 cubic yards which can be used for Solid Waste. A Roll-

806 Off Container may be an open top container or an enclosed container with a
807 compaction unit.

808 **1.80 Roll-Off Collection Services**

809 "Roll-Off Collection Services" means the service provided to customers for the
810 collection of Solid Waste using a Roll-Off Container.

811 **1.81 Rubbish**

812 "Rubbish" means all waste wood, wood products, printed materials, paper, paste
813 board, rags, straw, used and discarded clothing, packaging materials, ashes, floor
814 sweepings, glass and other materials not included in the definition of Garbage,
815 Hazardous Substance, Green Waste or Recyclable Materials, and such materials
816 defined as "rubbish" by applicable local ordinances in existence as of the Effective
817 Date of this Agreement.

818 **1.82 Salvageable Material**

819 "Salvageable Material" means those Discarded Materials that may be reused in their
820 existing form or may be reused after some form of Processing including, but not
821 limited to, Green Waste and Recyclable Materials.

822 **1.83 Single Family Dwelling Unit**

823 "Single Family Dwelling Unit" means each Premises used for or designated as a single
824 family residential dwelling, including each unit of a duplex, triplex, four-plex, or town
825 house in all cases in which there is separate or individual Solid Waste Collection
826 service using cans or carts.

827 **1.84 Solid Waste**

828 "Solid Waste" means Solid Waste as defined in California Public Resources Code,
829 Division 30, Part 1, Chapter 2, §40191. Excluded from the definition of Solid Waste are
830 Construction and Demolition Debris, Hazardous Waste, Infectious Waste, Designated
831 Waste, Source Separated Recyclable Materials, Source Separated Green Waste, and
832 radioactive waste. Notwithstanding any provision to the contrary, Solid Waste may
833 include de minimis volumes or concentrations of waste of a type and amount
834 normally found in Residential Solid Waste after implementation of programs for the
835 safe collection, recycling, treatment, and disposal of Household Hazardous Waste in

836 compliance with Section 41500 and 41802 of the California Public Resources Code as
837 may be amended from time to time.

838 Solid Waste includes Salvageable Materials only when such materials are included for
839 Collection in a Solid Waste Container.

840 **1.85 Source Reduction Program**

841 "Source Reduction Program" means any program that reduces the amount of Solid
842 Waste that would otherwise be disposed of in a landfill, including without limitation
843 Recycling, processing, salvaging and waste-to-energy projects.

844 **1.86 Source Separation (or Source Separated)**

845 "Source Separation" or "Source Separated" means the segregation into separate
846 Containers by the Generator of individual components of material which otherwise
847 would become Solid Waste or Garbage, such as glass bottles, metal cans, newspapers,
848 plastic containers, construction materials, etc., for the sole purpose of Recycling, to be
849 picked up by Company.

850 **1.87 Special Event**

851 "Special Event" means a large event as defined in AB2176 (Montanez, Chapter 879,
852 Statutes of 2004) which includes all events that charge admission or are operated by a
853 local agency and serve an average of at least 2,000 attendees and workers per day of
854 the event.

855 **1.88 Ton (or Tonnage)**

856 "Ton (or Tonnage)" means a unit of measure for weight equivalent to two thousand
857 (2,000) standard pounds where each pound contains sixteen (16) ounces.

858 **1.89 Transport**

859 "Transport" means the transportation of Solid Waste , Recyclables or Green Waste
860 from the point of Collection to a MRF, Processing Facility, or Disposal Site.

861 **1.90 Unacceptable Waste**

862 "Unacceptable Waste" means any and all waste, including but not limited to,
863 Hazardous Waste, Hazardous Substances, Biohazardous and Biological Waste, the
864 acceptance or handling of which would cause a violation of any permit condition or

865 legal or regulatory requirements, substantial damage to Company's equipment or
866 facilities, or present a substantial endangerment to the health or safety of the public or
867 Company's employees, provided, that de minimis quantities or waste of a type and
868 amount normally found in residential Solid Waste after implementation of programs
869 for the safe collection, Recycling, treatment and disposal of Household Hazardous
870 Waste in compliance with Section 41500 and 41802 of the California Public Resources
871 Code shall not constitute Unacceptable Waste.

872 **1.91 Universal Waste**

873 "Universal Waste " means Universal Waste as defined in California Code of
874 Regulations Title 22, Division 4.5, Ch 11, Article 1, §66261.9. Included in the
875 definition are, but are not limited to, common household batteries, fluorescent tubes
876 and bulbs and other mercury-containing lamps, thermostats, electronic devices,
877 electrical switches and relays, pilot light sensors, mercury gauges, mercury added
878 novelties, mercury thermostats and non-empty aerosol cans that contained hazardous
879 materials.:

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ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF COMPANY

2.1 Company Status

Company is a duly organized, validly existing and in good standing under the laws of the State of California. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

2.2 Company Authorization

Company has the authority to enter into and perform its obligations under this Agreement. The Managers and Members of the Company have taken all actions required by law, its operating agreement or otherwise to authorize the execution of this Agreement.

2.3 Agreement Duly Executed

The person(s) signing this Agreement on behalf of Company have been duly authorized by Company to do so, and this Agreement has been duly executed and delivered by Company in accordance with the authorization of its Managers and Members, if necessary, and is enforceable against Company in accordance with its terms, except as enforcement of this Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefore may be brought as confirmed by the Company's Secretary's Certificate in Exhibit 1.

2.4 No Conflict With Applicable Law or Other Documents

To the best of Company's knowledge after reasonable investigation, neither the execution and delivery by Company of this Agreement nor the performance by Company of its obligations hereunder and the transactions described herein:

- A) Conflicts with, violates or will result in a violation of any existing applicable law; or

910 B) Conflicts with, violates or will result in a breach or default under any term
911 or condition of any existing judgment, order or decree of any court,
912 administrative agency or other governmental authority, or of any existing
913 agreement or instrument to which Company is a party, or by which
914 Company or any of Company's properties or assets is bound; or

915 C) Will result in the creation or imposition of any lien, charge or
916 encumbrance of any nature whatsoever upon any of the properties or
917 assets of Company which will interfere materially with Company's
918 performance hereunder.

919 **2.5 No Litigation**

920 To the best of Company's knowledge after reasonable investigation, there is no
921 judicial decision, action, suit, proceeding or action at law or equity, or to the best of
922 Company's knowledge, any investigation before or by any court or governmental
923 entity, pending or threatened against Company or otherwise affecting Company,
924 wherein an unfavorable decision, ruling or finding, in any single case or in the
925 aggregate, would materially adversely affect Company's performance hereunder, or
926 which in any way, would adversely affect the validity or enforceability of this
927 Agreement, or which would, in any single case or in the aggregate:

928 A) Materially adversely affect the performance by Company of its obligations
929 hereunder;

930 B) Adversely affect the validity or enforceability of this Agreement;

931 C) Have a material adverse effect on the financial condition of Company, or
932 any surety or entity guaranteeing Company's performance under this
933 Agreement: or,

934 D) Prohibit this Agreement or subject this Agreement to legal challenge

935 **2.6 Financial Ability, Disclosures, No Material Change**

936 Company represents that it has sufficient financial resources to perform all aspects of
937 its obligations hereunder. Company has provided the Authority with audited
938 financial statements as of August 31, 2004 for Green Waste Recovery, Inc and as of
939 December 31, 2005 for Waste Connections, Inc, the parent company of Waste

940 Connections of California, Inc. prepared by a certified public accountant whose audit
941 was performed in accordance with Generally Accepted Auditing Standards which
942 present fairly, in accordance with Generally Accepted Accounting Principles, the
943 financial resources of such Members. Company represents that there has been no
944 material adverse change in Company's or its Members financial circumstances since
945 the date of the most recent financial statements, as confirmed by Corporate Chief
946 Financial Officer's Certificate in Exhibit 2.

947 **2.7 Expertise**

948 Company has the expert, professional, and technical capability to perform all of its
949 obligations under this Agreement.

950 **2.8 Company's Investigation**

951 Company has made an independent investigation (satisfactory to it) of the conditions
952 and circumstances surrounding the Agreement and the work to be performed by
953 Company under the Agreement, and enters into this Agreement on the basis of that
954 independent investigation.

955 **2.9 Company's Statements**

956 The Company's Proposal and any other supplementary documents submitted to the
957 Authority, which the Authority relied upon in awarding and entering this Agreement,
958 do not: (i) contain any untrue statement of a material fact, or (ii) omit a material fact
959 that is necessary in order to make the statements made, in light of the circumstances in
960 which they were made, not misleading.

961 **2.10 Voluntary Use of Designated Disposal Site, Designated Green Waste Processing
962 Site, and Designated Construction and Demolition Debris Processing Site**

963 The Company, without constraint and as a free-market business decision in accepting
964 this Agreement, agrees to use the Designated Disposal Site for the purposes of
965 Disposing of all Solid Waste Collected in the Authority, the Designated Green Waste
966 Processing Site for purposes of processing of all Green Waste Collected in the
967 Authority, and the Designated Construction and Demolition Debris Site for purposes
968 of processing of all Construction and Demolition Debris Collected in the Authority.
969 Such decision by Company in no way constitutes a restraint of trade notwithstanding
970 any Change in Law regarding flow control limitations or any definition thereof.

971 **ARTICLE 3**

972 **TERM OF FRANCHISE**

973 **3.1 Effective Date and Commencement Date**

974 The effective date of this Agreement shall as of March 14, 2006.

975 The Commencement Date shall be March 1, 2007 and shall be the date on which
976 Company initiates provision of the Franchised Services required by this Agreement.

977 Between the Effective Date and the Commencement Date, Company shall perform all
978 activities necessary to prepare itself to start services required by this Agreement on
979 the Commencement date.

980 **3.2 Term of Agreement**

981 The term of this Agreement shall be seven (7) years commencing at 12:00 a.m. March
982 1, 2007, and expiring at midnight February 28, 2014, unless the Agreement is extended
983 by Authority pursuant to Section 3.3.

984 **3.3 Option to Extend Term**

985 At the Authority's sole discretion, the Authority shall have the option to extend this
986 Agreement on one or more occasions provided that the combined extension period
987 does not exceed 36 months or extend beyond February 28, 2017. Authority and
988 Company shall meet on or around 180 days from the commencement of this
989 Agreement to set diversion and other extension criteria. If Authority extends the
990 Agreement, it shall give written notice to Company not less than 180 calendar days
991 prior to the initial expiration date or extended expiration date of this Agreement. The
992 Authority's written notice shall specify the number of months by which it elects to
993 extend the Term of this Agreement and the revised expiration date of the Agreement.

994 **3.4 Conditions to Effectiveness of Agreement**

995 The obligation of Authority to permit this Agreement to become effective and to
996 perform its undertakings provided for in this Agreement is subject to the satisfaction
997 of each and all of the conditions set out below, each of which may be waived in whole
998 or in part by Authority, upon Authority's expressed written consent. Waivers are

999 limited to those expressed in writing, and are in the sole and exclusive discretion of
1000 the Authority.

1001 A) Accuracy of Representations. Representations and warranties made by
1002 Company throughout this Agreement are accurate, true and correct on
1003 and as of the effective date of this Agreement.

1004 B) Absence of Litigation. There is no litigation pending or threatened in any
1005 court challenging the award of this Franchise to Company or the
1006 execution of this Agreement or seeking to restrain or enjoin its
1007 performance.

1008 C) Furnishing of Insurance and Bonds. Company has furnished evidence of
1009 the insurance and bonds required by Article 11.

1010 D) Effectiveness of Authority Board Action. Authority's Resolution No. 2006-
1011 02 approving this Agreement shall have become effective pursuant to
1012 California law prior to the effective date.

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ARTICLE 4
SCOPE OF FRANCHISE

4.1 Grant and Acceptance of Franchise

Subject to Section 3.4, Authority hereby grants to Company, and the Company hereby accepts the exclusive Franchise, right and privilege for the Franchised Services that is required to be accumulated and offered for Collection to Company in accordance with terms and conditions set forth in this Agreement, and such rules and regulations set forth by ordinances of the Cities that are not inconsistent with this Agreement

This grant to Company of an exclusive Franchise, right and privilege for the Franchised Services shall be interpreted to be consistent with state and federal laws, now and during the term of the Franchise, and the scope of this exclusive Franchise shall be limited by current and developing state and federal laws with regard to Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris handling, exclusive Franchise, Solid Waste, Green Waste, and Construction and Demolition Debris flow control, and related doctrines. In the event that future interpretations of current law, enactment or developing legal trends limit the ability of Authority to lawfully provide for the scope of Franchise services as specifically set forth herein, Company agrees that the scope of the Franchise will be limited to those services and materials which may be lawfully provided for under this Agreement, and that Authority shall not be responsible for any lost profits claimed by Company to arise out of further limitations of the scope of the Agreement set forth herein. In such an event, it shall be the responsibility of Company to minimize the financial impact to other services being provided as much as possible.

4.2 Scope of Franchise

This Franchise granted to Company shall be exclusive with regards to the Franchised Services, except as described in Section 4.3 or except where otherwise precluded by applicable law.

The Company shall be responsible for the following services:

- A) Collecting all separated Solid Waste, Recyclable Materials and Green Waste generated in the Authority and placed by Generator for Collection.

- 1043 B) Transporting collected materials to the Designated Disposal Site,
1044 Designated Green Waste Processing Site, Designated Construction and
1045 Demolition Debris Processing Site, and Recyclable Materials Processing
1046 Site.
- 1047 C) Processing and marketing Recyclable Materials Collected in the Authority
1048 by Company.
- 1049 D) Providing temporary bins/roll-off service for the purpose of Collection of
1050 non-hazardous waste.
- 1051 E) Furnishing all labor supervision, vehicles, Containers, other equipment,
1052 materials, supplies, and all other items and services necessary to perform
1053 its obligations under this Agreement.
- 1054 F) Paying all expenses related to provision of services required by this
1055 Agreement including but not limited to, taxes, regulatory fees, utilities,
1056 etc.
- 1057 G) Providing all service required by this Agreement in a thorough and
1058 professional manner so that residents, businesses, and the Cities are
1059 provided timely, reliable, courteous and high-quality service at all times.
- 1060 H) Perform all service in substantial compliance with the Company's
1061 Proposal and in full accordance with this Agreement at all time using best
1062 industry practice for comparable operations. If the Company's Proposal,
1063 other written documents submitted by Company as part of the selection
1064 process and attached hereto and this Agreement conflict, the Agreement
1065 shall prevail and the supplemental material shall prevail over the
1066 Company's Proposal.
- 1067 I) Implementing all service in accordance with the implementation plan in
1068 Exhibit 7.
- 1069 J) Complying with applicable laws.

1070 K) Performing or providing all other service necessary to fulfill its obligations
1071 under this Agreement.

1072 L) Accomplishing the Diversion Goals set in Section 1.36 or as modified per
1073 Section 3.3.

1074 **4.3 Limitations to Scope**

1075 The categories of materials listed below may be Collected and transported by others
1076 provided that nothing in this Agreement is intended to or shall be construed to excuse
1077 any Person from obtaining any authorization from Authority or Cities which is
1078 otherwise required by law:

1079 A) Solid Waste which is removed from any Premises by the Generator, and
1080 which is transported personally by the Owner or Occupant of such
1081 Premises (or by his or her full-time employees) to any processing or
1082 Disposal Site;

1083 B) Collection and processing of recyclable materials not specifically included
1084 in the definition of recyclables in Section 1.70;

1085 C) Source separated Recyclable Materials that are generated in the Authority
1086 that are donated by the Generator to youth, civic, charitable, or other
1087 nonprofit organizations;

1088 D) Source separated Recyclable Materials generated in the Authority that are
1089 placed in containers, collected through a private arrangement with the
1090 Generator and the Generator is compensated for the Recyclable Materials
1091 Collected; provided, however, that the Owner or Occupant of such
1092 premises shall be required to subscribe to and pay for the basic level of
1093 service provided by Company;

1094 E) Containers delivered for Recycling under the California Beverage
1095 Container Recycling Litter Reduction Act, Section 14500 et seq. California
1096 Public Resources Code as may be amended from time to time;

1097 F) Green Waste Composted on residential premises;

- 1098 G) Animal waste and remains from slaughterhouses or butcher shops, grease
1099 waste, or used cooking oil;
- 1100 H) Construction and Demolition Debris which is removed from any Premises
1101 by employees of the construction or demolition company or the City,
1102 using equipment owned by the company or the City;
- 1103 I) By-products of sewage treatment, including sludge, sludge ash, grit and
1104 screenings;
- 1105 J) Hazardous waste, household hazardous waste, infectious waste and
1106 designated waste regardless of its source; and,
- 1107 K) Materials generated by public schools and other State institutions located
1108 in the Authority.
- 1109 L) Clean up Services including removal of Rubbish from residential or
1110 commercial premises where all of the following conditions are met:
- 1111 a) The person who transports the Rubbish for disposal or processing is
1112 the person who actually enters on the customer's premises and
1113 performs the clean-up services, loads the Rubbish directly to the
1114 transportation vehicle, and removes the Rubbish from the premises
- 1115 b) The Rubbish is not stored or collected in a debris box, roll-off box, a
1116 container designed to be emptied by a Collection Vehicle, or a
1117 container provided by the person performing the services.
- 1118 c) The services are provided to the particular premises on a temporary
1119 basis, not on a regular or on-going basis.
- 1120 M) Any services not specifically identified in Section 4.2.
- 1121 Company acknowledges and agrees that Authority may permit other Persons besides
1122 Company to Collect any or all types of the Solid Waste, Recyclable Materials, Green
1123 Waste, and Construction and Demolition Debris listed in this Section 4.3, without
1124 seeking or obtaining approval of Company under this Agreement.

1125 4.4 Ownership of Materials

1126 Once Solid Waste, Recyclable Materials, Green Waste, and/or Construction and
1127 Demolition Debris are placed in Containers and properly placed at the designated
1128 Collection location and picked up by the Company, ownership and the right to
1129 possession shall transfer directly from the Generator to Company by operation of this
1130 Agreement. Subject to the provisions of this Agreement, Company shall have the
1131 right to retain any benefit resulting from its right to retain, Recycle, process, Dispose
1132 of, or reuse the Solid Waste, Recyclable Materials, Green Waste, and/or Construction
1133 and Demolition Debris, which it Collects. Once Solid Waste, Recyclable Materials,
1134 Green Waste, and/or Construction and Demolition Debris, or any part thereof, which
1135 is disposed of or processed at a facility (whether landfill, transformation facility,
1136 transfer station, Recyclable Materials Processing Site, Green Waste Processing Site,
1137 and/or Construction and Demolition Debris Processing Site) shall become the
1138 property of the Owner or operator of the facility/facilities once deposited there by
1139 Company. Authority may obtain ownership or possession of Solid Waste, Recyclable
1140 Materials, Green Waste, and/or Construction and Demolition Debris placed for
1141 Collection upon written notice of its intent to do so, however, nothing in this
1142 Agreement shall be construed as giving rise to any inference that Authority has such
1143 ownership or possession unless such written notice has been given to Company.

1144 4.5 Authority-Directed Changes to Scope

1145 4.5.1 Types of Changes.

1146 Authority may, by written notice, direct Company to perform additional services or
1147 modify existing services. For example, and without limitation, the Authority may
1148 request the following:

- 1149 A) Collection of certain materials, which were originally Solid Waste, but
1150 during the Term can be, in the reasonable opinion of the Authority,
1151 economically Recycled or Composted;
- 1152 B) Inclusion of new diversion programs;
- 1153 C) Expansion of public education activities;
- 1154 D) Elimination of programs;

- 1155 E) Modification of the manner in which Company performs existing services;
- 1156 F) Performance of pilot programs;
- 1157 G) Implementation of innovative services, which may entail new Collection
1158 methods, targeted routing, different kinds of services, different types of
1159 Collection vehicles, and/or new requirements for Generators;
- 1160 H) Transportation of materials to a Designated Disposal, or Green Waste
1161 Processing Site other than that specified on the Effective Date;
- 1162 I) Increasing or decreasing the Diversion Goals.

1163 **4.5.2 Procedure for Making Changes in Scope.**

1164 Company shall present, within 30 calendar days of the Authority's written request, a
1165 written proposal to provide revised, additional or expanded services. At a minimum,
1166 the proposal shall contain a complete description of the following:

- 1167 A) Collection methodology to be employed (equipment, manpower, etc.).
- 1168 B) Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- 1169 C) Labor requirements (number of employees by classification).
- 1170 D) Type of materials to be collected or Containers to be utilized.
- 1171 E) Provision for program publicity/education/marketing.
- 1172 F) Five-year projection of the financial results of the program's operations in
1173 a balance sheet and operating statement format including documentation
1174 of the key assumptions underlying the projections and the support for
1175 those assumptions, giving full effect to the savings or costs to existing
1176 services.
- 1177 G) Plans for implementing the service change.

1178 The Authority shall review the Company's proposal for the change in scope of
1179 services. If the Company's proposal is desirable to the Authority, the Authority may
1180 negotiate with the Company to amend the Agreement to reflect the change in scope.
1181 If the Authority chooses not to negotiate with the Company, then the Authority
1182 waives its right to permit persons other than the Company to provide the additional
1183 services. Company acknowledges and agrees that Authority may permit other
1184 Persons besides Company to provide additional Solid Waste, Recyclable Materials,
1185 Green Waste, and Construction and Demolition Debris Collection and Diversion
1186 services if Company and Authority cannot agree on terms and conditions of such
1187 services in 120 calendar days from the date when Authority first requests a proposal
1188 from Company to perform such services. If the Company and Authority do not reach
1189 an agreement on the change in scope, the Company shall forfeit its exclusive right to
1190 Collect such material from Generators or provide the services under consideration
1191 and the Authority may solicit proposals from one or more other parties for such
1192 service and Company shall be invited to submit a proposal during the process.

1193 **4.5.3 Change in Designated Disposal Site, Designated Green Waste Processing**
1194 **Site, or Designated Construction and Demolition Debris Processing Site.**

1195 If the Authority changes the Designated Disposal Site, the Designated Green Waste
1196 Processing Site, or the Designated Construction and Demolition Debris Processing Site
1197 or specifies use of a Recyclable Materials Processing Site that is different from the
1198 Approved Recyclable Materials Processing Site, the Authority shall provide written
1199 notice to Company six months before effective date of the change and the date
1200 Company shall commence use of the site.

1201 **4.5.4 Adjustment to Company's Compensation.**

1202 If the Authority directs a change in scope or Designated Disposal or Processing Site,
1203 Company may be entitled to an adjustment in its compensation in accordance with
1204 Section 8.8. Company shall not be compensated for the proposal preparation costs or
1205 other costs incurred during the negotiation of its proposal for the change in scope of
1206 such services.

1207 **4.5.5 Implementation of New Services.**

1208 The Company's implementation of the new services or change in the Designated
1209 Disposal Site, Designated Green Waste Processing Site, Designated Construction and

1210 Demolition Debris Processing Site, or Approved Recycling Site shall occur in a timely,
1211 smooth, and seamless manner such that Customers and/or Generators do not
1212 experience disruption in Collection services. Company shall be responsible for
1213 managing implementation of new Collection services or change in the Designated
1214 Disposal Site, Designated Green Waste Processing Site, Designated Construction and
1215 Demolition Debris Processing Site, or Approved Recycling Site and other related
1216 services and shall do so in accordance with an approved implementation plan.

1217 **4.5.6 Monitoring and Evaluation of Changes in Scope.**

1218 If the Authority requests, the Company shall meet with the Authority to describe the
1219 progress of each new service. If applicable, Company shall document the results of
1220 the new programs on a monthly basis, including at a minimum the tonnage diverted
1221 by material type, the end use or processor of the diverted materials and the cost per
1222 ton for Transporting and Processing each type of material and other such information
1223 the Authority deems is necessary to evaluate the performance of each program.

1224 At each meeting, the Authority and Company shall have the opportunity to revise the
1225 program based on mutually agreed upon terms in accordance with provisions of this
1226 Section. The Authority shall have the right to terminate a program if, in its sole
1227 discretion, the Company is not cost effectively achieving the program's goals and
1228 objectives. Before such termination, the Authority shall meet and confer with the
1229 Company for a period not to exceed 90 calendar days to resolve the Authority's
1230 concerns. Thereafter, the Authority may utilize a third party to perform these services
1231 if the Authority reasonably believes the third party can improve on Company's
1232 performance and/or cost. Notwithstanding these changes, Company shall continue
1233 the program during the meet and confer period and, thereafter, until the third party
1234 takes over the program.

1235 1236 **4.6 Authority's Right to Perform Services and Possess Equipment**

1237 **4.6.1 General**

1238 The Authority, in its sole discretion, may determine a period of emergency if both of
1239 the following conditions occur: (i) Company, for any reason whatsoever, fails,
1240 refuses, or is unable to perform its Collection, Processing, and Disposal obligations, at
1241 the time and in the manner provided in this Agreement, for a period of more than 48

1242 hours, and (ii) the Authority finds that such failure, refusal, or inability endangers or
1243 menaces the public health, safety, or welfare. If the Authority determines a period of
1244 emergency, then the Authority shall have the right during the period of such
1245 emergency to: (i) perform, or cause to be performed, such services with its own or
1246 other personnel without liability to Company; and/or (ii) take possession of and use
1247 any or all of Company's land, equipment, and other property used or useful in
1248 providing the Collection, Transportation, Processing, and Disposal services under this
1249 Agreement. If the Authority chooses to exercise such rights, the Authority shall
1250 provide written notice to the Company 24-hours prior to its plans to exercise its rights.
1251 The Authority agrees that it assumes complete responsibility for the proper and
1252 normal use of such equipment and facilities while in its possession.

1253 The Authority shall provide oral notice (by telephone or in person) to Company of the
1254 Company's failure, refusal, or inability to perform its Collection obligations and of the
1255 Authority's intent to perform Collection services and/or possess Company's
1256 equipment. The Authority shall send written confirmation of such oral notification to
1257 Company, by certified mail, within 24 hours of the oral notification, unless the 24 hour
1258 deadline ends on a Sunday, or U.S. Postal Service holiday, then confirmation of such
1259 notice shall be sent on the day following such day.

1260 Company agrees that in such event:

1261 A) It will take direction from the Authority to effect the transfer of possession
1262 of property to the Authority for Authority's use.

1263 B) It will, if Authority so requests, keep in good repair and condition all of
1264 such property, provide all motor vehicles with fuel, oil and other service,
1265 and provide such other service as may be necessary to maintain said
1266 property in satisfactory operational condition.

1267 C) Authority may immediately engage all or any personnel necessary or
1268 useful for the Collection and Transportation of Solid Waste, Recyclable
1269 Material and Green Waste, including, if the Authority so desires, but
1270 subject to the terms of any labor agreements then in effect employees then
1271 employed by Company. Company further agrees, if Authority so
1272 requests, to furnish Authority the services of any or all management or
1273 office personnel employed by Company whose services are necessary or

1274 useful for Collection, Transportation, Processing, and Disposal operations.
1275 If the Authority so requests, Company shall continue to perform billing
1276 services of the Authority and shall remit all payments received to
1277 Authority. Authority shall reimburse Company for the costs of such
1278 services.

1279 If the interruption or discontinuance of service is caused by any of the reasons listed
1280 in Section 13.6, the Authority shall pay to Company \$100 per day for use of each
1281 Collection vehicle, \$2 per square foot per month (prorated for the actual time used) for
1282 use of the facilities, and the reasonable rental value of other equipment, possession of
1283 which is taken by the Authority, for the period of the Authority's possession, if any,
1284 which extends beyond the period of time for which Company has rendered bills to
1285 Customers in advance of service.

1286 Except as otherwise expressly provided in the previous paragraph, the Authority's
1287 exercise of its rights under this Article: (i) does not constitute a taking of private
1288 property for which compensation must be paid; (ii) will not create any liability on the
1289 part of Authority to Company; and (iii) does not exempt Company from the
1290 indemnity provisions of Article 11, which are meant to extend to circumstances
1291 arising under this Section, provided that Company is not required to indemnify
1292 Authority against claims and damages arising from the sole negligence of Authority
1293 officers, employees, and agents in the operation of Collection vehicles during the time
1294 the Authority has taken possession of such vehicles.

1295 **4.6.2 Duration of Authority's Possession**

1296 Authority has no obligation to maintain possession of Company's property and/or
1297 continue its use in Collection, Transportation, Processing and Disposal operations for
1298 any period of time and may, at any time, in its sole discretion, relinquish possession to
1299 the Company.

1300 The Authority's right to retain temporary possession of Company's property, and to
1301 provide Collection services, shall continue until the event which caused the taking of
1302 possession is cured and Company can demonstrate to the Authority's satisfaction that
1303 it is ready, willing and able to resume such services or for 180 calendar days,
1304 whichever occurs first.

1305 **4.6.3 Condemnation**

1306 The Authority fully reserves the rights to acquire the Company's property utilized in
1307 the performance of this Agreement, by purchase or through the exercise of the right of
1308 eminent domain.

1309 **4.7 Transition to Next Company at End of Agreement**

1310 If applicable, before expiration or earlier termination of this Agreement, Company
1311 will take direction from the Authority and cooperate with the subsequent Company to
1312 assist in a timely and orderly transition of services from Company to subsequent
1313 Company. In response to the Authority's direction, Company shall provide route lists
1314 (which identify each customer on the route, its service level and scheduled collection
1315 day, and any special collection notes) and detailed Customer account and Billing
1316 information. Company may, but shall not be obliged to, sell Collection vehicles,
1317 equipment, or facilities to the subsequent Company.

1318 **4.8 City Free to Negotiate with Third Parties**

1319 The Authority may investigate all options for Collection, Transportation, Processing
1320 and Disposal services that will be scheduled to commence after the expiration of the
1321 Term or earlier termination of this Agreement. Without limiting the generality of the
1322 foregoing, the Authority may solicit proposals from Company and from third parties
1323 for the provision of Collection, Transportation, Processing, or Disposal of Solid Waste,
1324 Recyclable Materials, Green Waste, and Construction and Demolition Debris, and any
1325 combination thereof. The Authority may negotiate and execute agreements for such
1326 services that will take effect upon the expiration or earlier termination of this
1327 Agreement.

1328 **ARTICLE 5**

1329 **FRANCHISE FEE AND OTHER FEES**

1330 **5.1 Franchise Fee Amount**

1331 In consideration of the exclusive Franchise provided in Section 4.2 of this Agreement,
1332 Company shall pay to the Cities in accordance with the schedule on Exhibit 8.
1333 Payment will be calculated as a percentage (%) of Gross Revenues Collected (or
1334 another amount as provided in Section 5.4.1) by the Company from services provided
1335 in the Authority.

1336 **5.2 Vehicle Impact Fee**

1337 Company shall pay a Vehicle Impact Fee to the Cities each month in accordance to the
1338 schedule on Exhibit 8.

1339 **5.3 Other Fees and Surcharges**

1340 The Authority may set other fees and surcharges, as it deems necessary. The amount,
1341 time and method of payment and adjustment process will be set in a manner similar
1342 to that for other fees described in this Article or as prescribed by State law.

1343 **5.4 Time and Method of Payment**

1344 On or before the twentieth (20th) day of each month, Company shall calculate and pay
1345 the Franchise, Vehicle Impact and other fees and surcharges due to the Cities for
1346 services rendered during the preceding calendar month. Payment is to be made as an
1347 Electronic Funds Transfer (EFT). Company shall send support for the calculation to
1348 the City and to the Authority. The City and Authority shall review the Company's
1349 schedule and calculations and may request, and Company shall provide, supporting
1350 documents related to the schedule provided. Should the City or Authority identify
1351 adjustments to the schedules or calculations, City or Authority shall notify Company
1352 within thirty 30 days after receipt of Franchise, Vehicle Impact and other fee payment
1353 and seek an explanation for any apparent differences. If the Franchise, Vehicle Impact
1354 and other fee is not paid on or before the twentieth (20th) day of any month,
1355 Company shall pay to City a late payment fee in an amount equal to one percent (1%)
1356 of the amount owing for that month for each thirty (30) day period the Franchise fee
1357 remains unpaid.

1358 **5.4.1 Adjustment to Franchise, Vehicle Impact and Other Fees and Surcharges**

1359 Authority may adjust the amount of the Franchise, Vehicle Impact Fee and other fees
1360 and surcharges annually. Such adjustment shall be reflected in the rates that
1361 Company is allowed to charge and collect from customers in accordance with Article
1362 8, such that Company may receive the calculated Company Compensation including
1363 the amount of Franchise, Vehicle Impact Fee and other fees and surcharges payable to
1364 the Cities.

ARTICLE 6
DIRECT SERVICES

1365

1366

1367 **6.1 Solid Waste Collection**

1368 **6.1.1 General**

1369 The work to be done by Company pursuant to this Agreement shall include, but not
1370 be limited to, the furnishing of all labor, supervision, equipment, materials, supplies,
1371 and all other items necessary to perform the services required. The enumeration of,
1372 and specification of requirements for, particular items of labor or equipment shall not
1373 relieve Company of the duty to furnish all others, as may be required, whether
1374 enumerated elsewhere in the Agreement or not.

1375 The work to be done by Company pursuant to this Agreement shall be accomplished
1376 in a thorough and professional manner so that the residents and businesses within
1377 Authority are provided reliable, courteous and high-quality Solid Waste, Recyclable
1378 Materials, Green Waste, and Construction and Demolition Debris Collection at all
1379 times. The enumeration of, and specification of requirements for, particular aspects of
1380 service quality shall not relieve Company of the duty of accomplishing all other
1381 aspects in the manner provided in this Section, whether such other aspects are
1382 enumerated elsewhere in the Agreement or not.

1383 Company shall direct its employees not to Collect Solid Waste, Recyclable Materials,
1384 Green Waste, and Construction and Demolition Debris beyond each Customer's
1385 subscription level of service unless the business office of Company has granted prior
1386 authorization to make such Collection.

1387 Company shall not damage private property. Company shall ensure that its
1388 employees: (i) close all gates opened in making Collections, unless otherwise directed
1389 by the Generator, (ii) do not cross landscaped areas, and (iii) do not climb or jump
1390 over hedges and fences.

1391 **6.1.2 Residential Solid Waste - Single Family Dwelling Unit**

1392 Company shall Collect Solid Waste from the 20, 32, 64, 96-gallon (or as specified in
1393 Company's proposal) Company-provided carts, as requested by the customer and
1394 placed for Collection by the Generator, not less than once per week. Standard

1395 Collection service shall be automated Collection from the curb, unless another method
1396 is approved by the Authority. Authority approval will not be unreasonably withheld.
1397 If occupant is physically unable to place the cart curbside, Company shall Collect carts
1398 from an alternative service location (such as a porch, side yard, or backyard). Time
1399 restrictions are detailed in Section 6.8.1.

1400 **6.1.3 Commercial, Industrial, and Multi-Family Dwelling Units**

1401 Company shall Collect Solid Waste, as frequently as scheduled by the customers but
1402 not less than once per week and in compliance with any and all local ordinances in
1403 existence as of the Effective Date of this Agreement, from: 32, 64, 96-gallon (or as
1404 specified in Company's Proposal) Company-provided carts; 1 to 6 cubic yard bins;
1405 and/or, 8 to 40 cubic yard roll-off boxes and compactors as selected by the Customer.
1406 Special consideration shall be given when determining the pick up area for
1407 Commercial, and/or Multi-Family accounts to ensure that the flow of traffic is not
1408 impeded and that it does not result in aesthetic degradation of an area. Additionally,
1409 if in the Authority's opinion the location of an existing pick up area is inappropriate,
1410 Authority may require the customer to relocate the pick up area. Time restrictions are
1411 detailed in Section 6.8.1.

1412 **6.1.4 Temporary Bins/Roll-off Box Service**

1413 Company shall provide temporary bins/roll-off box service for the purpose of
1414 Collection of non-hazardous Solid Waste. Company shall deliver and Collect
1415 bins/roll-off boxes at the direction of the customer. Bins/roll-off boxes shall be free of
1416 graffiti and in good repair. Bins/roll-off boxes must be clearly marked and
1417 identifiable as belonging to Company (such bins may be temporarily substituted but
1418 not replaced by bins of affiliated or related parties). Special consideration shall be
1419 given when determining the pick up area for temporary bins/roll-off box service
1420 accounts to ensure that the flow of traffic is not impeded and that it does not result in
1421 aesthetic degradation of an area. The designated pick up area, shall be in accordance
1422 with all applicable laws and permit conditions. Additionally, if in Authority's opinion
1423 the location of an existing pick up area is inappropriate, Authority may require the
1424 customer or Company to relocate the pick up area. Time restrictions are detailed in
1425 Section 6.8.1.

1426 Should a non-franchised hauler provide service that falls under the scope of this
1427 franchise, the Authority, upon notification by Company, shall attempt to give written

1428 notification, within twenty-four (24) hours, but no later than seventy-two (72) hours,
1429 of Company's notification, to the non-franchised hauler to cease and desist such
1430 activity. Should the non-franchised hauler fail to cease and desist, within twenty-four
1431 (24) hours of receipt of the Authority's written notification, such activity and the
1432 activity consists of the placement of bins/roll-off boxes on Authority streets or other
1433 City-owned property, the Authority may summarily remove or have the same
1434 removed. If the bins/roll-off boxes are located on private property, Company may, in
1435 cooperation with the Authority, initiate all appropriate civil or criminal action to
1436 cause the activity to cease and desist.

1437 6.2 Recyclables Material Collection

1438 6.2.1 General

1439 Company shall Collect Recyclables Materials that are commingled in the Customer's
1440 Recyclable Materials Collection Container provided that the Customer has separated
1441 the Recyclable Materials from Solid Waste.

1442 In accordance with Section 4.5, the Authority may request Company to modify its
1443 scope of service to include Collection of additional types of Recyclable Materials
1444 beyond those materials defined in Article 1. If the Authority requests Collection of
1445 additional Recyclable Materials, the Company shall not receive additional
1446 compensation for Collection service, if the Recyclable Materials are placed by
1447 Generator in the Recyclable Materials Container unless Company can demonstrate
1448 that Collection of the additional material(s) requires modifications to Collection routes
1449 to accommodate the additional volume of the material(s). An adjustment to
1450 Company's Compensation may be made for changes in Processing costs in accordance
1451 with Sections 4.5 and 8.7.

1452 6.2.2 Single-Family Premises

1453 Company shall Collect commingled Recyclable Materials from 32, 64, or 96-gallon (or
1454 as specified in Company's Proposal) Company-provided carts, as requested by the
1455 customer, and placed for Collection by the Recyclable Materials Generator, not less
1456 than once per week. Standard Collection service shall be automated Collection from
1457 the curb, unless another method is approved by the Authority. Authority approval
1458 will not be unreasonably withheld. If occupant is physically unable to place the cart

1459 curbside, Company shall Collect carts from an alternative service location (such as a
1460 porch, side yard, or backyard).
1461

1462 6.2.3 Multi-Family Premises

1463 Company shall Collect commingled Recyclable Materials from Multi-Family Premises
1464 as frequently as scheduled by Customer, but not less than once per week. Recycling
1465 Collection shall be provided to all Multi-Family Customers subscribing to Solid Waste
1466 Collection of at least six (6) cubic yards per week.

1467 Company shall provide each Customer with a 96-gallon (or as specified in Company's
1468 Proposal) Cart, or Bins with capacities ranging from 1 to 6 cubic yards or as specified
1469 in Company's Proposal, as requested by the Customer. Carts and Bins may be shared
1470 by the Occupants of the Multi-Family Premises.

1471 Company shall Collect Recyclable Materials at the designated location agreed upon by
1472 Company and Customer. Special consideration shall be given when determining the
1473 pick up area for Multi-Family accounts to ensure that the flow of traffic is not
1474 impeded and that it does not result in aesthetic degradation of an area. Additionally,
1475 if in the Authority's opinion, the location of an existing pick up area is inappropriate,
1476 Authority may require the customer to relocate the pick up area.

1477 6.2.4 Commercial Premises

1478 Company shall Collect Recyclable Materials from Commercial Premises as frequently
1479 as scheduled by Customer. If Customer requests Recyclable Materials Collection
1480 services more frequently than once per week, Company shall provide requested
1481 service. Recycling Collection shall be provided to all Commercial Customers
1482 subscribing to Solid Waste Collection of at least six (6) cubic yards per week.

1483 Company shall allow Commercial Customers to select a Collection service method
1484 that best suits the needs of its Premises. Specifically, the Company shall offer the
1485 following choices to Commercial Customers:

1486 A) Cart or Bin service. Company shall allow Commercial Customers to use
1487 Cart(s) or Bin(s) for Recyclable Materials Collection. Company shall
1488 provide each Customer with a choice of one or more Carts with capacities

1489 of 96 gallons or as specified in Company's Proposal, or Bins with capacity
1490 ranging from 1 to 6 cubic yards (or as specified in Company's Proposal).

1491 B) **Centralized Cart or Bin service.** Company shall allow for Commercial
1492 Customers to use Cart(s) or Bin(s) for Recyclable Materials Collection that
1493 are shared by the Occupants of two or more Commercial Premises. In
1494 such case, Company shall provide one or more Carts or Bins to such
1495 Premises as requested by Customer(s) provided that a minimum of 96
1496 gallons (or similar volume) of Container capacity for Recyclable Materials
1497 is provided for every four Commercial Premises.

1498 C) **Drop Boxes and Compactors.** Company shall allow Commercial
1499 Customers to use a Drop Box or Compactor for Recyclable Materials
1500 Collection to meet Customer's permanent needs. In such case, Company
1501 shall provide Customers with a choice of Container capacities ranging
1502 from 8 to 40 cubic yards. Company shall offer Customers the option to
1503 purchase or lease Compactors either through Company or an outside
1504 vendor.

1505 Company agrees to identify commercial and industrial Solid Waste Containers
1506 containing significant quantities of Recyclables and offer the Generator commercial
1507 recycling service.

1508 6.3 Green Waste Collection

1509 6.3.1 General

1510 Company shall Collect Green Waste placed in the Customer's Recyclable Materials
1511 Collection Container provided that the Customer has Source Separated the Green
1512 Waste from Solid Waste. Company shall transport all Green Waste to the Designated
1513 Green Waste Processing Site.

1514 In accordance with Section 4.5, the Authority may request Company to modify its
1515 scope of service to include Collection of additional types of Organic Materials (e.g.,
1516 Food Scraps). If the Authority requests Collection of Food Scraps or other Organic
1517 Materials, the Company shall not receive additional compensation for Collection
1518 service if the Food Scraps or other Organic Materials are placed by Generator in the
1519 Green Waste Container unless Company can demonstrate that Collection of the

1520 additional material(s) requires modifications to Collection routes to accommodate the
1521 additional volume of the material(s). An adjustment to Company's Compensation
1522 may be made for changes in Collection costs in accordance with Sections 4.5 and 8.7.

1523 6.3.2 Single-Family Premises

1524 Company shall Collect Green Waste from Single-Family Premises once a week.
1525 Company shall provide each Customer with a 32, 64 or 96-gallon (or as specified in
1526 Company's Proposal) Cart, as requested by the Customer. Customer has the option to
1527 receive up to three 96-gallon carts at no additional charge. Company shall Collect
1528 Carts from the Curb unless Occupant is physically unable to place the Container at the
1529 Curb. In such event, Company shall Collect Carts from an alternative service location
1530 (such as the porch, side yard, or backyard).
1531

1532 6.3.3 Multi-Family Premises

1533 Company shall Collect Green Waste from Multi-Family Premises as frequently as
1534 scheduled by Customer, but not less than once per week. Company shall provide
1535 each Customer with a 96-gallon (or as specified in Company's proposal) Cart, or Bins
1536 with capacities ranging from 1 to 6 cubic yards (or as specified in Company's
1537 Proposal), as requested by Customer. Company shall Collect Green Waste at the
1538 designated location agreed upon by Company and Customer.

1539 If Customer requests Green Waste Collection services, Company shall provide
1540 requested service and shall charge Customer for service at Authority-approved rates.

1541 6.3.4 Holiday Tree Collection

1542 Holiday Tree collection will be available for all residential and multi-family
1543 customers. Collection will begin the first business day after December 25 and
1544 continuing through the Friday of the third full week in January. Residential
1545 customers will be able to place their tree in their Green Waste Container or cut-up in
1546 lengths of five (5) feet or less and placed next to the Green Waste container on their
1547 regular service day. The Company will coordinate the placement and collection of
1548 commercial boxes at multi-family premises with the owners or property managers.

1549 6.4 Construction and Demolition Debris Collection

1550 6.4.1 General

1551 Company shall Collect Construction and Demolition Debris placed in the Company-
1552 provided Construction and Demolition Debris Collection Container provided that the
1553 Customer has Source Separated the Construction and Demolition Debris from Solid
1554 Waste. Company shall transport all Construction and Demolition debris to the
1555 Designated Construction and Demolition Debris Processing Site.

1556 6.4.2 Recycling

1557 The Cities may establish an ordinance for Construction and Demolition Debris
1558 Diversion during the term of this Agreement. It is expected the ordinances will
1559 mandate a 50% Diversion Goal based upon the material being taken to a Certified
1560 Processing Facility through a contract with the Generator. Customer may use any
1561 collection company and any Certified Processing Facility if the Diversion Goal is met.

1562 Upon the adoption of the ordinance, the Collection of Construction and Demolition
1563 Debris delivered to a Certified Processing Facility will not be under the Scope of this
1564 Agreement. See Section 4.3.I.

1565 6.5 Cleanups

1566 6.5.1 City-Directed Cleanups.

1567 Company shall provide services for Solid Waste cleanups as directed by the City
1568 within five (5) working days of a request. If the City determines that the public health
1569 or safety is threatened, Company shall provide clean up services within twenty-four
1570 (24) hours of a request to do so by City. Company shall pick up authorized cleanup
1571 items and transport such items to the Disposal Site. Services shall be provided at the
1572 customer's sole cost and expense and the Company shall bill the customers for the
1573 services. If Company is unable to collect the customer's bill from customer, Authority
1574 shall use whatever means it reasonably has available to it to obtain payment on behalf
1575 of Company.

1576 6.5.2 Annual Cleanups.

1577 The Authority elects to have the Company provide each Customer account with
1578 Single-Family Cart Collection service one (except for the Town of Los Gatos which

1579 will have two) pre-scheduled clean-up during a period mutually established by the
1580 Company and the City or Authority. The Company shall pick up Solid Waste placed
1581 at Curbside and transport such items to the Disposal Facility at no additional charge
1582 to customers. The following guidelines must be followed for either type of service:

- 1583 A) All waste must be left at the curb by 6:00 a.m.
- 1584 B) Items, where appropriate, should be placed in Company-approved cans,
1585 bags or boxes.
- 1586 C) Tree prunings and branches cannot exceed 3 inches in diameter, or be
1587 longer than 3 feet, and weigh no more than 70 pounds per bundle.
- 1588 D) Items that can not be safely loaded by one person will not be accepted.
1589 No single item can weigh more than 70 pounds.
- 1590 E) The following items will not be picked up: Hazardous Waste, including
1591 Waste Oil or anti-freeze; concrete or dirt; tires; and items containing CFCs.

1592 Company may refuse to collect clean-up items and shall not be obligated to provide
1593 this service to any person who does not set out Solid Waste, as described above.

1594 Company shall record the kinds and weights (in tons) of Solid Waste diverted from
1595 the landfill, if any, during these cleanups through Recycling, reuse, transformation or
1596 other means of approved diversion.

1597 **6.5.3 E-Waste, Oil, Universal Waste and Paint Collection.**

1598 Company shall provide E-Waste, Universal Waste, oil, and paint collection at a
1599 permanent drop-off site. Customers may drop off E-Waste, Universal Waste, water
1600 based paints, and oil during pre-scheduled times at the Designated Drop-off Facility.

1601 **6.6 City Facilities' Collection**

1602 Company shall Collect and dispose of all Solid Waste, Collect and Process all
1603 Recyclable Materials, and Green Waste generated at public facilities and events
1604 identified in Exhibit 3 at no charge to the City or Authority. Company shall make
1605 Collections from Containers Monday through Friday or on Saturdays following non-

1606 working holidays. Collections from bins and roll-off boxes shall be scheduled at a
1607 time mutually agreed upon by Company and City.

1608 **6.7 Recyclable Materials Processing**

1609 **6.7.1 Processing.**

1610 Company agrees to Transport and deliver all Recyclable Materials it Collects in the
1611 Authority to the Approved Recyclable Materials Processing Site. Residue from the
1612 Recyclable Materials shall be Disposed of by Company at a Disposal Site selected by
1613 Company.

1614 Company shall secure sufficient capacity to Process Recyclable Materials Collected
1615 under this Agreement. Company shall provide the Authority, upon request, with
1616 documentation demonstrating the availability of such capacity. All costs associated
1617 with Transporting to and Processing Recyclable Materials at the Approved Recyclable
1618 Materials Processing Site shall be paid by Company.

1619 Company shall keep all existing permits and approvals necessary for use of the
1620 Recyclable Materials Processing Site(s) in full regulatory compliance. Company shall,
1621 upon request, provide copies of notices of violation or permits to the Authority.

1622 If Company elects to use a Recyclable Materials Processing Site(s) that is different than
1623 the Approved Recyclable Materials Processing Site, it shall request written approval
1624 from the Authority Executive Director 60 days prior to use of the site and obtain the
1625 Authority's written approval no later than 10 days prior to use of the site. Company
1626 shall not be compensated for paying any increased Transportation and Processing
1627 costs associated with the use of Processing Site(s) different from the Approved
1628 Recyclable Materials Processing Site.

1629 If Company is unable to use the Approved Recyclable Materials Processing Site due to
1630 an emergency or sudden unforeseen closure of the Approved Recyclable Materials
1631 Processing Site, Company may use an alternative Processing site provided that the
1632 Company provides verbal and written notice to the Authority within 24 hours of use
1633 of an alternative Processing site. The written notice shall include a description of the
1634 reasons the Approved Recyclable Materials Processing Site is not feasible and the
1635 period of time Company proposes to use the alternative Processing Site. Company
1636 shall receive the Authority's written approval to use the alternative Processing Site
1637 within 24 hours of the Authority's receipt of the Company's written notice. Company

1638 shall not be compensated for paying any increased Transportation and Processing
1639 costs associated with the use of Processing Site(s) different from the Approved
1640 Recyclable Materials Processing Site.

1641 **6.7.2 Transfer.**

1642 If the Company (i) Transports Recyclable Materials to a facility where the materials
1643 will be unloaded from Collection vehicles and loaded into large-capacity vehicles and
1644 Transported to the Processing Site(s) or, (ii) pulls two or more Collection trailers in
1645 tandem with one truck, and the Company is unable to do so then the Company shall
1646 be responsible for making other Transportation arrangements. In such event,
1647 Company shall not be compensated for any additional costs. If the Company plans to
1648 change its transfer method, Company shall obtain written approval from the
1649 Authority prior to making the change.

1650 **6.7.3 Marketing.**

1651 The Company shall be responsible for marketing Recyclable Materials Collected in the
1652 Authority. Company shall be compensated for such Recyclable Materials at not less
1653 than fair market value.

1654 Company shall prepare and maintain an Authority-approved marketing plan for all
1655 Recyclable Materials Collected in the Authority. The plan shall be in place on or
1656 before the Commencement Date of this Agreement. The marketing plan shall fully
1657 describe the Company's marketing methods and approach; targeted primary and
1658 contingent markets, pricing policy and assumed salvage value for each Collected type
1659 of Recyclable Material products, and contingency plans if market conditions are
1660 severe.

1661 Company shall provide proof to the Authority that all Recyclable Materials Collected
1662 are marketed for Recycling or reuse in such a manner that materials shall be
1663 considered as Diverted in accordance with the State regulations established by the
1664 Act. All residual material from the Processing activities that is not marketed for use
1665 shall be accounted for as Disposal Tonnage at a permitted Disposal Site. No Recycling
1666 Material shall be transported to a domestic or foreign location if Solid Waste Disposal
1667 of such material is its intended use.

1668 Company shall provide Authority with a list of broker/buyers it uses each quarter.
1669 Authority may audit one broker or buyer per month to confirm that materials are

1670 being Recycled. If Company becomes aware that a broker or buyer has illegally
1671 handled or Disposed of material generated by the Authority or elsewhere, Company
1672 shall immediately inform the Authority and terminate its contract or working
1673 relationship with such party immediately.

1674 6.7.4 Disposal of Recyclable Materials Prohibited.

1675 Recyclable Materials may not be Disposed of in lieu of Recycling the material, without
1676 the expressed written approval of the Authority. If Company believes that it cannot
1677 Divert the Recyclable Material from Disposal, then it shall prepare a written request
1678 for approval to Dispose of such material. Such request shall contain the basis for its
1679 belief, describe the Company's efforts to arrange for the Diversion from Disposal of
1680 such material, the period required for such Disposal, the incremental costs or cost
1681 savings resulting from such Disposal, and any additional information supporting the
1682 Company's request. The Authority shall consider the Company's request and inform
1683 Company in writing of its decision within 30 calendar days. If the Authority approves
1684 such request, any difference in the cost of such Disposal compared to Diversion shall
1685 be adjustment in accordance with Section 8.7.

1686 6.8 Operations

1687 6.8.1 Schedules

1688 To preserve peace and quiet, no Solid Waste, Recyclable Materials, Green Waste, or
1689 Construction and Demolition Debris shall be Collected from Residential Property
1690 between 6:00 P.M. and 6:00 A.M. on any day. The times for collections in non-
1691 residential areas that are two hundred (200) feet or less from residential areas shall be
1692 fixed by mutual agreement of City and Company after consideration, among others,
1693 of traffic conditions, accessibility to and from the collection areas and any other
1694 circumstances which may require an early pickup. If Company and City fail to agree
1695 on a collection time, the Company must take direction from the City. Such Solid
1696 Waste, Recyclable Materials, Green Waste, or Construction and Demolition Debris
1697 shall be Collected, Monday through Friday. Annually, Company shall notify
1698 Authority and customers in writing of the alternate Collection day when the regularly
1699 scheduled Collection day falls on Christmas Day or New Year's Day. Collection of
1700 Solid Waste, Recyclable Materials, or Construction and Demolition Debris from
1701 Commercial Properties may include Saturdays and shall be between the hours of 3:00
1702 a.m. and 10:00 p.m.

1703 Company shall provide Authority with route maps and daily schedules for each type
1704 of collection. The Authority shall review and approve such maps and schedules.
1705 Company may not change its regularly scheduled Residential Collection days without
1706 prior written approval from the Authority. Company shall obtain such written
1707 approval from the Authority 30 calendar days before the effective date of the schedule
1708 change, and such approval will not be withheld unreasonably. Once approved,
1709 Company shall notify any Residential Customer four weeks before any Collection
1710 schedule changes. Company shall not permit any Customer to go more than seven
1711 calendar days without service during a Collection schedule change. Company may
1712 not change any Commercial Customer's regularly scheduled Collection days without
1713 prior approval from the Customer.

1714 Company shall be prepared to review its operations plan outlining the Collection
1715 routes, intervals of Collection and Collection times for all Solid Waste, Recyclable
1716 Materials, Green Waste, or Construction and Demolition Debris Collected under this
1717 Agreement with Authority once annually upon 30-day written notice requesting said
1718 review. More frequent reviews may be required if operations are not satisfactory
1719 based on documented observations or reports or complaints. If the plan is determined
1720 to be inadequate by Authority, Company shall revise the plan, incorporating any
1721 changes into a revised plan, and review said revised plan with Authority within thirty
1722 (30) calendar days.

1723 When notified of a missed pick-up, Company shall Collect the Solid Waste, Recyclable
1724 Materials, Green Waste, or Construction and Demolition Debris within one (1)
1725 business day. For residential service, a business day shall mean Monday through
1726 Friday, excluding Christmas and New Year's Day.

1727 6.8.2 Vehicles

1728 A) **General.** Company shall provide Collection vehicles sufficient in number
1729 and capacity to efficiently perform the work required by the Agreement in
1730 strict accordance with its terms. Company shall have available sufficient
1731 back-up vehicles for each type of Collection vehicle on Collection days
1732 (e.g., cart service, bin service and debris box service) used to respond to
1733 complaints and emergencies.

1734 Any used vehicles, bins and roll-off containers placed into service at the
1735 inception of the Agreement will be depreciated over their remaining useful

'36 life(e.g. if a vehicle is five years old, it will be depreciated over 5 years) and
'37 any new vehicles will be depreciated over a ten (10) year life. By initialing
'38 below, the Company acknowledges that it will not be compensated for the
'39 portion of the life of a new vehicle placed into service during this
'40 Agreement that extends beyond the term of this Agreement.

741 Company
742 Initial Here 

Authority
Initial Here 

743 B) **Specifications.** All vehicles used by Company in providing Solid Waste,
'744 Recyclable Materials, or Green Waste services shall be registered with the
'745 California Department of Motor Vehicles. All such vehicles shall have
'746 bodies designed to prevent leakage, spillage or overflow.

1747 C) **Vehicle Identification.** Company's name, local telephone number, and a
1748 unique vehicle identification number designed by Company for each
1749 vehicle shall be prominently displayed on all vehicles, in letters and
1750 numbers no less than two and one-half (2 1/2) inches high. Company shall
1751 not place City's and/or Authority's name and/or any City and/or
1752 Authority logos on Company vehicles.

1753 D) **Operation.** Vehicles shall be operated in compliance with the California
1754 Vehicle Code, and all applicable safety and local ordinances. Company
1755 shall not load vehicles in excess of the manufacturer's recommendations
1756 or limitations imposed by state or local weight restrictions on vehicles.

1757 Equipment shall comply with US EPA noise emission regulations, currently codified
1758 at 40 CFR Part 205 and other applicable noise control regulations, and shall
1759 incorporate noise control features throughout the entire vehicle. Noise levels of
1760 equipment used for Collection shall comply with City ordinance.

1761 Subject to Section 11.1, Company shall be responsible for any damage resulting from
1762 or directly attributable to any of its operations.

1763 **6.8.3 Containers**

1764 **6.8.3.1 Residential Solid Waste, Recyclable Materials and Green Waste**
1765 **Containers.**

1766 The standard sizes of Containers for single-family residential Solid Waste Collection
1767 shall be 20, 32, 64 and 96 gallons (or as specified in Company's Proposal) and shall be
1768 compatible with automated collection equipment. The standard sizes of Containers
1769 for single-family residential Recyclable Materials and Green Waste Collection shall be
1770 32, 64 and 96 gallons (or as specified in Company's Proposal) and shall be compatible
1771 with automated collection equipment. Green Waste Collection shall continue in the
1772 90-101 gallon carts provided under previous agreement. Company will
1773 maintain/repair the existing carts until such a time a new cart is necessary. A new
1774 cart of the same color will be provided at no cost to the customer if container is
1775 replaced due to normal wear and tear. Customers may change their Solid Waste,
1776 Recycling and/or Green Waste cart sizes after the first ninety (90) days of the
1777 Agreement. Authority has the option to maintain ownership of all carts at the end of
1778 the Agreement.

1779 At the inception of the Agreement, the Company shall encourage Customers to retain
1780 their existing Solid Waste and Recyclable Materials containers for storage or future
1781 use as part of their annual clean-up. If the Customer chooses to have the existing
1782 containers picked up by the Company, the Company is to recycle the containers
1783 where possible.

1784 **6.8.3.2 Non-Residential Solid Waste, Recyclable Materials, Green Waste**
1785 **Containers, or Construction and Demolition Debris.**

1786 Company shall furnish customers appropriate Containers to Collect Solid Waste,
1787 Recyclable Materials, Green Waste, and Construction and Demolition Debris at Multi-
1788 Family Dwelling Unit, commercial, and other Premises upon customer request. The
1789 standard sizes for Multi-Family Dwelling Unit, commercial, and other Premises Solid
1790 Waste Collection shall be: automated Collection carts of 32, 64 and 96-gallons capacity
1791 (or as specified in the Company's proposal); bins of 1 – 6 cubic yard capacity; and
1792 debris boxes of 8 – 40 cubic yards capacity. The standard sizes for Recyclable
1793 Materials and Green Waste Collection shall be 96 gallon carts (or as specified in the
1794 Company's proposal) or bins of 1-6 cubic yard capacity. The kind, size and number of
1795 Containers furnished to particular customers shall be as determined mutually by the
1796 customer and Company. Containers which are front loading bins shall have lids. All
1797 Containers with a capacity of one cubic yard or more shall meet applicable regulations
1798 for Solid Waste bin safety, shall have reflectorized marking (unless normally located
1799 in an enclosure), shall be maintained in good repair with neatly and uniformly

1800 painted surfaces, and shall prominently display the name and telephone number of
1801 Company. Reflectorized markings are to be placed on bins by Company at the next
1802 scheduled service, but no later than 24 months from the Effective Date of this
1803 Agreement.

1804 **6.8.4 Cleaning and Maintenance**

1805 A) Company shall maintain all of its properties, vehicles, facilities, and
1806 equipment used in providing service under this Agreement in a good,
1807 safe, neat, clean and operable condition at all times.

1808 B) Vehicles used in the Collection of Solid Waste, Recyclable Materials,
1809 Green Waste, or Construction and Demolition Debris shall be painted,
1810 thoroughly washed, and thoroughly steam cleaned on a regular basis so
1811 as to present a clean appearance. Upon reasonable notice, Authority may
1812 inspect vehicles at any time to determine compliance with this Agreement.
1813 Company shall repaint or refurbish to the reasonable satisfaction of the
1814 Authority all vehicles used in the Collection of Solid Waste, Recyclable
1815 Materials, Green Waste, or Construction and Demolition Debris within
1816 thirty (30) days' notice from Authority, if Authority reasonably
1817 determines that their appearance warrants painting. Company shall also
1818 make vehicles available to the Santa Clara County Health Department for
1819 inspection, at any frequency it requests.

1820 C) Company shall inspect each vehicle daily to ensure that all equipment is
1821 operating properly. Vehicles which are not operating properly shall be
1822 removed from service until repaired and operating properly. Company
1823 shall repair, or arrange for the repair of, all of its vehicles and equipment
1824 for which repairs are needed because of accident, breakdown or any other
1825 cause so as to maintain all equipment in a safe and operable condition. If
1826 an item of repair is covered by a warranty, Company shall obtain
1827 warranty performance. Company shall maintain accurate records of
1828 repair, which shall include the date and operating hours, nature of repair
1829 and the verification by signature of a maintenance supervisor that the
1830 repair has been properly performed.

- 1831 D) Company shall perform all scheduled maintenance functions in
1832 accordance with the manufacturer's specifications and schedule.
1833 Company shall keep accurate records of all vehicle maintenance, recorded
1834 according to date and operating hours and shall make such records
1835 available to Authority upon request.
- 1836 E) Company shall furnish Authority a written inventory of all Collection
1837 equipment, including Collection vehicles, used in providing service under
1838 this Agreement, and shall update the inventory annually. The inventory
1839 shall list all equipment by manufacturer, ID number, date of acquisition,
1840 type, and capacity.

1841 **6.8.5 Litter Abatement**

- 1842 A) **Minimization of Spills.** Company shall use Due Care to prevent Solid
1843 Waste, Recyclable Materials, Green Waste, and Construction and
1844 Demolition Debris or fluids from leaking, being spilled, and/or scattered
1845 during the Collection or transportation process. If any Solid Waste,
1846 Recyclable Materials, Green Waste, and Construction and Demolition
1847 Debris or fluids leak or are spilled during Collection, Company shall
1848 promptly clean up all such materials. Each Collection vehicle shall carry a
1849 broom and shovel at all times for this purpose.
- 1850 B) **Transfer of Loads.** Company shall not transfer loads from one vehicle to
1851 another on any public street, unless it is necessary to do so because of
1852 mechanical failure or accidental damage to a vehicle, without prior
1853 written approval by Authority.
- 1854 C) **Clean Up.** During the Collection or transportation process, Company
1855 shall clean up litter in the immediate vicinity of any Solid Waste,
1856 Recyclable Materials, Green Waste, and Construction and Demolition
1857 Debris storage area (including the areas where Collection bins and debris
1858 boxes are delivered for Collection) unless the litter is pre-existing.
1859 Company shall discuss instances of repeated spillage not caused by it
1860 directly with the Generator responsible and will report such instances to
1861 Authority. Authority will attempt to rectify such situations with the
1862 Generator if Company has already attempted to do so without success.

b) For each failure to process customer complaints to Authority as required by Article 7:	\$500.00
c) For each failure to carry out responsibilities for establishing service:	\$500.00
4. Public Education	
a) For each failure to send initial mailing to residents on or before the date specified in the implementation plan in Exhibit 7.	\$300.00 per day for each day until mailer is sent.
b) For each failure to prepare and distribute "how-to" brochure/calendar to residents on or before the date specified in the implementation plan in Exhibit 7.	\$150.00 per day for each day until mailer is sent.
c) For each failure to prepare and distribute door hanger, flyer or mailer to customers regarding specific collection day, holiday, holiday tree, and clean-up events.	\$150.00 per day for each day until mailer is sent.
d) For each failure to conduct community presentations targeted at residents	\$150.00 per event.
e) For each failure to prepare and mail quarterly newsletter to all residents by the end of each quarter	\$150.00 per day for each day until mailer is sent.
f) For each failure to send initial mailing to businesses on or before the date specified in the implementation plan in Exhibit 7.	\$150.00 per day for each day until mailer is sent.
g) For each failure to prepare and distribute "how-to" brochures for each of the four business types	\$150.00 per day.
h) For each failure to meet with business associations	\$150.00 per day.

1863 D) **Covering of Loads.** Company shall properly cover all open debris boxes
1864 during transport to the Disposal Site.

1865 **6.8.6 Personnel**

1866 Company shall furnish such qualified drivers, mechanical, supervisory, clerical,
1867 management and other personnel as may be necessary to provide the services
1868 required by this Agreement in a satisfactory, safe, economical and efficient manner.
1869 All drivers shall be trained and qualified in the operation of vehicles they operate and
1870 must possess a valid license, of the appropriate class, issued by the California
1871 Department of Motor Vehicles.

1872 Company also agrees to establish and vigorously enforce an educational program
1873 which will train Company's employees in the identification of Hazardous Waste.
1874 Company's employees shall not knowingly place such Hazardous Waste in the
1875 Collection vehicles, nor knowingly dispose of such Hazardous Wastes at the Disposal
1876 Site.

1877 Company shall train its employees in customer courtesy, shall prohibit the use of loud
1878 or profane language, and shall instruct Collection crews to perform the work as
1879 quietly as reasonably practicable. Company shall use its best efforts to assure that all
1880 employees present a neat appearance and conduct themselves in a courteous manner.

1881 If any employee is found to be discourteous or not to be performing services in the
1882 manner required by this Agreement, Company shall take all necessary corrective
1883 measures including, but not limited to, transfer, discipline or termination. If
1884 Authority has notified Company of a complaint related to discourteous or improper
1885 behavior, Company will consider reassigning the employee to duties not entailing
1886 contact with the public within the Authority while Company is pursuing its
1887 investigation and corrective action process. Authority shall have the right to approve
1888 the selection of the Company's general manager for purposes of this contract,
1889 provided that the Authority's approval is not unreasonably withheld, and to request
1890 the Company to reassign such general manager if liquidated damages levied against
1891 Company exceed \$10,000 in any three month period. If the replacement is requested,
1892 Company shall reassign the general manager and shall provide an interim general
1893 manager and shall propose a replacement general manager within 90 days.

1894 Company shall provide suitable operations, health and safety training for all of its
1895 employees who use or operate equipment or who are otherwise directly involved in
1896 Collection or other related operations.

1897 **6.8.7 Identification Required**

1898 Company shall provide its employees, companies and subcontractors with
1899 identification for all individuals who may make face-to-face contact with residents or
1900 businesses in Authority. Authority may require Company to notify customers yearly
1901 of the form of said identification. Company shall provide a list of current employees,
1902 companies, and subcontractors to Authority upon request.

1903 **6.8.8 Fees and Gratuities**

1904 Company shall not, nor shall it permit any agent, employee, or subcontractor
1905 employed by it, to request, solicit, demand, or accept, either directly or indirectly, any
1906 compensation or gratuity for temporary bin/roll off services or the Collection and
1907 transportation of Solid Waste, Recyclable Materials, Green Waste, and Construction
1908 and Demolition Debris otherwise required under this Agreement. Compensation or
1909 gratuity shall exclude Holiday gifts.

1910 **6.8.9 Non-Discrimination**

1911 Company shall not discriminate in the provision of service or the employment of
1912 Persons engaged in performance of this Agreement on account of race, color, religion,
1913 sex, age, sexual orientation, physical handicap or medical condition in violation of any
1914 applicable federal or state law.

1915 **6.8.10 Report of Accumulation of Solid Waste; Unauthorized Dumping**

1916 Company shall direct its drivers to note (1) the addresses of any Premises at which
1917 they observe that Solid Waste is accumulating and is not being delivered for
1918 Collection; and (2) the address, or other location description, at which Solid Waste has
1919 been dumped in an apparently unauthorized manner. Company shall deliver the
1920 address or description to Authority within five (5) working days of such observation.

1921 **6.9 Contingency Plan**

1922 Company shall submit to Authority on or before the effective date of the Agreement, a
1923 written contingency plan demonstrating Company's arrangements to provide vehicles

1924 and personnel and to maintain uninterrupted service during breakdowns, and in case
1925 of natural disaster or other emergency (not including a labor dispute), including the
1926 events described in Section 13.7.

1927 **6.10 Transportation of Solid Waste, Recyclable Materials, Green Waste, and**
1928 **Construction and Demolition Debris**

1929 The Company shall transport all Solid Waste, Recyclable Materials, Green Waste, and
1930 Construction and Demolition Debris collected under Section 6.1 to the Disposal and
1931 Processing Sites. The Company shall maintain accurate records of the quantities of
1932 Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
1933 Debris transported to the Disposal and Sites and will cooperate with the Authority in
1934 any audits or investigations of such quantities.

1935 The Company shall cooperate with the operator of the Disposal and Processing Sites
1936 with regard to operations therein, including, but not limited to, complying with
1937 directions from the operator to unload Collection vehicles in designated areas,
1938 accommodating to maintenance operations and construction of new facilities, and
1939 cooperating with its Hazardous Waste exclusion program.

1940 **6.11 Disposal of Solid Waste**

1941 The Company shall dispose of all Solid Waste collected under Section 6.1 at the
1942 Designated Disposal Site. Company shall conform to the payment provisions of the
1943 Designated Disposal Site operator included in Exhibit 10. If the Designated Disposal
1944 Site becomes unable to accept and dispose of Authority's Solid Waste for reasons
1945 outside the Company's control, the Authority shall direct the Company to an
1946 alternative Disposal Site and the Company shall transport and dispose of the
1947 Authority's Solid Waste at the alternative Disposal. Company shall be compensated
1948 for the net additional transportation and disposal cost incurred in delivering the Solid
1949 Waste to another Disposal Site.

1950 **6.12 Processing of Green Waste**

1951 The Company shall deliver for processing all Green Waste collected under Section 6.3
1952 at the Designated Green Waste Processing Site. Company shall conform to the
1953 payment provisions of the Designated Green Waste Processing Site operator included
1954 in Exhibit 10. If the Designated Green Waste Processing Site becomes unable to accept
1955 and dispose of Authority's Green Waste for reasons outside the Company's control,

1956 the Authority shall direct the Company to an alternative Green Waste Processing Site
1957 and the Company shall transport and dispose of the Authority's Green Waste at the
1958 alternative Processing Site. Company shall be compensated for the net additional
1959 transportation and disposal cost incurred in delivering the Green Waste to another
1960 Processing Site, if any.

1961 **6.13 Processing of Construction and Demolition Debris**

1962 The Company shall deliver for processing all Construction and Demolition Debris
1963 collected under Section 6.4 at the Designated Construction and Demolition Debris
1964 Processing Site. Company shall conform to the payment provisions of the Designated
1965 Construction and Demolition Debris Processing Site operator included in Exhibit 10.
1966 If the Designated Construction and Demolition Debris Processing Site becomes unable
1967 to accept and dispose of Authority's Construction and Demolition Debris for reasons
1968 outside the Company's control, the Authority shall direct the Company to an
1969 alternative Construction and Demolition Debris Processing Site and the Company
1970 shall transport and dispose of the Authority's Construction and Demolition Debris at
1971 the alternative Processing Site. Company shall be compensated for the net additional
1972 transportation and disposal cost incurred in delivering the Construction and
1973 Demolition Debris to another Processing Site, if any.

1974

1975 **6.14 Service Exceptions; Hazardous Waste Notifications**

1976 A) **Hazardous Waste Inspection and Reporting.** Company reserves the right
1977 and has the duty under law to inspect Solid Waste, Recyclable Materials,
1978 Green Waste, and Construction and Demolition Debris put out for
1979 Collection and to reject such material that is contaminated with
1980 Hazardous Waste and the right not to collect Hazardous Waste put out
1981 with Solid Waste, Recyclable Materials, Green Waste, and Construction
1982 and Demolition Debris. Company shall notify all agencies with
1983 jurisdiction and Authority, if appropriate, including the California
1984 Department of Toxic Substances Control and Local Emergency Response
1985 Providers and the National Response Center of reportable quantities of
1986 Hazardous Waste, found or observed in Solid Waste, Recyclable
1987 Materials, Green Waste, and Construction and Demolition Debris
1988 anywhere within the Authority. In addition to other required

1989 notifications, if Company observes any substances which it or its
1990 employees reasonably believe or suspect to contain Hazardous Wastes
1991 unlawfully Disposed of or released on any City property, including storm
1992 drains, streets or other public rights of way, Company will immediately
1993 notify the City Manager or the City Manager's designee of the effected
1994 City and then the Authority Executive Director.

1995 B) **Failure to Collect.** When Solid Waste, Recyclable Materials, Green Waste,
1996 or Construction and Demolition Debris is not Collected from any
1997 Residential Premises, Company shall notify the Generator in writing, at
1998 the time Collection is not made, through the use of a "tag" or otherwise, of
1999 the reasons why the Collection was not made. When Solid Waste,
2000 Recyclable Materials, Green Waste, or Construction and Demolition
2001 Debris is not Collected from any Commercial Premises, Company shall
2002 notify customer by phone of the reasons why the Collection was not
2003 made.

2004 C) **Hazardous Waste Diversion Records.** Company shall maintain records
2005 showing the types and quantities, if any, of Hazardous Waste found in
2006 Solid Waste, Recyclable Materials, Green Waste, and Construction and
2007 Demolition Debris and which was inadvertently Collected from service
2008 recipients within the Authority, but diverted from landfilling.

2009

2010

2011 7.1

Public Education

2012

Company's public education program shall focus on providing information to Customers in accordance with the specific requirements described in Exhibit 5.

2013

2014

Educational media shall include, but not be limited, to newsletters, flyers, door

2015

hangers, notification tags, and direct contact. Information shall be provided for the

2016

initial start of service, to solicit feedback about the service and suggested

2017

improvements/changes, and to educate Customers about source reduction, reuse, and

2018

Recycling opportunities. Materials shall be printed on paper containing the highest

2019

levels of recycled content material as is reasonably practical with a minimum

2020

requirement of 30% post-consumer content based on Federal standards.

2021

The Authority shall review and approve all public education materials.

2022

During the Term of the Agreement, the Company shall employ public education

2023

personnel in accordance with staffing levels in Section A of Exhibit 5.

2024

If Company fails to perform some or all of the requirements of the public education

2025

program described in this Section and in Exhibit 5, the Company shall pay the

2026

Authority Liquidated Damages as described in Section 13.6.

2027 7.2

Services and Customer Billing

2028

7.2.1 Service Description

2029

Company shall annually prepare and distribute, subject to the direction of Authority,

2030

a notice to each Owner or occupant of property entitled to service under this

2031

Agreement a listing of Company's Collection rates, rates for other services, annual

2032

holiday schedule, and a general summary of services required to be provided

2033

hereunder and optional service which may be furnished by Company. Such notice

2034

shall be in a form subject to Authority's approval prior to its distribution and may be

2035

included with Billings made by Company.

2036 **7.2.2 Billing**

2037 Company shall bill and collect from persons receiving Collection, Disposal, and
2038 Processing services at rates fixed by the Authority from time-to-time. Billing shall be
2039 performed quarterly for each Residential account. The bill will be mailed during the
2040 second month of the billing period, thereby billing one month in arrears, one month in
2041 advance, and one month currently. Commercial accounts shall be billed monthly in
2042 advance or arrears. Company may terminate Collection service to Solid Waste
2043 accounts that become more than sixty (60) days past due from the last day of the
2044 billing period, following thirty (30) days written notice. Company shall promptly
2045 restore service when the delinquent charges, including reinstatement charges, have
2046 been paid in full. The Company may require a deposit from customers who are
2047 habitually delinquent. Late fees may be assessed on delinquent accounts after 30 days
2048 from the last day of the billing period.

2049 **7.2.3 Review of Billings**

2050 Annually, Company shall review its Billings to customers under Section 7.2.2. The
2051 purpose of the review is to determine that the amount which Company is billing each
2052 customer is correct in terms of the level of service (i.e., frequency of Collection, size of
2053 container, location of container) being provided to such customer by Company.
2054 Company shall provide documentation of the Billings Review to the Authority on an
2055 annual basis. Company shall distribute new route books to its drivers each quarter.
2056 Each driver is to provide the service level shown in the route book, adding and
2057 subtracting customers and service levels, as necessary. Route supervisors shall
2058 periodically check the routes to ensure that drivers are providing service in
2059 accordance with their route books.

2060 Company shall maintain copies of said Billings and receipts, each in chronological
2061 order, for a period of five (5) years after the date of service for inspection by Authority
2062 upon request. Company may, at its option, maintain those records in computer form,
2063 on microfiche, or in any other manner, provided that the records can be preserved and
2064 retrieved for inspection and verification in a timely manner.

2065 7.3 Customer Service

2066 7.3.1 Business Office

2067 Office hours shall be, at a minimum, from 8:00 A.M. to 4:30 P.M., Monday through
2068 Friday, exclusive of holidays. A responsible and qualified representative of Company
2069 shall be available during office hours for communication with the public at an office
2070 located within Authority or no further than 15 miles from Authority.

2071 Normal office hour telephone numbers shall either be a local or toll free call.
2072 Company's telephone system shall be adequate to handle the volume of calls typically
2073 experienced on the busiest days. Company shall also maintain a local or toll free
2074 telephone number for use during other than normal business hours. Company shall
2075 have a representative, answering or message providing/receiving (voice-mail) service
2076 available at said after-hours telephone number.

2077 7.3.2 Web Site

2078 Company shall develop and maintain a web site describing services provided in the
2079 Authority that is accessible by the public. The site shall include answers to frequently
2080 asked questions, service rates, Recyclable Materials, Construction and Demolition
2081 Debris, and Green Waste specifications, Collection service schedule and map, and
2082 other related topics. Company shall arrange for the Cities web sites to include an e-
2083 mail link to Company and a link to Company's web site. The Company's web site
2084 shall provide the public the ability to e-mail Company and make payments on-line.

2085 7.3.3 Customer Service Representative Training

2086 Customer service representatives shall receive training during each quarter of the
2087 calendar year on City-specific service requirements. During the training, a City-
2088 specific Collection service and fee information sheet, training agenda, and associated
2089 documentation shall be provided to employees.

2090 7.3.4 Complaint Documentation

2091 All service complaints shall be directed to Company. Daily logs of complaints
2092 concerning Collection of Solid Waste, Recyclable Materials, Green Waste, and
2093 Construction and Demolition Debris shall be retained for a minimum of twenty-four
2094 (24) months and shall be available to Authority at all times upon request.

2095 Company shall log all complaints received by telephone and said log shall include the
2096 date and time the complaint was received, name, address and telephone number of
2097 caller, description of complaint, employee recording complaint and the action taken
2098 by Company to respond to and remedy complaint. Complaints should be categorized
2099 into complaint types as requested by the Authority and the Company should have the
2100 ability to summarize each category for a specific time period.

2101 All written customer complaints and inquiries shall be date-stamped when received
2102 and shall be initially responded to within one (1) business day of receipt. Company
2103 shall log action taken by Company to respond to and remedy the complaint.

2104 All customer service records and logs kept by Company shall be available to
2105 Authority upon request and at no cost to Authority. Authority shall, at any time
2106 during regular Company business hours, have access to Company's customer service
2107 department for purposes that may include monitoring the quality of customer service
2108 or researching customer complaints.

2109 **7.3.5 Resolution of Customer Complaints**

2110 A customer dissatisfied with Company's decision regarding a complaint may ask
2111 Authority to review the complaint. Company shall provide the customer with the
2112 number of the Authority Liaison, as designated in accordance with Section 7.3.6.
2113 Authority Liaison shall contact Company's Government Liaison to request additional
2114 information and ask Company to respond to the complaint. Company shall attempt
2115 to cure the complaint and notify Authority Liaison by telephone or in writing of
2116 resolution. If the customer is still dissatisfied, the matter may be referred to the
2117 Authority Executive Director.

2118 The decision of Authority Executive Director or his/her designee shall be final on any
2119 matter under One Thousand Dollars (\$1,000.00). In the event of a decision on a matter
2120 awarding one thousand dollars or more (\$1,000.00), Company may seek review by an
2121 appeal/review board appointed as described in Section 13.7.

2122 Nothing in this Section is intended to affect the remedies of third parties against
2123 Company.

2124 7.3.6 **Liaisons**
2125 Company shall designate in writing a "Government Liaison" who shall be responsible
2126 for working with Authority and/or Authority's designated representative(s) to
2127 resolve customer complaints. Authority shall designate in writing an "Authority
2128 Liaison" who shall be responsible for working with Company and/or Company's
2129 designated representative to resolve customer complaints.

2130 **7.4 Waste Generation/Characterization Studies**

2131 Company acknowledges that Authority must perform Solid Waste generation and
2132 Disposal characterization studies periodically to comply with AB 939 requirements
2133 and plan future programs. Company agrees to participate and cooperate with
2134 Authority and its agents and to accomplish studies and data collection and prepare
2135 reports, as needed, to determine weights and volumes of Solid Waste, Recyclable
2136 Materials, Green Waste, and Construction and Demolition Debris and characterize
2137 Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
2138 Debris generated, disposed, diverted, or otherwise handled/processed to satisfy AB
2139 939 requirements.

2140 **ARTICLE 8**

2141 **COMPANY'S COMPENSATION AND RATES**

2142 **8.1 General**

2143 The Company's Compensation provided for in this Article shall be the full, entire and
2144 complete compensation due to the Company pursuant to this Agreement for all labor,
2145 equipment, materials and supplies, taxes, insurance, bonds, overhead, Disposal, and
2146 Materials Processing profit and all other things necessary to perform all the services
2147 required by this Agreement in the manner and at the times prescribed.

2148 The Company will perform the responsibilities and duties described in this
2149 Agreement in consideration of the right to charge and collect from customers for
2150 services rendered at rates fixed by the Authority from time-to-time in accordance with
2151 this agreement. The Company does not look to the Authority for the payment of any
2152 sums under this Agreement.

2153 The Company's compensation for Rate Year One is fixed as described in Section 8.2.
2154 Such compensation shall cover all costs related to Company's ability to fulfill its
2155 obligations under this agreement. Adjustments to Company's Compensation during
2156 the Term of the Agreement shall only be made for changes in inflation (which shall be
2157 determined in accordance with procedures described in this Article). As described in
2158 Section 8.3 and 8.4, the compensation mechanism in this Agreement calls for a
2159 comprehensive compensation adjustment in Rate Year Six and indexed compensation
2160 adjustments for other Rate Years.

2161 The Authority will incur costs, including consulting and legal fees, when determining
2162 adjustments to the Company's Compensation and shall require the Company to pay
2163 for such fees within 60 calendar days of receipt of the Authority's invoice for such
2164 fees. The Company shall recover such costs through the Company's Compensation
2165 by treating it as an allowable Pass-Through Cost as described in Section 8.4.2.D.7.

2166 **8.2 Initial Rates**

2167 The rates for the Rate Year ending June 30, 2008, are those established by Authority
2168 Resolution No. ___ (a copy of which is attached as Exhibit 6), unless amended in
2169 accordance with this Agreement. Unless and until the rates set forth on Exhibit 6 are
2170 adjusted by the Authority, the Company will provide the service required by this

2171 Agreement, charging no more and no less than the rates authorized by Exhibit 6
2172 unless authorized to do so by the Authority.

2173 The Authority and Company agree that the rates set forth on Exhibit 6 have been
2174 calculated to generate an amount of revenue necessary to compensate Company for
2175 its costs (including Disposal and Materials Processing) and profit and to cover the
2176 Authority's and Cities' Franchise Fees, Vehicle Impact Fees, and other fees and
2177 surcharges.

2178 The rates shall be fixed and shall not be increased to reflect decreases in revenues
2179 below those anticipated by the Authority and Company, nor decreased to reflect
2180 increases in revenues above those anticipated by the Authority and Company.

2181 **8.3 Subsequent Rates for Rate Years Two through Five and Rate Years Seven through**
2182 **Ten**

2183 For each Rate Year beginning with Rate Year Two (i.e., from July 1, 2008 to June 30,
2184 2009), rates shall be adjusted as described below. For purposes of this calculation,
2185 rates shall be composed of five (5) components: a Collection Rate, a monthly Disposal
2186 Rate, a monthly Green Waste Processing Rate, a monthly Construction and
2187 Demolition Debris Processing Rate, a Franchise Fee, and other City Fees and
2188 Surcharges.

2189 **8.3.1 Monthly Collection Rate per Generator Adjustment**

2190 The monthly Solid Waste Collection Rate, monthly Recycling Collection Rate, and
2191 monthly Green Waste Collection Rate shall be adjusted upward or downward to
2192 reflect eighty percent (80%) of the change in the "San Francisco-Oakland-San Jose
2193 Metropolitan Area Consumer Price Index (All Urban Consumers; 1982-84=100)" for
2194 the most recent twelve (12) month period ending December 31, as published by the
2195 U.S. Department of Labor, Bureau of Labor Statistics. No monthly Collection Rate
2196 increase shall exceed five percent (5%) per annum.

2197 **8.3.2 Monthly Disposal Rate per Generator Adjustment**

2198 The monthly Disposal Rate consists of two components: the Disposal Base Rate and
2199 Disposal Surcharge Rate. The Disposal Rate shall be adjusted in accordance with the
2200 Agreement between Guadalupe Rubbish Disposal, Inc. and the Authority dated
2201 August 30, 2005.

2202 **8.3.3 Monthly Green Waste Processing Rate per Generator Adjustment**
2203 The monthly Green Waste Processing Rate consists of two components: the Processing
2204 Base Rate and the Processing Surcharge Rate. The monthly Green Waste Processing
2205 Base Rate shall be adjusted in accordance with the Agreement between Guadalupe
2206 Rubbish Disposal, Inc. and the Authority dated August 30, 2005.

2207 **8.3.4 Monthly Construction and Demolition Debris Processing Rate per Generator**
2208 **Adjustment**

2209 The monthly Construction and Demolition Debris Processing Rate consists of two
2210 components: the Processing Base Rate and the Processing Surcharge Rate. The
2211 monthly Construction and Demolition Debris Processing Base Rate shall be adjusted
2212 in accordance with the Agreement between Guadalupe Rubbish Disposal, Inc. and the
2213 Authority dated August 30, 2005.

2214

2215 **8.3.5 Franchise Fee Adjustment**

2216 The Franchise Fee component shall be calculated by adding the monthly Collection
2217 Rate, the monthly Disposal Rate, the monthly Green Waste Processing Rate, and the
2218 Construction and Demolition Debris Processing Rate (as calculated in Section 8.3.1
2219 through 8.3.4) and multiplying the resulting total by 0.1111.

2220 **8.3.6 Other City Fees and Surcharges Adjustment**

2221 The Surcharges component is composed of charges for the Vehicle Impact Fee and
2222 other miscellaneous surcharges, as determined by the Cities, individually or
2223 collectively.

2224 **8.4 Rates for Rate Year Six**

2225 **8.4.1 Company's Application**

2226 One hundred eighty days before the first day of the Rate Year Six, Company shall
2227 submit an application requesting the amount of Company's Compensation for Rate
2228 Year Six. The application shall be based on the Company's actual revenues and
2229 expenses for Rate Year Four (its supplementary information contained in Company's
2230 cost proposal, which is contained in Company's Proposal); audited financial
2231 statements for Rate Year Four; and actual and forecasted costs of Company's

2232 operations for Rate Years Four and Five; and such application shall be prepared in
2233 accordance with this Section. Audited financial statements shall be submitted in
2234 accordance with requirements of Section 10.3.3.1. Company's application shall also
2235 include supplemental schedules, which include the data requested in Section 10.3.3.2,
2236 for the most recent audited Rate Year and for the most recently completed 12 months.
2237 Authority may request additional information as part of its review.

2238 The application shall be submitted in the format and shall calculate Company's
2239 Compensation in the manner described in Section 8.4.2 below. Company shall
2240 assemble, provide, and submit such information that is necessary to support the
2241 assumptions made by Company with regard to the assumptions underlying the
2242 forecasted Company's Compensation for Rate Year Six.

2243 Company shall provide all information requested by the Authority during its review
2244 of the application, including, but not limited to, all information from related parties
2245 requested by the Authority regarding any transactions between Company and any
2246 Related-Party Entity pertaining to Company's performance under this Agreement.

2247 **8.4.2 Determination of Company's Compensation**

2248 The Authority, or its representative, will review Company's application for
2249 compliance with this Agreement, accuracy, and reasonableness. The application shall
2250 clearly document Company's calculation of Company's Compensation based on the
2251 methodology described in this Section.

2252 Company's Compensation shall equal the sum of forecasted annual cost of operations,
2253 profit, and forecasted Pass-Through Costs, each of which shall be calculated in
2254 accordance with procedures set forth below.

2255 A) Forecasted Annual Cost of Operations. The forecasted annual cost of
2256 operations consists of the sum of:

- 2257 1. Forecasted labor-related costs
- 2258 2. Forecasted vehicle-related costs
- 2259 3. Forecasted Recyclable Materials Processing costs
- 2260 4. Forecasted other costs

- 2261 5. Forecasted depreciation expense.
- 2262 B) Methodology for Forecasting Annual Cost of Operations
- 2263 1. Determine Actual Costs. Company's audited financial statement shall be
2264 reviewed to determine Company's actual costs necessary to perform all
2265 the services in the manner required by this Agreement for each of the
2266 forgoing categories during Rate Year Four. The Company's auditor
2267 shall determine that costs have actually been incurred and have been
2268 assigned to the appropriate cost category.
- 2269 2. Calculate Adjusted Costs. Company shall adjust actual costs for Rate
2270 Year Four (determined in Section 8.4.2.B.1) above to ensure that non-
2271 allowable costs are not included in actual costs. Non-allowable costs
2272 include the following:
- 2273 a. Labor and equipment costs for personnel and vehicles that are not
2274 specified in Exhibit 5.
- 2275 b. Payments to directors and/or owners of Company unless paid as
2276 reasonable compensation for services actually rendered.
- 2277 c. Promotional advertising, entertainment, and travel expenses (above
2278 \$5,000 annually in total) unless authorized in advance by the
2279 Authority. d. Payments to repair damage to property of third
2280 parties or the Authority for which Company is legally liable.
- 2281 e. Fines for penalties of any nature.
- 2282 f. Liquidated Damages assessed under this Agreement.
- 2283 g. Federal or State income taxes.
- 2284 h. Charitable or political donations.
- 2285 i. Depreciation or interest expense for Collection vehicles, Containers,
2286 other equipment, offices and other facilities if such items are leased
2287 as specified in Exhibit 5.

- 2288 j. Attorney's fees and other expenses incurred by Company in any
2289 court proceeding in which the Authority and Company are adverse
2290 Parties, unless Company is the prevailing Party in such proceeding.
- 2291 k. Attorney's fees and other expenses incurred by Company arising
2292 from any act or omission in violation of this Agreement.
- 2293 l. Attorneys' fees and other expenses incurred by Company in any
2294 court proceeding in which Company's own negligence, violation of
2295 law or regulation, or wrong doing are in issue and occasion, in whole
2296 or in part, the attorneys' fees and expenses claimed; and attorneys'
2297 fees and expenses incurred by Company in a court proceeding in
2298 which the legal theory or statute providing a basis of liability against
2299 Company also provides for separate potential liability for the
2300 Authority derived from the action of its citizens or rate payers (such
2301 as in a CERCLA lawsuit) unless the Company is found not liable in
2302 such claims and such claims arise from acts or occurrences within the
2303 Term of the Agreement.
- 2304 m. Payments to Related-Party Entities for products or services, in excess
2305 of the cost to the Related-Party Entities for those products or services,
2306 except for Recyclable Materials processing.
- 2307 n. Goodwill.
- 2308 o. Processing costs for Recyclable Materials in excess of Processing costs
2309 stated in Exhibit 4 based on Tonnage provided in Exhibit 4.
- 2310 p. Unreasonable profit sharing distributions.
- 2311 q. Replacement costs for Carts, Bins, or Drop Boxes that need to be
2312 replaced because the useful life of such Container was less than the
2313 Term.
- 2314 r. Administrative costs greater than the administrative costs proposed
2315 for Rate Year One adjusted using the consumer price index described
2316 in Section 8.4.2.B.5.d.
- 2317 s. Bad debt write-offs in excess of 2% of annual rate revenues.

- 2318 3. Adjust Costs to Reflect Change to Customer Base and Program Changes.
2319 The Company may propose adjustments to the actual costs for Rate Year
2320 Four for the following reasons:
- 2321 a. To adjust costs that Company has demonstrated to the Authority to
2322 be necessary in order to provide service to Customers due to growth
2323 or decline in the Customer base (based on the number of Customers
2324 and subscription level).
- 2325 b. To adjust for changes in costs due to an Authority approved interim
2326 compensation adjustment as described in Section 8.7 that will carry
2327 forward into the following Rate Year.
- 2328 4. Summarize Allowed Costs. The adjusted costs for Rate Year Four
2329 determined in accordance with Section 8.4.2.B.3 shall be considered
2330 "Allowed Costs" for the purposes of forecasting costs for Rate Year Six
2331 following procedures described in Section 8.4.2.B.5 and shall be
2332 presented in cost categories which are consistent with Rate Year Four
2333 cost categories as follows:
- 2334 a. Allowed labor-related costs
- 2335 b. Allowed vehicle-related costs
- 2336 c. Allowed other costs
- 2337 5. Forecast Annual Cost of Operations. Forecasted annual cost of
2338 operations for Rate Year Six shall be calculated using allowed costs of
2339 operations for Rate Year Four determined in Sections 8.4.2.B.1 through
2340 8.4.2.B.4 above, adjusted to reflect the impact of consumer price indices,
2341 forecasted Recyclables Materials Processing costs, and forecasted
2342 depreciation expenses. The forecasts shall be performed in the following
2343 manner:
- 2344 a. Forecasted labor-related costs shall be calculated for Rate Year Six by
2345 multiplying (i) the Allowed labor-related costs for Rate Year Four by
2346 one plus the percentage change in the "San Francisco-Oakland-San
2347 Jose Metropolitan Area Consumer Price Index (Urban Wage Earners;
2348 1982-84=100)," which is compiled and published by the U. S.

- 2349 Department of Labor, Bureau of Labor Statistics or its successor
2350 agency, between the most-recently-published monthly index at the
2351 time of the application and the corresponding monthly index
2352 published 12 months earlier, and (ii) multiplying the result of step
2353 one by the same percentage change used in step one.
- 2354 b. Forecasted vehicle-related costs shall be calculated for the Rate Year
2355 Six by (i) multiplying the Allowed vehicle-related costs for Rate Year
2356 Four by one plus the percentage change in the "Motor Vehicle Repair
2357 Index, All Urban Consumers, U.S. Authority Average (PI-U) 1982-
2358 1984 = 100," which is compiled and published by the U. S.
2359 Department of Labor, Bureau of Labor Statistics or its successor
2360 agency, between the most-recently-published monthly index at the
2361 time of the application and the corresponding monthly index
2362 published 12 months earlier, and (ii) multiplying the result of step
2363 one by the same percentage change used in step one.
- 2364 c. Forecasted Recyclable Materials Processing costs shall be calculated
2365 for Rate Year Six in the following manner:
- 2366 Forecasted Recyclable Materials Processing cost = (Recyclable
2367 Materials Processing cost per Ton in accordance with Exhibit 5) x
2368 (total Tons of Recyclable Materials Collected for the most-recently
2369 reported twelve month Year).
- 2370 d. Forecasted other costs shall be calculated for the Rate Year Six by (i)
2371 multiplying the allowed other-related costs for Rate Year Four by 1
2372 one plus 75% of the percentage change in the "San Francisco-
2373 Oakland-San Jose Metropolitan Area Consumer Price Index (All
2374 Urban Consumers; 1982-84=100)," which is compiled and published
2375 by the U. S. Department of Labor, Bureau of Labor Statistics or its
2376 successor agency, between the most-recently-published monthly
2377 index at the time of application and the corresponding monthly
2378 index published 12 months earlier, and (ii) multiplying the result of
2379 step one by the same percentage change used in step one.
- 2380 e. Forecasted depreciation expense shall be the amount specified in
2381 Exhibit 5 for vehicles, Containers, and facilities.

- 2382 f. Forecasted annual cost of operations for Rate Year Six shall equal the
2383 sum of the following costs, which shall have been calculated in
2384 accordance with procedures in this Section:
- 2385 (1) Forecasted labor-related costs
 - 2386 (2) Forecasted vehicle-related costs
 - 2387 (3) Forecasted Recyclable Materials Processing costs
 - 2388 (4) Forecasted other costs
 - 2389 (5) Forecasted depreciation expense
- 2390 C) Calculate profit. Company shall be entitled to profit on forecasted annual
2391 costs of operations. Profit shall be calculated by dividing the forecasted
2392 annual cost of operations, which shall be determined in accordance with
2393 procedures described in Section 8.4.2.B.5.f above, by 84.7% and
2394 subtracting the forecasted annual costs of operations from the dividend.
- 2395 D) Forecast Pass-Through Costs. Company's Compensation shall include
2396 Pass-Through Costs as calculated below:
- 2397 1. Forecasted Disposal cost. Annual forecasted Disposal cost = (Disposal
2398 fee at Designated Landfill) x (total Tons of Solid Waste Collected for the
2399 most-recently reported twelve-month Year).
 - 2400 2. Forecasted Green Waste Processing cost. Annual forecasted Green
2401 Waste Processing cost = (Green Waste Processing fee at Designated
2402 Green Waste Processing Site) x (total Tons of Green Waste Collected for
2403 the most-recently reported twelve month Year).
 - 2404 3. Forecasted Construction and Demolition Debris Processing cost. Annual
2405 forecasted Construction and Demolition Debris Processing cost =
2406 (Construction and Demolition Processing fee at Designated Construction
2407 and Demolition Processing Site) x (total Tons of Construction and
2408 Demolition Debris Collected for the most-recently reported twelve
2409 month Year).

- 2410 4. Forecasted interest expense. Forecasted interest expense shall be
2411 amount specified in accordance with Exhibit 4.
- 2412 5. Forecasted lease cost. Forecasted lease cost shall be the amount specified
2413 in Exhibit 4 for vehicles, equipment, Containers, and facilities.
- 2414 6. Forecasted regulatory fees. The forecasted regulatory fees shall be
2415 calculated in accordance with the appropriate methodology for the
2416 relevant fees using forecasted Rate Year Six values.
- 2417 7. Forecasted Franchise Fees, Vehicle Impact Fees, and other fees. The
2418 forecasted Franchise Fees, Vehicle Impact Fees, and other fees specified
2419 in Article 5 shall be calculated using forecasted Rate Year Six values.
- 2420 8. Compensation Review Fee. An amount agreed-upon by the Authority
2421 and Company to reimburse the Company payment of the Authority's
2422 costs, including consulting and legal fees, associated with determination
2423 of the Company's Compensation under this Article.
- 2424 E) Determine Company's Compensation for Rate Year Six. Company's
2425 Compensation necessary to perform all the services in the manner
2426 required by this Agreement for Rate Year Six shall be equal to the sum of
2427 the following:
- 2428 1. Forecasted annual cost of operations (determined in accordance with
2429 Section 8.4.2.B.5 above)
- 2430 2. Profit (determined in accordance with Section 8.4.2.C above)
- 2431 3. Forecasted Pass-Through Costs (determined in accordance with Section
2432 8.4.2.D above).

2433 The Company's Compensation for Rate Year Six shall be the only compensation due
2434 to Company for such Rate Year. No adjustments for actual costs shall be made at the
2435 conclusion of Rate Year Six or at any other time during the Agreement.

2436 8.5 Variances from Projections

2437 The Company assumes all risk of variations from the revenue projection such that the
2438 Company shall retain any revenue from actual revenue being greater than projected

2439 but shall not be compensated for actual revenue being less than projected. In
2440 addition, calculations of the rates shall not be adjusted for past variances of actual
2441 revenues from those projected.

2442 **8.6 Schedule**

2443 The Company shall submit its annual Calculation of Rate Adjustment on or before
2444 March 1 of each year for the following Rate Year. The Authority shall use its best
2445 efforts to make the adjustment effective by July 1 of the following year. However, the
2446 Authority shall not make any retroactive adjustments to compensate for any delay in
2447 calculating the rates which results in whole or in part from the failure of the Company
2448 to submit its request by March 1 and/or respond promptly and completely to requests
2449 of the Authority for information related to any of the calculations required by this
2450 Section. The Authority shall make retroactive CPI adjustments calculated in
2451 accordance with Section 8.3 to compensate for any delay in processing and approving
2452 the calculation of the Rate Adjustment that is the sole responsibility of the Authority.

2453 **8.7 Interim Rate Adjustment**

2454 In the event the Authority directs the Company to change its operations in accordance
2455 with Section 4.5 of this Agreement or in the event of an extraordinary or
2456 unanticipated event including a change in law, a change in Disposal Site, Green Waste
2457 Processing Site, Construction and Demolition Debris Processing Site, or an
2458 extraordinary adjustment to the Disposal Proprietary Rate, Disposal Fee Component,
2459 Green Waste Processing Proprietary Rate, Green Waste Processing Fee Component,
2460 Construction and Demolition Proprietary Rate and/or Construction and Demolition
2461 Debris Fee Component, and such adjustment materially affects the Company's annual
2462 cost of operations then the Company or the Authority may submit a request for an
2463 interim Rate adjustment. In such case, the Company shall provide Authority with its
2464 calculations of the impact of the change in a format approved by the Authority. Any
2465 proposed change in the approved Rates shall be subject to Authority review and
2466 approval. The Company shall not be entitled to an interim rate adjustment for any
2467 costs associated with additional routes beyond those outlined in the Proposal, unless
2468 required under Sec 4.5. Nothing in this section shall be construed to require Authority
2469 to accept Company's calculations as correct.

2470 8.8 Subsequent Rates

2471 From time to time and based on changes to the Rates, as described above, and other
2472 considerations, the Authority Board of Directors shall revise the rates by resolution or
2473 ordinance, as determined in the good faith exercise of its legislative discretion.

2474 **ARTICLE 9**

2475 **REVIEW OF SERVICES AND PERFORMANCE**

2476 **9.1 Performance Hearing**

2477 Authority may hold a public hearing on or about ninety (90) days after receipt of the
2478 Annual Report from Company, at which time Company shall be present and shall
2479 participate to review the Solid Waste, Recyclable Materials, Green Waste, and
2480 Construction and Demolition Debris Collection services and overall performance. The
2481 purpose of the hearing is to provide for a discussion and review of technological,
2482 economic, and regulatory changes in Collection to achieve a continuing, advanced
2483 Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
2484 Debris Collection system; and to ensure services are being provided with adequate
2485 quality, effectiveness and economy.

2486 Forty-five (45) days after receiving notice from Authority of a Solid Waste, Recyclable
2487 Materials, Green Waste, and Construction and Demolition Debris Services
2488 Performance Review Hearing, Company shall, at a minimum, submit a report to
2489 Authority indicating the following:

- 2490 A) Changes recommended and/or new services to improve Authority's
2491 Collection Services and to contain costs and minimize impacts on rates.
- 2492 B) Any specific plans for provision of changed or new services by Company.

2493 The reports required by this Agreement regarding customer complaints may be used
2494 as one basis for review. Company may submit other relevant performance
2495 information and reports for consideration. Authority may request, and Company
2496 shall submit, specific information related to the performance for the hearing. In
2497 addition, any customer may submit comments or complaints during or before the
2498 hearing, either orally or in writing, and these shall be considered.

2499 Topics for discussion and review at the Solid Waste, Recyclable Material, and Green
2500 Waste Services Performance Review Hearing shall include, but shall not be limited to,
2501 services provided, feasibility of providing new services, application of new
2502 technologies, customer complaints, amendments to this Agreement, developments in
2503 the law, regulatory constraints and Company performance. Authority and Company

2504 may each select additional topic for discussion at any Solid Waste, Recyclable
2505 Material, and Green Waste Services Performance Review Hearing.

2506 Not later than sixty (60) days after the conclusion of each Solid Waste, Recyclable
2507 Material, and Green Waste Services Performance Review Hearing, Authority may
2508 issue a report. As a result of the review, Authority may require Company to provide
2509 expanded or new services within a reasonable time and for reasonable rates and
2510 compensation, as determined in the Authority Board of Director's good faith
2511 legislative discretion, and Authority may direct or take corrective actions for any
2512 performance inadequacies.

2513 **ARTICLE 10**

2514 **RECORDS, REPORTS AND INFORMATION REQUIREMENTS**

2515 **10.1 General**

2516 Company shall maintain such accounting, statistical and other records related to its
2517 performance under this Agreement as shall be necessary to develop the financial
2518 statements and other reports required by this Agreement and to conduct the review of
2519 services and performance described in Article 9 above. Also, Company agrees to
2520 conduct data collection, information and record keeping, and reporting activities
2521 needed to comply with applicable laws and regulation and to meet the reporting and
2522 Solid Waste, Recyclable Material, and Green Waste program management needs of
2523 Authority. To this extent, such requirements set out in this and other Articles of this
2524 Agreement shall not be considered limiting or necessarily complete. In particular, this
2525 Article is intended to only highlight the general nature of records and reports and is
2526 not meant to define exactly what the records and reports are to be and their content.
2527 Further, with the written direction or approval of Authority, the records and reports
2528 to be maintained and provided by Company in accordance with this and other
2529 Articles of the Agreement shall be adjusted in number, format, or frequency. The
2530 foregoing is not intended to require significant additional administrative labor or the
2531 modification of Company's computer software.

2532 **10.2 Records**

2533 **10.2.1 Maintenance of Records**

2534 Company shall maintain records required to conduct its operations, to support
2535 requests it may make to Authority, and to respond to requests from Authority in the
2536 conduct of Authority business.

2537 **10.2.2 Security and Retention of Records**

2538 Adequate record security shall be maintained to preserve records from events that can
2539 be reasonably anticipated such as a fire, theft and earthquake. Electronically
2540 maintained data/records shall be protected and backed up.

2541 All records shall be maintained for five (5) years after the expiration of this
2542 Agreement, with the exception of accounts payable records, which will be maintained
2543 for three (3) years after payment.

2544 Company agrees that the specific records required to be maintained by this
2545 Agreement shall be provided or made available in a timely manner to Authority and
2546 its official representatives during normal business hours. Records and data not
2547 specifically identified in this Agreement that are not required for the determination of
2548 the Company's compensation or performance do not need to be retained by
2549 Company. In such a case and when such records and data are required but are not
2550 retained by the Company, the Authority may make reasonable assumptions regarding
2551 what information is contained in such records and data, and such assumptions(s) shall
2552 be conclusive in whatever action the Authority takes.

2553 **10.2.3 Inspection of Records**

2554 The Authority and its agents shall have the right during regular business hours, to
2555 conduct unannounced on-site inspections of specific documents required by this
2556 Agreement or any other similar records or reports of Company that the Authority
2557 shall deem, at its sole discretion, necessary to evaluate annual reports, compensation
2558 applications, and the Company's performance provided for in this Agreement. The
2559 Authority may make copies of documents it deems relevant to this Agreement.

2560 **10.2.4 Financial Records**

2561 Company shall maintain financial records containing the underlying financial data
2562 relating to and showing the basis for computation of all costs associated with
2563 providing services in a manner such that cost and revenue information can be
2564 allocated among the service types (residential Solid Waste, Recycling, and Green
2565 Waste, commercial Solid Waste and Recycling, and drop box Solid Waste and
2566 Construction and Demolition Debris) and to the Authority, distinct from other similar
2567 operations of the Company. The accounting records shall be prepared in accordance
2568 with Generally Accepted Accounting Principles (GAAP) consistently applied.

2569 **10.2.5 Solid Waste, Recyclable Materials, Green Waste, and Construction and**
2570 **Demolition Debris Records**

2571 Records shall be maintained by Company for Authority relating to:

- 2572 A) Customer services and billing including service exemption information;
- 2573 B) Weight and volume of Solid Waste, Recyclable Materials, Green Waste,
2574 and Construction and Demolition Debris. Information is to be separated
2575 between Single-Family Dwelling Units, Multi-Family Dwelling Units, and
2576 Commercial premises;
- 2577 C) Special annual cleanup event results;
- 2578 D) Routes;
- 2579 E) Facilities, equipment and personnel used;
- 2580 F) Facilities and equipment operations, maintenance and repair;
- 2581 G) Processing of Recyclable Materials, Green Waste and Construction and
2582 Demolition Debris (tonnage, participation and set-out rates, end-use,
2583 revenue);
- 2584 H) Diversion level;
- 2585 I) Complaints; and,
- 2586 J) Missed pick ups.

2587 **10.2.6 Processing Records**

2588 Company shall maintain records of Processing of all Recyclable Materials, Green
2589 Waste, and Construction and Demolition Debris Collected in Authority for the period
2590 of this Agreement and all extensions to this Agreement or successor Agreements. In
2591 the event Company discontinues providing Recyclable Materials and Green Waste
2592 services to Authority, Company shall provide all records of Processing of all
2593 Recyclable Materials, Green Waste, and Construction and Demolition Debris
2594 Collected in Authority within thirty (30) days of discontinuing service. Records shall
2595 be in chronological and organized form and readily and easily interpreted.

2596 **10.2.7 Disposal Records**

2597 Company shall maintain records of Disposal of all Solid Waste Collected in Authority
2598 for the period of this Agreement and all extensions to this Agreement or successor
2599 Agreements. In the event Company discontinues providing Solid Waste services to
2600 Authority, Company shall provide all records of Disposal or processing of all Solid
2601 Waste Collected in Authority within thirty (30) days of discontinuing service. Records
2602 shall be in chronological and organized form and readily and easily interpreted.

2603 **10.2.9 Other Programs Records**

2604 Records for other programs shall be tailored to specific needs. In general, the records
2605 shall include:

- 2606 a) Plans, tasks and milestones; and,
- 2607 b) Accomplishments in terms such as dates, activities conducted,
2608 quantities of materials collected, processed and/or sold or distributed,
2609 and numbers of participants and responses.

2610 **10.2.10 Customer Service Records**

2611 Records shall be maintained by Company for Authority related to:

- 2612 a. Number of calls;
- 2613 b. Average hold time for calls; percentage of calls answered in 30 seconds;
2614 percentage of calls answered in 3 minutes;
- 2615 c. Categories (missed pickups, complaints, damage, etc.) of calls;
- 2616 d. Training materials and records;
- 2617 e. Complaint log noting the name and address of complainant, date and
2618 time of complaint, nature of complaint, and nature of resolution; and,
- 2619 f. New Customer log.

2620 **10.2.11 CERCLA Defense Records**

2621 Authority views the ability to defend against CERCLA (Comprehensive
2622 Environmental Response, Compensation, and Liability Act of 1980, 42 USC §9601, et

2623 seq.) and related litigation as a matter of great importance. For this reason, the
2624 Authority regards the ability to prove where Solid Waste Collected in the Authority
2625 was taken for Disposal, as well as where it was not taken, to be matters of concern.
2626 Company shall maintain data retention and preservation systems which can establish
2627 where Solid Waste Collected in the Authority was landfilled (and therefore establish
2628 where it was not landfilled) and provide a copy or summary of the reports required in
2629 Section 6.13 for five (5) years after the term during which Collection services are to be
2630 provided pursuant to this Agreement, or to provide copies of such records to
2631 Authority. Company agrees to notify Authority's Risk Manager and Authority
2632 Counsel before destroying such records. This provision shall survive the expiration of
2633 the period during which Collection services are to be provided under this Agreement.

2634 10.3 Reports

2635 10.3.1 Report Formats and Schedule

2636 Records shall be maintained in forms and by methods that facilitate flexible use of
2637 data contained in them to structure reports, as needed. Reports are intended to
2638 compile recorded data into useful forms of information that can be used to, among
2639 other things:

- 2640 A) Determine and set rates and evaluate the financial efficacy of operations;
- 2641 B) Evaluate past and expected progress towards achieving AB 939 goals and
2642 objectives;
- 2643 C) Determine needs for adjustment to programs; and,
- 2644 D) Evaluate customer service and complaints.

2645 Company may propose report formats that are responsive to the objectives and
2646 audiences for each report. The format of each report will be mutually agreed upon by
2647 Authority and Company. Company agrees to submit all reports on computer discs in
2648 a mutually agreed upon format at no additional charge, if requested by Authority.
2649 Company will provide a certification statement, under penalty of perjury, by the
2650 responsible Company official, that the report being submitted is true and correct.

2651 Monthly reports shall be submitted within thirty (30) calendar days after the end of
2652 the report month. Quarterly reports shall be submitted within forty-five (45) calendar
2653 days after the end of the quarter. Quarters end on September 30, December 31, March
2654 31, and June 30. Annual reports shall be submitted before September 30th following
2655 the reporting Rate Year.

2656 All reports shall be submitted to:

2657
2658 Executive Director
2659 West Valley Solid Waste Management Authority
2660 c/o Hilton Farnkopf & Hobson, LLC
2661 2175 N. California Blvd., Suite 990
2662 Walnut Creek, CA 94596

2663
2664 City Manager
2665 City of Campbell
2666 70 North First Street
2667 Campbell, CA 95008

2668
2669 City Manager
2670 City of Monte Sereno
2671 18041 Saratoga – Los Gatos Road
2672 Monte Sereno, CA 95050

2673
2674 City Manager
2675 City of Saratoga
2676 13777 Fruitdale Avenue
2677 Saratoga, CA 95070

2678
2679 Town Manager
2680 Town of Los Gatos
2681 110 East Main Street
2682 Los Gatos, CA 95030
2683

2684 10.3.2 Quarterly Reports

2685 The information listed shall be the minimum reported for each service:

2686 A. Regular Services

- 2687 1. Solid Waste, Recyclable Materials, Green Waste, and Construction and
2688 Demolition Debris tonnage Collected by Company, sorted between Single-

- 2689 Family Dwelling Units, Multi-Family Dwelling Units and Commercial and
2690 Industrial Premises and the Processing and Disposal Sites used, in tons.
- 2691 2. Tonnage Diverted by Company divided by the Tonnage Collected by
2692 Company multiplied by 100. The report shall state the Tonnage Diverted
2693 and Tonnage Collected as well as the calculated Diversion Level.
- 2694 3. Customer Service
- 2695 a) Number of calls by category (missed pickups, complaints, damage, etc.)
- 2696 b) Number of complaints, resolved complaints, and number of complaints
2697 which were unresolved for more than five business days, for month and
2698 cumulative for report year, with explanations for unresolved complaints
- 2699 c) In table format, the number of customers and service levels for all
2700 programs (Solid Waste, Recyclable Materials, Green Waste, and
2701 Construction and Demolition Debris) and service types (single-family,
2702 multi-family, commercial, industrial, etc.) and the number of all service
2703 location exemptions.
- 2704 d) Education Activities:
- 2705 i. Public education materials produced and total number of each
2706 distributed;
- 2707 ii. Dates, times and group names of meetings attended; and,
- 2708 iii. Dates, times and names of schools where presentations were
2709 performed.
- 2710 4. In table format, list all loads in excess of manufacturer's recommendations
2711 or limitations imposed by State or local weight restrictions for vehicles and
2712 roads. The table shall include vehicle number, date of occurrence, vehicle
2713 tare weight, load weight, total loaded vehicle weight, and the
2714 manufacturer's and regulatory weight restriction.
- 2715 5. List of customers that received warning notices from Company for
2716 contamination levels.
- 2717 6. Narrative summary of problems encountered (including scavenging) and
2718 actions taken with recommendations for Authority, as appropriate.
- 2719 7. A summary or copy of the Hazardous Waste records required under
2720 Section 6.13.

2721 8. Other information or reports that Authority may reasonably request or
2722 require.

2723 **B. Event Specific Information**

2724 1. **Special Event Collection.** The Company shall submit to the Authority a
2725 written report identifying the Tonnage of Solid Waste and Recyclable
2726 Materials Collected from Special Events.. The report shall be submitted no
2727 later than 10 Business Days following each event.

2728
2729 2. **Report of Unauthorized Dumping.** As required by Section 6.8.10,
2730 Company shall report: (i) the addresses of any Premises at which the driver
2731 observes that Solid Waste, Recyclable Materials, Green Waste, and/or
2732 Construction and Demolition Debris is accumulating; and (ii) the address,
2733 or other location description, at which Solid Waste, Recyclable Materials,
2734 and/or Green Waste has been dumped in an apparently unauthorized
2735 manner. The report shall be delivered to the City within five Business Days
2736 of such observation.

2737
2738 3. **Hazardous Waste.** As required by Section 6.13, the Company shall notify
2739 the City of any Hazardous Waste identified in Containers or left at any
2740 Premises within 24 hours of identification of such material.

2741 **C. Summary Assessment.** Provide a summary assessment of the overall Solid
2742 Waste, Recyclable Materials, Green Waste, and Construction and Demolition
2743 Debris program from Company's perspective relative to financial and physical
2744 status of program. The physical status is to relate to how well the program is
2745 operating for efficiency, economy and effectiveness relative to meeting all the
2746 goals and objectives of this Agreement and AB 939. Provide recommendations
2747 and plans to improve. Highlight significant accomplishments and problems.

2748 **10.3.3 Annual Report**

2749 The Annual Report is to be essentially in the form and content of the quarterly
2750 reports. In addition, Company's annual audited/reviewed financial statements shall
2751 be included as well as certain operational information. The annual report shall also
2752 include a list of Company's Managers and Members.

2753 **10.3.3.1 Financial Statements.**

2754 Financial statements shall show Company's results of operations on a combined basis
2755 for the Cities of Campbell, Monte Sereno, Saratoga and the Town of Los Gatos,

2756 including the specific revenues and expenses in connection with the operations
2757 provided for in this Agreement and others included in such financial statements. The
2758 financial statements and footnotes shall be prepared in accordance with Generally
2759 Accepted Accounting Principles (GAAP). The financial statements shall be prepared
2760 by the Company and marked "unaudited" except for Rate Year Four. The financial
2761 statements for Rate Year Four shall be audited in accordance with Generally Accepted
2762 Auditing Standards (GAAS) by a certified public accountant (CPA) licensed (in good
2763 standing) to practice public accounting in the State of California as determined by the
2764 State of California Department of Consumer Affairs Board of Accountancy. The CPA
2765 opinion on Company's audited financial statements shall be unqualified.

2766 10.3.3.2 Operational Information

2767 In addition to requirements stated elsewhere in this Agreement, the annual report
2768 shall include the following information:

- 2769
- 2770 A. Routes by Service Type
 - 2771 1. Number of routes per day
 - 2772 2. Number of full time equivalent (FTE) routes
 - 2773 3. Number of accounts per route
 - 2774
 - 2775 B. Personnel
 - 2776 1. Organizational chart
 - 2777
 - 2778 C. Productivity Statistics
 - 2779 1. Number of accounts per Service Type
 - 2780 2. Summary of tonnage information provided in Section 10.3.2.A.1
 - 2781
 - 2782 D. Operational Changes
 - 2783 1. Number of routes
 - 2784 2. Staffing
 - 2785 3. Supervision
 - 2786 4. Collection services.
 - 2787
 - 2788 E. Equipment: An inventory of equipment in accordance with Section 6.8.4.
 - 2789
 - 2790 F. Billing: Billing review report in accordance with Section 7.2.3.

2791 10.4 Adverse Information

- 2792 A) Reporting Adverse Information. Company shall provide Authority two
2793 copies (one to the Authority Executive Director, one to the Authority

2794 Counsel) of all reports, pleadings, applications, notifications, Notices of
2795 Violation, or other formal actions relating specifically to Company's
2796 performance of services pursuant to this Agreement, submitted by
2797 Company to, or received by Company from, the United States or
2798 California Environmental Protection Agency, the California Integrated
2799 Waste Management Board, the Securities and Exchange Commission or
2800 any other federal, state or local agency, including any federal or state
2801 court actions brought by any of the aforementioned agencies, with regard
2802 to Company's operations in the State of California. Copies shall be
2803 submitted to Authority simultaneously with Company's filing or
2804 submission of such matters with said agencies. Company's routine
2805 correspondence to said agencies need not be routinely submitted to
2806 Authority, but shall be made available to Authority promptly upon
2807 Authority's written request.

2808 B) **Failure to Report.** The refusal or failure of Company to file any required
2809 reports, or to provide required information to Authority, or the inclusion
2810 of any materially false or misleading statement or representation by
2811 Company in such report shall be deemed a material breach of the
2812 Agreement as described in Section 13.1 and shall subject Company to all
2813 remedies which are available to the Authority under the Agreement or
2814 otherwise.

2815 **ARTICLE 11**

2816 **INDEMNIFICATION, INSURANCE AND BOND**

2817 **11.1 Indemnification**

2818 Company hereby agrees to and shall indemnify and hold harmless Authority, its
2819 elected and appointed boards, commissions, officers, employees, and agents and
2820 Cities, its elected officials and employees (collectively, indemnities) from and against
2821 any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit
2822 in law or equity of any and every kind and description (including, but not limited to,
2823 injury to and death of any Person and damage to property, or for contribution or
2824 indemnity claimed by third parties) arising or resulting from and in any way
2825 connected with (1) the negligence or willful misconduct of Company, its officers,
2826 employees, agents, Companies and/or subcontractors in performing services under
2827 this Agreement; (2) the failure of Company, its officers, employees, agents, and/or
2828 subcontractors to comply in all respects with the provisions of this Agreement,
2829 applicable laws (including, without limitation, the Environmental Laws), ordinances
2830 and regulations, and/or applicable permits and licenses; (3) the acts of Company, its
2831 officers, employees, agents, Companies and/or subcontractors in performing services
2832 under this Agreement for which strict liability is imposed by law (including, without
2833 limitation, the Environmental Laws). The foregoing indemnity shall apply regardless
2834 of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding,
2835 suit, injury, death or damage is also caused in part by any of the indemnitees'
2836 negligence, but shall not extend to matters resulting from the indemnitees' negligence,
2837 willful misconduct or breach of this Agreement. Company further agrees to and shall,
2838 upon demand of Authority, at Company's sole cost and expense, defend (with
2839 attorneys acceptable to Authority) Authority, its elected and appointed boards and
2840 commissions, officers, employees, and agents and Cities, its elected officials and
2841 employees against any claims, actions, suits in law or equity or other proceedings,
2842 whether judicial, quasi-judicial or administrative in nature, arising or resulting from
2843 any of the aforementioned events.

2844 Company, upon demand of the Authority, made by and through the Authority
2845 Counsel, shall protect Authority and appear in and defend the Authority and its
2846 elected officials, officers, employees and agents, in any claims or actions by third
2847 parties, whether judicial, administrative or otherwise, including, but not limited to

2848 disputes and litigation over the definitions of "Solid Waste" or the limits of
2849 Authority's authority with respect to the grant of licenses, or agreements, exclusive or
2850 otherwise, asserting rights under the Dormant Commerce Clause or federal or state
2851 laws to provide Solid Waste services in the Authority. This provision shall survive
2852 the expiration of the period during which Collection services are to be provided under
2853 this Agreement. The Company shall be entitled to recover costs of defense and
2854 Damages arising only under this paragraph from the Authority in accordance with
2855 Section 8.3.6, if authorized in accordance with State law.

2856 Company's duty to indemnify and defend from the aforementioned events arising
2857 during the Term of the Agreement and as it may be extended shall survive the
2858 expiration or earlier termination of this Agreement.

2859 11.2 Hazardous Substances Indemnification

2860 Company shall indemnify, defend with counsel reasonably acceptable to Authority
2861 and City , protect and hold harmless Authority, its elected and appointed boards,
2862 commissions, officers, employees, and agents (collectively, Indemnitees) from and
2863 against all claims, damages (including but not limited to special, consequential,
2864 natural resources and punitive damages), injuries, costs, (including without limit any
2865 and all response, remediation and removal costs), losses, demands, debts, liens,
2866 liabilities, causes of action, suits, legal or administrative proceedings, interest, fines,
2867 charges, penalties, attorney's fees for the adverse party and expenses (including
2868 without limit attorneys' and expert witness fees and costs incurred in connection with
2869 defending against any of the foregoing or in enforcing this indemnity), (collectively,
2870 "Damages") of any kind whatsoever paid, incurred or suffered by, or asserted against,
2871 Indemnities arising from or attributable to the acts or omissions of Company, its
2872 officers, directors, employees, companies or agents, whether or not negligent or
2873 otherwise culpable, in connection with or related to the performance of this
2874 Agreement, including without limit Damages arising from or attributable to any
2875 repair, cleanup or detoxification, or preparation and implementation of any removal,
2876 remedial, response, closure or other plan (regardless of whether undertaken due to
2877 governmental action) concerning any Hazardous Substance, Hazardous Waste,
2878 and/or Household Hazardous Waste (Collectively, "Waste") at any places where
2879 Company Collects and transports, processes, stores, or disposes of Authority Solid
2880 Waste, and/or construction and street debris, or other waste. The foregoing
2881 indemnity shall not apply to the processing, storage, or disposal of City-Generated

2882 Solid Waste, and/or construction and street debris, or other waste, if the Company
2883 can establish the Waste generated by one of the Cities directly caused the claims or
2884 damages. The foregoing indemnity is intended to operate as an agreement pursuant
2885 to §107(e) of the Comprehensive Environmental Response, Compensation and
2886 Liability Act, CERCLA, 42 USC. §9607(e) and California Health and Safety Code
2887 §25364, to defend, protect, hold harmless, and indemnify Authority from liability.
2888 This provision is in addition to all other provisions in this Agreement and shall
2889 survive the end of the term of this Agreement. The foregoing applies only to facilities
2890 owned or operated by Company pursuant to this Agreement.

2891 **11.3 Insurance**

2892 Authority does not, and shall not, waive any rights against Company which it may
2893 have by reason of the aforesaid hold harmless agreements, because of acceptance by
2894 Authority or the deposit with Authority by Company of the insurance policies
2895 described in this provision. Company shall maintain insurance policies meeting the
2896 following specifications at all times during the term of this Agreement.

2897 **A) Minimum Scope of Insurance.** Coverage shall be at least as broad as:

- 2898 1. The most recent editions of Insurance Services Office form number GL 0002
2899 covering Comprehensive General Liability and Insurance Services Office
2900 form number GL 0404 covering Broad Form Comprehensive General
2901 Liability; or Insurance Services Office Commercial General Liability
2902 coverage ("occurrence" form CG 0001).
- 2903 2. The most recent editions of Insurance Services Office form number CA 0001
2904 covering Automobile Liability, code 1 "any auto" and endorsement CA
2905 0025.
- 2906 3. Workers' Compensation insurance as required by the Labor Code of the
2907 State of California and Employers Liability insurance.
- 2908 4. Employee Blanket Fidelity Bond.
- 2909 5. Pollution Legal Liability.

2910 **B) Minimum Limits of Insurance.** Company shall maintain in force for the
2911 term of this Agreement limits no less than:

- 2912 1. Comprehensive General Liability: Ten Million Dollars (\$10,000,000)
2913 combined single limit per occurrence for bodily injury, Personal injury and
2914 property damage.
- 2915 2. Automobile Liability: Ten Million Dollars (\$10,000,000) combined single
2916 limit per accident for bodily injury and property damage.
- 2917 3. Workers' Compensation and Employers Liability: Workers' compensation
2918 limits as required by the Labor Code of the State of California and
2919 Employers Liability limits of \$1,000,000 per accident.
- 2920 4. Employee Blanket Fidelity Bond in the amount of Five Hundred Thousand
2921 Dollars (\$500,000) per employee, covering dishonesty, forgery, alteration,
2922 theft, disappearance, destruction (inside or outside).
- 2923 5. Pollution Legal Liability: Five Million Dollars (\$5,000,000) for bodily injury,
2924 property damage and remediation of contamination site.
- 2925 C) **Deductibles and Self-Insured Retentions.** If Company wants to increase
2926 its deductibles over the amount as of the Effective Date of this Agreement,
2927 the Company shall obtain the written consent of the Authority.
2928 Authority's consent will not be unreasonably withheld.
- 2929 D) **Other Insurance Provisions.** The policies are to contain, or be endorsed
2930 to contain, the following provisions:
- 2931 1. General Liability and Automobile Liability Coverage
- 2932 a. Authority, its elective and appointive boards, commissions, officials,
2933 employees, agents and volunteers are to be named as additional
2934 insureds as respects: liability arising out of activities performed by or
2935 on behalf of Company; products and completed operations of
2936 Company; Premises owned, leased or used by Company; or vehicles
2937 owned, leased, hired or borrowed by Company. The coverage shall
2938 contain no special limitations on the scope of protection afforded to
2939 Authority, its elective and appointive boards, commissions, officials,
2940 employees, agents or volunteers.
- 2941 b. Company's insurance coverage shall be primary insurance as
2942 respects Authority, its elective and appointive boards, commissions,

2943 officials, employees, agents and volunteers. Any insurance or self-
2944 insurance maintained by Authority, its officials, elective and
2945 appointive boards, commissions, employees, agents or volunteers
2946 shall be excess of Company's insurance and shall not contribute with
2947 it.

2948 c. Any failure to comply with reporting provisions of the policies shall
2949 not affect coverage provided to Authority, its officials, elective and
2950 appointive boards, commissions, employees, agents or volunteers.

2951 d. Coverage shall state that Company's insurance shall apply separately
2952 to each insured against whom claim is made or suit is brought,
2953 except with respect to the limits of the insurer's liability.

2954 2. Workers' Compensation and Employers Liability Coverage - The insurer
2955 shall agree to waive all rights of subrogation against Authority, its officials,
2956 elective and appointive boards, commissions, employees, agents and
2957 volunteers for losses arising from work performed by Company for
2958 Authority.

2959 3. All Coverages - Each insurance policy required by this clause shall be
2960 endorsed to state that coverage shall not be suspended, voided, canceled by
2961 either party, reduced in coverage or in limits except after thirty (30) days'
2962 prior written notice by certified mail, return receipt requested, has been
2963 given to Authority.

2964 E) **Acceptability of Insurers.** The insurance policies required by this Section
2965 shall be issued by an insurance company or companies authorized to do
2966 business in the State of California and with a rating in the most recent
2967 edition of Best's Insurance Reports of size category VII or larger and a
2968 rating classification of A or better.

2969 F) **Verification of Coverage.** Simultaneously with the execution of this
2970 Agreement, Company shall furnish Authority with certificates of
2971 insurance and with original endorsements affecting coverage required
2972 hereunder, in form and substance satisfactory to Authority. The
2973 certificates and endorsements for each insurance policy are to be signed
2974 by a Person authorized by that insurer to bind coverage on its behalf.
2975 Such certificates and endorsements shall show the type and amount of
2976 coverage, effective date and dates of expiration of policies, and shall have

2977 all required endorsements. Authority reserves the right to review copies
2978 of all required insurance policies, at a site within the Authority,, upon the
2979 reasonable request of the Authority.

2980 Renewal certificates will be furnished periodically to Authority to demonstrate
2981 maintenance of the required coverage throughout the Term.

2982 If Company fails to procure and maintain any insurance required by this
2983 Agreement, Authority may take out and maintain, at Company's expense, such
2984 insurance as it may deem proper.

2985 **G) Companies and Subcontractors.** Company shall include all companies
2986 and subcontractors providing Collection services under this Agreement as
2987 insureds under its policies or shall furnish separate certificates and
2988 endorsements for each company and subcontractor. All coverages for
2989 companies and subcontractors shall be subject to all of the requirements
2990 stated herein. All other subcontractors having face-to-face contact with
2991 the customers shall be required by Company to carry general liability
2992 insurance.

2993 **H) Required Endorsements**

2994 1. The Workers' Compensation policy shall contain an endorsement in
2995 substantially the following form:

2996 "Thirty (30) days prior written notice by certified mail, return receipt
2997 requested, shall be given to Authority in the event of cancellation, reduction
2998 in coverage, or non-renewal of this policy. Such notice shall be sent to:

2999
3000 Executive Director
3001 West Valley Solid Waste Management Authority
3002 c/o Hilton Farnkopf & Hobson, LLC
3003 2175 N. California Blvd., Suite 990
3004 Walnut Creek, CA 94596
3005

3006 2. Each Company's Automobile and Pollution Liability Policy shall contain
3007 endorsements in substantially the following form:

3008 a. "Thirty (30) days prior written notice by certified mail, return receipt
3009 requested, shall be given to Authority in the event of cancellation,
3010 reduction in coverage, or non-renewal of this policy. Such notice
3011 shall be sent to:

3012
3013 Executive Director
3014 West Valley Solid Waste Management Authority
3015 c/o Hilton Farnkopf & Hobson, LLC
3016 2175 N. California Blvd., Suite 990
3017 Walnut Creek, CA 94596
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3019 b. "Authority, its officers, elective and appointive boards, commissions,
3020 employees, and agents are additional insureds on this policy."

3021 c. "This policy shall be considered primary insurance as respects any
3022 other valid and collectible insurance maintained by Authority,
3023 including any self-insured retention or program of self-insurance,
3024 and any other such insurance shall be considered excess insurance
3025 only."

3026 d. "Inclusion of Authority as an insured shall not affect Authority's
3027 rights as respects any claim, demand, suit or judgment brought or
3028 recovered against Company. This policy shall protect Company and
3029 Authority in the same manner as though a separate policy had been
3030 issued to each, but this shall not operate to increase Company's lia-
3031 bility as set forth in the policy beyond the amount shown or to which
3032 Company would have been liable if only one party had been named
3033 as an insured."

3034 **I) Delivery of Proof of Coverage.**

3035 Simultaneously with the execution of this Agreement, Company shall furnish
3036 the Authority certificates of each policy of insurance required, hereunder, in
3037 form and substance satisfactory to City. Such certificates shall show the type
3038 and amount of coverage, effective dates and dates of expiration of policies and
3039 shall have all required endorsements. If the Authority requests, copies of each
3040 policy, together with all endorsements, shall also be promptly delivered to

3041 Authority. Renewal certificates will be furnished periodically to Authority to
3042 demonstrate maintenance of the required coverages throughout the Term.

3043 **11.4 Faithful Performance Bond**

3044 Company shall deposit either a letter of credit or a performance bond (collectively
3045 referred to as "Performance Bond") in the amount of One Million Dollars (\$1,000,000).
3046 The letter of credit or Performance Bond shall be in a form acceptable to the Authority
3047 (see Exhibit 9). The Performance Bond shall serve as security for the faithful
3048 performance by Company of all the provisions and obligations of this Agreement.

3049

ARTICLE 12

3050

AUTHORITY'S RIGHT TO PERFORM SERVICE

3051 12.1 General

3052 In the event that Company, for any reason whatsoever, fails, refuses or is unable to
3053 Collect or transport any or all Solid Waste, Recyclable Materials, Green Waste, and
3054 Construction and Demolition Debris which it is required by this Agreement, at the
3055 time and in the manner provided in this Agreement, for a period of more than forty-
3056 eight (48) hours, and if, as a result thereof, Solid Waste, Recyclable Materials, Green
3057 Waste, and Construction and Demolition Debris should accumulate in Authority to
3058 such an extent, in such a manner, or for such a time that Authority should find that
3059 such accumulation endangers or menaces the public health, safety or welfare, then
3060 Authority shall have the right, but not the obligation, upon twenty-four (24) hour
3061 prior written notice to Company during the period of such emergency as determined
3062 by Authority, (1) to perform, or cause to be performed, such services itself with its
3063 own or other personnel without liability to Company; and/or (2) to take temporary
3064 possession of any or all of Company's land, equipment and other property used or
3065 useful in the Collection and transportation of Solid Waste, Recyclable Materials, Green
3066 Waste, and Construction and Demolition Debris, and to use such property to Collect
3067 and transport any Solid Waste, Recyclable Materials, Green Waste, and Construction
3068 and Demolition Debris generated within Authority which Company would otherwise
3069 be obligated to Collect and transport pursuant to this Agreement.

3070 If Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition
3071 Debris accumulates in Authority to such an extent, in such a manner or for such a time
3072 that Authority finds that such accumulation represents an immediate danger or
3073 menace to the public health safety or welfare, Authority shall not be required to
3074 provide the twenty-four (24) hour prior written notice set forth above in order to take
3075 the above actions.

3076 Notice of Company's failure, refusal or neglect to Collect and transport Solid Waste,
3077 Recyclable Materials, Green Waste, and Construction and Demolition Debris may be
3078 given orally by telephone to Company at its principal office and shall be effective
3079 immediately. Written confirmation of such oral notification shall be sent to Company
3080 within twenty-four (24) hours of the oral notification.

3081 Company further agrees that in such event:

3082 A) It will take direction from Authority to effect the transfer of possession of
3083 equipment and property to Authority for Authority's use.

3084 B) It will, if Authority so requests, keep in good repair and condition all of
3085 such equipment and property, provide all motor vehicles with fuel, oil
3086 and other service, and provide such other service as may be necessary to
3087 maintain said property in operational condition.

3088 C) Authority may immediately engage all or any personnel necessary or
3089 useful for the Collection and transportation of Solid Waste, Recyclable
3090 Materials, Green Waste, and Construction and Demolition Debris,
3091 including, if Authority so desires, employees previously or then employed
3092 by Company, Company further agrees, if Authority so requests, to furnish
3093 Authority the services of any or all management or office Personnel
3094 employed by Company whose services are necessary or useful for Solid
3095 Waste, Recyclable Materials, Green Waste, and Construction and
3096 Demolition Debris Collection, transportation, processing and disposal
3097 operations and for the billing and Collection of fees for these services.

3098 Authority agrees that it assumes complete responsibility for the proper and normal
3099 use of such equipment and facilities while in its possession.

3100 If the interruption or discontinuance in service is caused by any of the reasons listed in
3101 Section 13.6, Authority shall pay to Company the reasonable rental value of the
3102 equipment and facilities, possession of which is taken by Authority, for the period of
3103 Authority's possession, if any, which extends beyond the period of time for which
3104 Company has rendered bills in advance of service, for the class of service involved.

3105 Except as otherwise expressly provided in the previous paragraph, Authority's
3106 exercise of its rights under this Article 12 (1) does not constitute a taking of private
3107 property for which compensation must be paid; (2) will not create any liability on the
3108 part of Authority to Company; and (3) does not exempt Company from any of the
3109 indemnity or insurance provisions of this Agreement, which are meant to extend to
3110 circumstances arising under this Section, provided that Company is not required to
3111 indemnify Authority against claims and damages arising from the negligence or

3112 willful misconduct of Authority, its elective and appointive boards, commissions,
3113 officers, employees and agents in the operation of Collection vehicles during the time
3114 Authority has taken possession of such vehicles.

3115 **12.2 Temporary Possession of Company's Property**

3116 If Authority suffers an interruption or discontinuance of service (including
3117 interruptions and discontinuance due to events described in Section 13.6), Authority
3118 may take possession of and use all of Company's property described above until other
3119 suitable arrangements can be made for the provision of Solid Waste, Recyclable
3120 Materials, Green Waste, and Construction and Demolition Debris Services.

3121 **12.3 Billing and Compensation to City and Authority During Authority's Possession**

3122 During such time that Authority is providing Solid Waste, Recyclable Materials,
3123 Green Waste, and Construction and Demolition Debris services, as above provided,
3124 Company shall bill and Collect payment from all users of the above-mentioned
3125 services as described in Section 7.2. Company further agrees that, in such event, it
3126 shall reimburse Authority for any and all costs and expenses incurred by Authority
3127 beyond that billed and received by Company in taking over possession of the above-
3128 mentioned equipment and property for Solid Waste, Recyclable Materials, Green
3129 Waste, and Construction and Demolition Debris service in such manner and to an
3130 extent as would otherwise be required of Company under the Terms of this
3131 Agreement. Such reimbursement shall be made from time to time after submission by
3132 Authority to Company of each statement listing such costs and expenses, but in no
3133 event later than five (5) working days from and after each such submission.

3134 **12.4 Authority's Right to Relinquish Possession**

3135 It is further mutually agreed that Authority may at any time at its discretion
3136 relinquish possession of any or all of the above-mentioned property to Company and
3137 thereupon demand that Company resume the Solid Waste, Recyclable Materials,
3138 Green Waste, and Construction and Demolition Debris services as provided in this
3139 Agreement, whereupon Company shall be bound to resume the same.

3140 **12.5 Duration of Authority's Possession**

3141 Authority's right pursuant to this Article to retain temporary possession of
3142 Company's facilities and equipment, and to render Collection services, shall terminate

3143 when the event which caused the taking possession under Section 12.1 is cured and
3144 the Performance Bond is fully restored. In any case, Authority has no obligation to
3145 maintain possession of Company's property or equipment and/or continue its use for
3146 any period of time and may at any time, in its sole discretion, relinquish possession to
3147 Company.

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ARTICLE 13
DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

13.1 Events of Default

All provisions of the Franchise and this Agreement to be performed by Company are considered material. Each of the following shall constitute an event of default.

- A) **Fraud or Deceit.** If Company practices any fraud or deceit upon Authority.

- B) **Failure to Maintain Coverage.** If Company fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement unless such insurance becomes unavailable.

- C) **Violations of Regulation.** If Company violates any orders or filings of any regulatory body having jurisdiction over Company, which orders or filings have a material impact on Company's ability to perform this Agreement, provided that Company may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred.

- D) **Failure to Perform.** If Company ceases to provide Collection services as required under this Agreement for a period of two (2) consecutive days or more, for any reason within the control of Company, including labor disputes. If Authority performs service under Article 12, the Company's failure to perform shall not be considered a default.

- E) **Failure to Pay.** If Company fails to make any payments required under this Agreement and/or Solid Wastes to provide Authority with required information, reports, and/or records in a timely manner as provided for in the Agreement.

- F) **Acts or Omissions.** Any other act or omission by Company which violates the terms, conditions, or requirements of this Agreement, the

3177 California Integrated Waste Management Act of 1989, as it may be
3178 amended from time to time, or any law, statute, ordinance, order,
3179 directive, rule, or regulation issued thereunder and which is not corrected
3180 or remedied within the time set in the written notice of the violation or, if
3181 Company cannot reasonably correct or remedy the breach within the time
3182 set forth in such notice, if Company should fail to commence to correct or
3183 remedy such violation within the time set forth in such notice and
3184 diligently effect such correction or remedy thereafter.

3185 **G) False or Misleading Statements.** Any material representation, warranty
3186 or disclosure made to Authority by Company in connection with or as an
3187 inducement to entering into this Agreement, or any future amendment to
3188 this Agreement, which proves to be false or misleading in any material
3189 respect as of the time such representation or disclosure is made, whether
3190 or not any such representation or disclosure appears as part of this
3191 Agreement.

3192 **H) Seizure or Attachment.** There is a seizure of, attachment of, or levy on,
3193 the operating equipment of Company, including without limits its
3194 equipment, maintenance or office facilities, or any part thereof.

3195 **I) Petition for Debt Relief.** If Company files a voluntary petition for debt
3196 relief under any applicable bankruptcy, insolvency, debtor relief, or other
3197 similar law now or hereafter in effect, or shall consent to the appointment
3198 of or taking of possession by a receiver, liquidator, assignee (other than as
3199 a part of a transfer of equipment no longer useful to Company or
3200 necessary for this Agreement), trustee (other than as security for an
3201 obligation under a deed of trust), custodian, sequestrator (or similar
3202 official) of the Company for any part of Company's operating assets or
3203 any substantial part of Company's property, or shall make any general
3204 assignment for the benefit of Company's creditors, or shall fail generally
3205 to pay Company's debts as they become due or shall take any action in
3206 furtherance of any of the foregoing;

3207 **J) Bankruptcy.** A court having jurisdiction shall enter a decree or order for
3208 relief in respect of the Company, in any involuntary case brought under

3209 any bankruptcy, insolvency, debtor relief, or similar law now or hereafter
3210 in effect, or Company shall consent to or shall fail to oppose any such
3211 proceeding, or any such court shall enter a decree or order appointing a
3212 receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar
3213 official) of the Company or for any part of the Company's operating
3214 equipment or assets, or orders the winding up or liquidation of the affairs
3215 of Company;

3216 K) **Failure to Provide Assurance of Performance.** If Company fails to
3217 provide reasonable assurances of performance as required under Section
3218 13.6.

3219 Company shall be given forty-eight (48) hours from notification by Authority to cure
3220 any default arising under subsections B, D, E, H, and K

3221 **13.2 Right to Terminate Upon Default**

3222 In the event that Company should default and subject to the right of the Company to
3223 cure, in the performance of any provisions of this contract, and the default is not cured
3224 within forty-eight (48) hours from notification of default from Authority for any
3225 default arising under Section 13.1.B, D, E, H, and K, or ten (10) days' notice if the
3226 public health or safety is threatened, or otherwise thirty (30) days after receipt of
3227 written notice of default from the Authority, then the Authority may, at its option,
3228 hold a hearing at its next practically available Authority Board of Directors meeting to
3229 determine whether this contract should be terminated. In the event Authority decides
3230 to terminate this contract, Authority shall serve thirty (30) days' written notice of its
3231 intention to terminate upon Company. In the event Authority exercises its right to
3232 terminate this contract, Authority may, at its option, either directly undertake
3233 performance of the services or arrange with other persons to perform the services
3234 with or without a written agreement. This right of termination is in addition to any
3235 other rights of Authority upon a failure of Company to perform its obligations under
3236 this Agreement.

3237 Authority's right to terminate this Agreement and to take possession of Company's
3238 Facility are not exclusive, and Authority's termination of this Agreement shall not
3239 constitute an election of remedies. Instead, they shall be in addition to any and all
3240 other legal and equitable rights and remedies which Authority may have.

3241 By virtue of the nature of this Agreement, the urgency of timely continuous and high-
3242 quality service, the time required to effect alternative service, and the rights granted
3243 by Authority to Company, the remedy of damages for a breach hereof by Company
3244 may be inadequate and Authority may seek injunctive relief.

3245 **13.3 Termination for Cause**

3246 In the event the Company does not meet the productivity standards as set out in their
3247 proposal, the Authority may take the following progressive actions:

3248 A) Assess liquidated damages as listed in Sec 13.6.B.1.e,f for failure to
3249 complete Collection of Solid Waste, Recyclables, Green Waste and
3250 Construction and Demolition within the prescribed hours and on the
3251 scheduled day;

3252 B) Require Company to add a route(s) at the Company's cost;

3253 C) Assess additional liquidated damages as listed in Sec 13.6.B.1.e,f for failure
3254 to complete Collection of Solid Waste, Recyclables, Green Waste and
3255 Construction and Demolition within the prescribed hours and on the
3256 scheduled day;

3257 D) If, in the event 20 days of Collecting Solid Waste, Recyclable Materials,
3258 and Green Waste during unauthorized hours occurs in two consecutive
3259 quarters (occurrences in the first ninety (90) days of this Agreement will
3260 not apply towards Rate Year one total) after the Company has added a
3261 route(s) in accordance with Sec 13.3.B, the Authority has the right to
3262 terminate the Agreement.

3263 **13.4 Possession of Property Upon Termination**

3264 In the event of termination for default, the Authority shall have the right to take
3265 possession of any and all of Company's land, equipment, and other property used or
3266 useful in the Collection, Transportation, Processing, and Disposal of Solid Waste,
3267 Recyclable Materials, or Green Waste, and the Billing and collection of fees for these
3268 services and to use such property. The Authority shall have the right to retain the
3269 possession of such property until other suitable arrangements can be made for the
3270 provision of Solid Waste, Recyclable Materials, or Green Waste Collection services
3271 and Recyclable Materials processing, which may include the award of an Agreement

3272 to another waste hauling company or for 180 days, whichever occurs first. If the
3273 Authority retains possession thereof after the period of time for which Company has
3274 already been paid by means of bills issued in advance of providing service for the
3275 class of service involved, the Company shall be entitled to the reasonable rental value
3276 of such property (which shall be offset against any damages due the Authority for the
3277 Company's default).

3278 Company shall furnish the Authority with immediate access to all of its business
3279 records related to its Customers and Billing of accounts for Collection services.

3280 13.5 Authority's Remedies Cumulative; Specific Performance

3281 The Authority's rights to terminate the Agreement under Section 13.2 and to take
3282 possession of the Company's properties under Section 13.3 are not exclusive, and the
3283 Authority's termination of the Agreement and/or the imposition of Liquidated
3284 Damages shall not constitute an election of remedies. Instead, these rights shall be in
3285 addition to any and all other legal and equitable rights and remedies which the
3286 Authority may have.

3287 By virtue of the nature of this Agreement, the urgency of timely, continuous and high
3288 quality service, the lead time required to effect alternative service, and the rights
3289 granted by Authority to the Company, the remedy of damages for a breach hereof by
3290 Company is inadequate and Authority shall be entitled to injunctive relief.

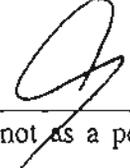
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3292 13.6 Liquidated Damages

3293 A) **General.** The Authority finds, and Company agrees, that as of the time of
3294 the execution of this Agreement, it is impractical, if not impossible, to reasonably
3295 ascertain the extent of damages which shall be incurred by Authority as a result of
3296 a breach by Company of its obligations under this Agreement. The factors relating
3297 to the impracticability of ascertaining damages include, but are not limited to, the
3298 fact that: (i) substantial damage results to members of the public who are denied
3299 services or denied quality or reliable service; (ii) such breaches cause
3300 inconvenience, anxiety, frustration, and deprivation of the benefits of the
3301 Agreement to individual members of the general public for whose benefit this
3302 Agreement exists, in subjective ways and in varying degrees of intensity which are
3303 incapable of measurement in precise monetary terms; (iii) that Franchised services

3304 might be available at substantially lower costs than alternative services and the
3305 monetary loss resulting from denial of services or denial of quality or reliable
3306 services is impossible to calculate in precise monetary terms; and (iv) the
3307 termination of this Agreement for such breaches, and other remedies are, at best, a
3308 means of future correction and not remedies which make the public whole for past
3309 breaches.

3310 B) **Service Performance Standards; Liquidated Damages for Failure to Meet**
3311 **Standards.** The parties further acknowledge that consistent, reliable Solid Waste,
3312 Recyclable Material, and Green Waste Collection service is of utmost importance
3313 to Authority and that Authority has considered and relied on Company's
3314 representations as to its quality of service commitment in awarding the Franchise
3315 to it. The parties further recognize that some quantified standards of performance
3316 are necessary and appropriate to ensure consistent and reliable service and
3317 performance. The parties further recognize that if Company fails to achieve the
3318 performance standards, or fail to submit required documents in a timely manner,
3319 Authority and its residents will suffer damages and that it is and will be
3320 impractical and extremely difficult to ascertain and determine the exact amount of
3321 damages which Authority will suffer. Therefore, without prejudice to Authority's
3322 right to treat such non-performance as an event of default under this Article 13, the
3323 parties agree that the following liquidated damage amounts represent a reasonable
3324 estimate of the amount of such damages considering all of the circumstances
3325 existing on the date of this Agreement, including the relationship of the sums to
3326 the range of harm to Authority that reasonably could be anticipated and the
3327 anticipation that proof of actual damages would be costly or impractical. In
3328 placing their initials at the places provided, each party specifically confirms the
3329 accuracy of the statements made above and the fact that each party has had ample
3330 opportunity to consult with legal counsel and obtain an explanation of the
3331 liquidated damage provisions at the time that the Agreement was made.

3332 Company  Authority 
3333 Initial Here _____ Initial Here _____
3334 Company agrees to pay (as liquidated damages and not as a penalty) the amounts set forth
3335 below.

3336
3337 The amount of Liquidated Damages specified below shall be adjusted annually on the
3338 first day of the Rate Year. The adjustment shall be rounded to the nearest cent.

3339 Liquidated Damage amounts shall be adjusted to reflect changes in the All Urban
3340 Consumers Index (CPI-U), all items, for the San Francisco-Oakland-San Jose, CA, Base
3341 Period 1982 - 1984 = 100, not seasonally adjusted, compiled and published by the U. S.
3342 Department of Labor, Bureau of Labor Statistics or its successor agency, using the
3343 method following:

1. **Collection Reliability**

- a) For each failure to commence service to a new customer account within seven (7) days after order, which exceed 24 such failures annually: \$150.00
- b) For each failure to Collect Solid Waste, Recyclable Materials, Green Waste or Construction and Demolition Debris, which has been properly set out for Collection, from an established customer account on the scheduled Collection day and not Collected within the period described in this Agreement which exceeds 20 such failures quarterly: \$150.00
- c) For each failure to Collect Solid Waste, Recyclable Materials, Green Waste or Construction and Demolition Debris, which has been properly set out for Collection, from the same customer on two (2) consecutive scheduled pickup days: \$150.00
- d) For each failure to prepare for or properly conduct Annual Cleanups including advertising and press releases: \$250.00
- e) For each failure to perform and submit billing reviews: \$250.00

2. **Collection Quality**
- a) For each occurrence of damage to private property which exceeds 36 such occurrences annually: \$250.00
 - b) For each occurrence of failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments or to place cans upright with lids secured which exceeds 20 such occurrences annually: \$150.00
 - c) For each occurrence of excessive noise or discourteous behavior: \$250.00
 - d) For each failure to clean up Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris spilled from Containers which exceeds 20 such failures annually: \$150.00
 - e) For each day one or more routes Company Collects Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris during unauthorized hours (occurrences in the first ninety (90) days of this Agreement will not apply towards Rate Year one total): \$150.00
 - f) For each day one or more routes Company Collects Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris during unauthorized hours which exceeds 20 such occurrences quarterly (occurrences in the first ninety (90) days of this Agreement will not apply towards Rate Year one total): \$500.00
 - g) In the event 20 days of Collecting Solid Waste, Recyclable Materials, and Green Waste during unauthorized hours occurs in two consecutive quarters then the Company will add one route (occurrences in the first ninety (90) days of this Agreement will not apply towards Rate Year one total). Cost absorbed by Company
3. **Customer Responsiveness**
- a) For each failure to initially respond to a customer complaint within one (1) business day: \$100.00

- | | | |
|----------------------------|---|---|
| b) | For each failure to process customer complaints to Authority as required by Article 7: | \$500.00 |
| c) | For each failure to carry out responsibilities for establishing service: | \$500.00 |
|
 | | |
| 4. Public Education | | |
| a) | For each failure to send initial mailing to residents on or before the date specified in the implementation plan in Exhibit 7. | \$300.00
per day for
each day
until mailer
is sent. |
| b) | For each failure to prepare and distribute "how-to" brochure/calendar to residents on or before the date specified in the implementation plan in Exhibit 7. | \$150.00
per day for
each day
until mailer
is sent. |
| c) | For each failure to prepare and distribute door hanger, flyer or mailer to customers regarding specific collection day, holiday, holiday tree, and clean-up events. | \$150.00
per day for
each day
until mailer
is sent. |
| d) | For each failure to conduct community presentations targeted at residents | \$150.00
per event. |
| e) | For each failure to prepare and mail quarterly newsletter to all residents by the end of each quarter | \$150.00
per day for
each day
until mailer
is sent. |
| f) | For each failure to send initial mailing to businesses on or before the date specified in the implementation plan in Exhibit 7. | \$150.00
per day for
each day
until mailer
is sent. |
| g) | For each failure to prepare and distribute "how-to" brochures for each of the four business types | \$150.00
per day. |
| h) | For each failure to meet with business associations | \$150.00
per day. |

- i) For each failure to conduct waste audits and submit audit reports \$150.00 per audit.
- j) For each failure to provide comprehensive report of findings and suggestions to each company for which an audit was performed \$150.00 per day.
- k) For each failure to distribute period update for Holiday tree recycling on or before December 25 of each year \$150.00 per day.
- l) For each failure to develop outreach program for individual Commercial sectors \$150.00 per day.
- m) For each failure to prepare and during the Rate Year update to recycling resource guide \$150.00 per day.
- n) For each failure to participate in special events listed in this Agreement \$300.00 per event-day.

3345

5. Timeliness of Submissions to Authority

Any report shall be considered late until such time as a correct and complete report is received by Authority. For each calendar day a report is late, the daily liquidated damage amount shall be:

- a) Quarterly Reports: \$100 per day
- b) Annual Reports: \$350 per day

3346

C) **Process.** Liquidated damages will only be assessed after Company has been given the opportunity but failed to rectify the damages as described in this Agreement.

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Authority may determine the occurrence of events giving rise to liquidated damages through the observation of its representative or investigation of customer complaints.

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Prior to assessing liquidated damages, Authority shall give Company notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Company may review (and make copies at its own expense) all information in the possession of Authority relating to incident(s)/non-performance. Company may, within ten (10) days after receiving the notice,

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3355

3356 request a meeting with Authority. Company may present evidence in writing and
3357 through testimony of its employees and others relevant to the incident(s)/non-
3358 performance. Authority will provide Company with a written explanation of its
3359 determination on each incident(s)/non-performance prior to authorizing the
3360 assessment of liquidated damages. The decision of Authority shall be final.

3361 **D) Amount.** Authority may reasonably assess liquidated damages for each calendar
3362 day or event, as appropriate, that Company is determined to be liable in
3363 accordance with this Agreement.

3364 **E) Timing of Payment.** Company shall pay Authority any liquidated damages
3365 assessed by Authority within ten (10) days after they are assessed. If they are not
3366 paid within the ten (10) day period, Authority may proceed against the
3367 performance bond required by the Agreement or order the termination of the
3368 Franchise granted by this Agreement, or both.

3369 13.7 Excuse from Performance

3370 The parties shall be excused from performing their respective obligations hereunder
3371 in the event they are prevented from so performing by reason of floods, earthquakes,
3372 other natural disasters, war, civil insurrection, riots, acts of terrorism, acts of any
3373 government (including judicial action), and other similar catastrophic events which
3374 are beyond the control of and not the fault of the party claiming excuse from
3375 performance hereunder. Labor unrest, including, but not limited to, strike, work
3376 stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by
3377 Company's employees or directed at Company is not an excuse from performance and
3378 Company shall be obligated to continue to provide service notwithstanding the
3379 occurrence of any or all of such events.

3380 The party claiming excuse from performance shall, within two (2) days after such
3381 party has notice of such cause, give the other party notice of the facts constituting such
3382 cause and asserting its claim to excuse under this Section.

3383 The interruption or discontinuance of Company's services caused by one or more of
3384 the events excused shall not constitute a default by Company under this Agreement.
3385 Notwithstanding the foregoing, however, if Company is excused from performing its
3386 obligations hereunder for any of the causes listed in this Section for a period of seven

3387 (7) days or more, Authority shall nevertheless have the right, in its sole discretion, to
3388 terminate this Agreement by giving ten (10) days' notice, in which case the provisions
3389 relative to taking possession of Company's land, equipment and other property and
3390 engaging Company's Personnel in Article 11 and Article 12 will apply.

3391 **13.8 Notice, Hearing and Appeal of Authority Breach**

3392 Should Company contend that Authority is in breach of this Agreement, it shall file
3393 with the Authority Executive Director a written request with Authority for an
3394 administrative hearing. Said request shall be made within ninety (90) days of the
3395 event or incident which allegedly gave rise to the breach. Authority shall notify
3396 Company of the time and date said hearing shall be held within thirty (30) days of
3397 receipt of Company's request. Company shall present its position and all relevant
3398 facts after Authority staff has made its presentation. Company shall be notified of
3399 Authority's ruling in writing within fourteen (14) days of the administrative hearing.

3400 If Company is not in agreement with the ruling issued by Authority at the
3401 administrative hearing, it shall have the right to appeal this ruling to the Authority
3402 Board of Directors or to a three (3) person appeal/review board, one member
3403 appointed by the Authority Board of Directors, another member appointed by
3404 Company, and the third member selected by the other two appointees. This appeal
3405 shall be made in writing to Authority no later than fourteen (14) days after receipt of
3406 the administrative hearing ruling. Authority shall notify Company of the time and
3407 date the Board will review Company's allegation. Company shall present its position
3408 and all relevant facts after staff has made its presentation. Company shall be notified
3409 in writing within thirty (30) days of the Board's ruling. The Board's ruling shall be
3410 final, and Company shall have no further rights of appeal.

3411 Notwithstanding any other provision to the contrary in this Agreement, Company's
3412 sole remedy for any dispute or claim it may have relating to compensation or rates is
3413 to file a petition for writ of mandate pursuant to C.C.P. Section 1085. Company shall
3414 have no cause of action for damages against Authority in relation to any such dispute
3415 or claim.

3416 **13.9 Assurance of Performance**

3417 Each party may, at its option and in addition to all other remedies it may have,
3418 demand from the other Party reasonable assurances of timely and proper

3419 performance of this Agreement, citing specific reasons for the Party's concern over the
3420 other Party's ability to perform, in such form and substance as the Party may require.
3421 If the other Party fails to provide satisfactory assurances of timely and proper
3422 performance in the form and by the date required by the Party, such failure or refusal
3423 shall be an event of default.

ARTICLE 14

OTHER AGREEMENTS OF THE PARTIES

3424

3425

3426 14.1 Relationship of Parties

3427 The parties intend that Company shall perform the services required by this
3428 Agreement as an independent Company engaged by Authority and not as an officer
3429 or employee of Authority, nor as a partner of or joint venture with Authority. No
3430 employee or agent or Company shall be or shall be deemed to be an employee or
3431 agent of Authority. Except as expressly provided herein, Company shall have the
3432 exclusive control over the manner and means of conducting the Collection of Solid
3433 Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris
3434 and the processing of Recyclable Materials performed under this Agreement, and all
3435 Persons performing such services. Company shall be solely responsible for the acts
3436 and omissions of its officers, employees, Companies, subcontractors and agents.
3437 Neither Company nor its officers, employees, Companies, subcontractors and agents
3438 shall obtain any rights to retirement benefits, workers' compensation benefits, or any
3439 other benefits which accrue to Authority employees by virtue of their employment
3440 with Authority.

3441 14.2 Compliance with Law

3442 In providing the services required under this Agreement, Company shall at all times,
3443 at its sole cost, comply with all applicable laws and regulations of the United States,
3444 the State of California, and local agencies. Authority shall comply with all applicable
3445 regulations promulgated by federal, state, regional or local administrative and
3446 regulatory agencies, now in force and as they may be enacted, issued or amended
3447 during the Term.

3448 14.3 Governing Law

3449 This Agreement shall be governed by, and construed and enforced in accordance
3450 with, the laws of the State of California.

3451 14.4 Jurisdiction

3452 Any lawsuits between the parties arising out of this Agreement shall be brought and
3453 concluded in the courts of the State of California, which shall have exclusive
3454 jurisdiction over such lawsuits.

3455 With respect to venue, the parties agree that this Agreement is made in and will be
3456 performed in Santa Clara County.

3457 14.5 Assignment

3458 14.5.1 Company's Assignment

3459 Except as may be provided for in Article 12 (Authority's Right to Perform Service),
3460 Company shall not assign its rights, nor delegate, subcontract or otherwise transfer its
3461 obligations under this Agreement to any other Person without the prior written
3462 consent of the other party. Any such assignment made without the consent of the
3463 other party shall be void and the attempted assignment shall constitute a material
3464 breach of this Agreement.

3465 For purposes of this Section when used in reference to Company, "assignment" shall
3466 include, but not be limited to (i) a sale, exchange or other transfer of substantially all
3467 of Company's assets dedicated to service under this Agreement to a third party
3468 including the account receivables from Authority customers; (ii) a sale, exchange or
3469 other transfer of outstanding common stock of Company to a third party provided
3470 said sale, exchange or transfer may result in a change of control of Company,
3471 excluding stock transfers among the existing shareholders; (iii) any dissolution,
3472 reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance,
3473 voting trust, pooling agreement, escrow arrangement, liquidation or other transaction
3474 to which results in a change of Ownership or control of Company; (iv) any assignment
3475 by operation of law, including insolvency or bankruptcy, making assignment for the
3476 benefit of creditors, writ of attachment for an execution being levied against this
3477 Agreement, appointment of a receiver taking possession of Company's property, or
3478 transfer occurring in the event of a probate proceeding; and (v) any combination of
3479 the foregoing (whether or not in related or contemporaneous transactions) which has
3480 the effect of any such transfer or change of Ownership, or change of control of
3481 Company.

3482 Company acknowledges that this Agreement involves rendering a vital service to
3483 Authority's residents and businesses, and that Authority has selected Company to
3484 perform the services specified herein based on (1) Company's experience, skill and
3485 reputation for conducting its Solid Waste, Recyclable Materials, Green Waste, and
3486 Construction and Demolition Debris management operations in a safe, effective and
3487 responsible fashion, at all times in keeping with applicable Environmental Laws,
3488 regulations and best Solid Waste, Recyclable Materials, Green Waste, and
3489 Construction and Demolition Debris management practices, and (2) Company's
3490 financial resources to maintain the required equipment and to support its indemnity
3491 obligations to Authority under this Agreement. Authority has relied on each of these
3492 factors, among others, in choosing Company to perform the services to be rendered by
3493 Company under this Agreement.

3494 If Company requests Authority's consideration of and consent to an assignment,
3495 Authority may reasonably deny or approve such request. No request by Company
3496 for consent to an assignment need be considered by Authority unless and until
3497 Company has met the following requirements:

- 3498 A) Company shall undertake to pay Authority its reasonable expenses for
3499 attorney's fees and investigation costs necessary to investigate the
3500 suitability of any proposed assignee, and to review and finalize any
3501 documentation required as a condition for approving any such
3502 assignment;
- 3503 B) Company shall furnish Authority with audited financial statements of the
3504 proposed assignee's operations for the immediately preceding three (3)
3505 operating years;
- 3506 C) Company shall furnish Authority with satisfactory proof: (i) that the
3507 proposed assignee has at least ten (10) years of Solid Waste, Recyclable
3508 Materials, Green Waste, and Construction and Demolition Debris
3509 management experience on a scale equal to or exceeding the sale of
3510 operations conducted by Company under this Agreement; (ii) that in the
3511 last five (5) years, the proposed assignee has not suffered any significant
3512 citations or other censure from any federal, state or local agency having
3513 jurisdiction over its Solid Waste, Recyclable Materials, Green Waste, and
3514 Construction and Demolition Debris management operations due to any

3515 significant failure to comply with state, federal or local Environmental
3516 Laws and that the assignee has provided Authority with a complete list of
3517 such citations and censures; (iii) that the proposed assignee has at all times
3518 conducted its operations in an environmentally safe and conscientious
3519 fashion; (iv) that the proposed assignee conducts its Solid Waste,
3520 Recyclable Materials, Green Waste, and Construction and Demolition
3521 Debris management practices in accordance with sound Solid Waste,
3522 Recyclable Materials, Green Waste, and Construction and Demolition
3523 Debris management practices in full compliance with all federal, state and
3524 local laws regulating the collection of Solid Waste, Recyclable Materials,
3525 Green Waste, and Construction and Demolition Debris including
3526 Hazardous Substances; and, (v) of any other information required by
3527 Authority to ensure the proposed assignee can fulfill the Terms of this
3528 Agreement in a timely, safe and effective manner.

3529 Under no circumstances shall Authority be obliged to consider any proposed
3530 assignment by Authority if Company is in default at any time during the period of
3531 consideration.

3532 **14.5.2 Authority's Assignment.**

3533 Authority may assign and delegate all rights and duties of the Authority, and its
3534 Council, Boards and Officials, its rights under this Agreement to any joint powers
3535 authority or other public agency; provided, however, that this Agreement will
3536 continue to govern only the Collection and Transportation of Solid Waste, Recyclable
3537 Materials, Green Waste, and Construction and Demolition Debris and processing of
3538 Recyclable Materials generated within Authority.

3539 **14.6 Contracting or Subcontracting**

3540 Company shall not engage any Companies or subcontractors for Collection or
3541 transportation of Solid Waste, Recyclable Materials, Green Waste, and Construction
3542 and Demolition Debris and processing of Recyclable Materials without the prior
3543 written consent of Authority.

3544 14.7 **Binding on Assigns**

3545 The provisions of this Agreement shall inure to the benefit to and be binding on the
3546 permitted assigns of the parties.

3547 14.8 **Transition to Next Company**

3548 If the transition of services to another company occurs through expiration of term,
3549 default and termination, or otherwise, Company will cooperate with Authority and
3550 subsequent company(ies) to assist in an orderly transition which will include
3551 Company providing route lists and billing information. Company will not be obliged
3552 to sell Collection vehicles, bins and Containers to the next company. Depending on
3553 Company's circumstances at the point of transition, Company at its option may enter
3554 into negotiations with the next company to sell (in part or all) Collection vehicles, bins
3555 and Containers.

3556 14.9 **Parties in Interest**

3557 Nothing in this Agreement, whether express or implied, is intended to confer any
3558 rights on any Persons other than the parties to it and their representatives, successors
3559 and permitted assigns.

3560 14.10 **Waiver**

3561 The waiver by either party of any breach or violation of any provisions of this
3562 Agreement shall not be deemed to be a waiver of any breach or violation of any other
3563 provision nor of any subsequent breach or violation of the same or any other
3564 provision. The subsequent acceptance by either party of any moneys which become
3565 due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent
3566 breach or violation by the other party of any provision of this Agreement.

3567 14.11 **Condemnation**

3568 Authority fully reserves the rights to acquire Company's property utilized in the
3569 performance of this Agreement, by purchase or through the exercise of the right of
3570 eminent domain. This provision is additive, and not intended to alter the rights of the
3571 parties set forth in Article 12.

3572 14.12 Notice

3573 All notices, demands, requests, proposals, approvals, consents and other
3574 communications which this Agreement requires, authorizes or contemplates shall be
3575 in writing and shall either be personally delivered to a representative of the parties at
3576 the address below or be deposited in the United States mail, first class postage
3577 prepaid, addressed as follows:

3578 If to Authority:

3579 Executive Director
3580 West Valley Solid Waste Management Authority
3581 c/o Hilton Farnkopf & Hobson, LLC
3582 2175 N. California Blvd., Suite 990
3583 Walnut Creek, CA 94596

3584 If to City/Town:

3585 City Manager
3586 City of Campbell
3587 70 North First Street
3588 Campbell, CA 95008

3590 City Manager
3591 City of Monte Sereno
3592 18041 Saratoga - Los Gatos Road
3593 Monte Sereno, CA 95050

3595 City Manager
3596 City of Saratoga
3597 13777 Fruitdale Avenue
3598 Saratoga, CA 95070

3600 Town Manager
3601 Town of Los Gatos
3602 110 East Main Street
3603 Los Gatos, CA 95030

3605 If to Company:

3606 Mr. Paul Nelson
3607 General Manager
3608 West Valley Collection & Recycling, LLC
3609 1333 Old Oakland Road
3610 San Jose, CA 95112

3611 The address to which communications may be delivered may be changed from time to
3612 time by a written notice given in accordance with this Section.

3613 Notice shall be deemed given on the day it is personally delivered or, if mailed, three
3614 days from the date it is deposited in the mail.

3615 **14.13 Representatives of the Parties**

3616 References in this Agreement to the "Authority" shall mean the Authority Board of
3617 Directors and all actions to be taken by Authority shall be taken by the Authority
3618 Board of Directors except as provided below. The Authority Board of Directors may
3619 delegate, in writing, authority to the Authority Executive Director, and/or to other
3620 Authority employees and may permit such employees, in turn, to delegate in writing
3621 some or all of such authority to subordinate employees. Company may rely upon
3622 actions taken by such delegates if they are within the scope of the authority properly
3623 delegated to them.

3624 Company shall, by the effective date, designate in writing a responsible officer who
3625 shall serve as the representative of Company in all matters related to the Agreement
3626 and shall inform Authority in writing of such designation and of any limitations upon
3627 his or her authority to bind Company. Authority may rely upon action taken by such
3628 designated representative as actions of Company unless they are outside the scope of
3629 the authority delegated to him/her by Company as communicated to Authority.

3630 **14.14 Authority Free to Negotiate with Third Parties**

3631 During the Term of this Agreement, Authority may investigate all options for the
3632 Collection, Transportation, Processing and Disposal of Solid Waste, Recyclable
3633 Materials, Green Waste, and Construction and Demolition Debris after the expiration
3634 of the Term. Without limiting the generality of the foregoing, Authority may solicit
3635 proposals from Company and from third parties for the provision of Collection,
3636 Transportation, Processing or Disposal of Solid Waste, Recyclable Materials, Green
3637 Waste, and Construction and Demolition Debris, and may negotiate and execute
3638 agreements for such services which will take effect upon the expiration or earlier
3639 termination under Section 13.1 of this Agreement.

3640 14.15 Compliance with Municipal Code

3641 Company shall comply with those provisions of the municipal code of City which are
3642 applicable, and with any and all amendments to such applicable provisions during the
3643 term of this Agreement.

3644 14.16 Criminal Activity of Company

3645 14.16.1 Criminal Activity

3646 For purpose of this Section, Criminal Activity shall mean any of the following events
3647 or circumstances:

3648
3649 A. **Convictions.** The entry against any Company Party of a criminal conviction or
3650 a permanent mandatory or prohibitory injunction from a court, municipality or
3651 regulatory agency of competent jurisdiction based on acts taken in his or her official
3652 capacity on behalf of Company with respect to:

- 3653
3654 1. Fraud or criminal offense in connection with obtaining, attempting to obtain,
3655 procuring or performing a public or private agreement related to Solid Waste,
3656 Recyclable Materials, Green Waste, and Construction and Demolition Debris of
3657 any kind (including Collection, Transportation, transfer, Processing, composting
3658 or Disposal), including this Agreement or any amendment thereto;
- 3659
3660 2. Bribery or attempting to bribe a public officer or employee of a local, State, or
3661 Federal agency;
- 3662
3663 3. Embezzlement, extortion, racketeering, false claims, false statements, forgery,
3664 falsification or destruction of records, obstruction of justice, knowingly receiving
3665 stolen property, theft, or misprision (failure to disclose) of a felony;
- 3666
3667 4. Unlawful disposal of material quantities of Hazardous Waste or Designated
3668 Waste the occurrence of which any of Company Party knew or should have
3669 known;
- 3670
3671 5. Violation of antitrust laws, including laws relating to price-fixing, bid-rigging and
3672 sales and market allocation, and of unfair and anti-competitive trade practices
3673 laws, including with respect to inflation of fees for Solid Waste, Recyclable
3674 Materials, Green Waste, and Construction and Demolition Debris Collection,
3675 Transportation, Processing or Disposal;
- 3676
3677 6. Violation of securities laws;
- 3678

3679 7. Felonies.
3680
3681 B. Pleas. A conviction shall mean an entry of a plea of "guilty," "nolo
3682 contendere," or "no contest" by a Company Party based on acts taken in his, her, or its
3683 official capacity on behalf of Company with respect to the conduct described in
3684 preceding subdivision (1) of this Section.

3685 **14.16.2 Notice**

3686 Company shall notify Authority in writing within five calendar days of occurrence of
3687 any Criminal Activity.

3688 **14.16.3 Company's Cure**

3689 Upon occurrence of any Criminal Activity, Company shall immediately do or cause to
3690 be done all of the following:

3691 A. Terminate from employment or remove from office any offending individual
3692 Company Party, unless otherwise directed or ordered by a court or regulatory agency
3693 of competent jurisdiction or authority, and unless that termination would constitute a
3694 breach of any labor agreement entered into by Company, or
3695

3696 B. In the event of a court or regulatory agency order prohibiting termination,
3697 eliminate participation by any individual offending Company Party in any
3698 management, supervision, or decision activity that affects or could affect, directly or
3699 indirectly, the performance of the Company under this Agreement.

3700 **14.16.4 Transfer and Hiring**

3701 Company shall not allow the hiring or transfer of any individual who has committed
3702 Criminal Activity to the position of Company representative, field supervisor,
3703 officer, or director who is directly or indirectly responsible for performance of this
3704 Agreement without obtaining prior written consent of Authority, following full
3705 disclosure to Authority of the facts and circumstances surrounding such Criminal
3706 Activity.

3707 **14.16.5 Authority's Remedy**

3708 In the event of any occurrence of Criminal Activity, the Authority, in its sole
3709 discretion, may terminate the Agreement within 30 calendar days written notice to
3710 Company, or may impose other sanctions (which may include financial sanctions,

3711 temporary suspensions, or any other condition deemed appropriate short of
3712 termination) as it will deem proper, in the following events:

3713
3714 A. Company fails to comply with the foregoing obligation of this Section, or
3715

3716 B. The Criminal Activity concerns or relates directly or indirectly to this
3717 Agreement.

3718 Company shall be given the opportunity to present evidence in mitigation during the
3719 30-calendar day notice period.

3720 **14.17 Privacy**

3721 Company shall strictly observe and protect the rights of privacy of customers.
3722 Information identifying individual customers or the composition or contents of a
3723 customer's waste stream shall not be revealed to any Person, governmental unit,
3724 private agency, or company, unless upon the authority of a court of law, by statute, or
3725 upon valid authorization of the customer. This provision shall not be construed to
3726 preclude Company from preparing, participating in, or assisting in the preparation of
3727 waste characterization studies or waste stream analyses which may be required by AB
3728 939.

3729 **ARTICLE 15**

3730 **MISCELLANEOUS AGREEMENTS**

3731 **15.1 Entire Agreement**

3732 This Agreement, including the Exhibits, represents the full and entire Agreement
3733 between the parties with respect to the matters covered herein.

3734 **15.2 Section Headings**

3735 The article headings and section headings in this Agreement are for convenience of
3736 reference only and are not intended to be used in the construction of this Agreement
3737 nor to alter or affect any of its provisions.

3738 **15.3 References to Laws and Other Agreements**

3739 All references in this Agreement to laws shall be understood to include such laws as
3740 they may be subsequently amended or recodified, unless otherwise specifically
3741 provided. This Agreement supersedes any and all agreements heretofore entered into
3742 by the parties and Authority.

3743 **15.4 Interpretation**

3744 This Agreement, including the Exhibits attached hereto, shall be interpreted and
3745 construed reasonably and neither for nor against either party, regardless of the degree
3746 to which either party participated in its drafting.

3747 **15.5 Agreement**

3748 This Agreement may not be modified or amended in any respect except by a writing
3749 signed by the parties.

3750 **15.6 Severability**

3751 If any non-material provision of this Agreement is for any reason deemed to be
3752 invalid and unenforceable, the invalidity or unenforceability of such provision shall
3753 not affect any of the remaining provisions of this Agreement which shall be enforced
3754 as if such invalid or unenforceable provision had not been contained herein.

3752 15.7 Exhibits

3753 Each of the Exhibits identified as Exhibit "1" through "14" is attached hereto and
3754 incorporated herein and made a part hereof by this reference. In the case of conflict
3755 between the Exhibits and this Agreement, the Agreement shall govern.

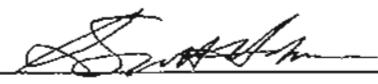
3756 15.8 Non-Waiver Provision

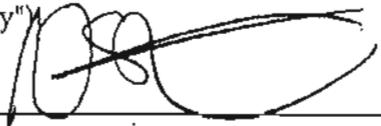
3757 Failure of either party to exercise any of the remedies set forth herein within the time
3758 periods provided for shall not constitute a waiver of any rights of that party with
3759 regard to that failure to perform or subsequent failures to performing whether
3760 determined to be a breach, excused performance or unexcused defaults by the other
3761 party.

3762 IN WITNESS WHEREOF, Authority and Company have executed this Agreement as
3763 of the day and year first above written.

3764
3765
3766
3767

WEST VALLEY SOLID WASTE
MANAGEMENT AUTHORITY
("Authority")

3768 ATTEST: 
3769 AUTHORITY CLERK

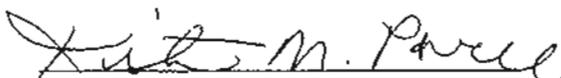
By 
AUTHORITY

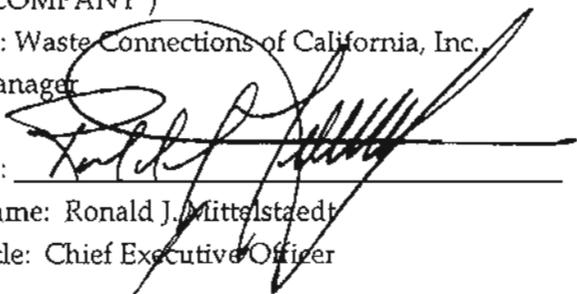
3771 APPROVED AS TO FORM:

3772
3773
3774
3775

WEST VALLEY COLLECTION & RECYCLING,
LLC
("COMPANY")

By: Waste Connections of California, Inc.,
Manager

3776 
3777 AUTHORITY ATTORNEY

By: 
Name: Ronald J. Mittelstaedt
Title: Chief Executive Officer

3779
3780
3781
3782
3783
3784

By: 
Name: Robert D. Evans
Title: Secretary

Certificate of Secretary of

West Valley Collection & Recycling, LLC

The undersigned Secretary of West Valley Collection & Recycling, LLC (the "Company") hereby certifies that the person signing the Agreement between the Company and the West Valley Solid Waste Management Authority dated as of March 14, 2006 (the "Agreement") on behalf of the Company has been duly authorized by the Company to do so, and that the Agreement has been duly executed and delivered by the Company in accordance with the authorization of its managers and members, and is enforceable against the Company in accordance with its terms, except as enforcement of the Agreement may be limited by bankruptcy, insolvency, reorganization moratorium or other laws relating to or affecting generally the enforcement of creditors' rights and except to the extent that availability of the remedy of specific performance or injunctive relief is subject to the discretion of the court before which any proceeding therefor may be brought.

IN WITNESS WHEREOF the undersigned has hereunto set his hand as of
August 8, 2006.

West Valley Collection & Recycling, LLC



Robert D. Evans, Secretary

EXHIBIT 2
CORPORATE CHIEF FINANCIAL OFFICER'S
CERTIFICATE

Certificate of Chief Financial Officer of
West Valley Collection & Recycling, LLC

The undersigned hereby certifies that he is the Chief Financial Officer of West Valley Collection and Recycling, LLC (the "Company") and Waste Connections, Inc. (the "Guarantor") that the Company has provided the West Valley Solid Waste Management Authority (the "Authority") with audited financial statements as of December 31, 2005 for the Guarantor, prepared by the Guarantor and audited by a certified public accountant whose audit was performed in accordance with Generally Accepted Auditing Standards, which financial statements present fairly, in accordance with Generally Accepted Accounting Principles, the financial resources of the Guarantor as of that date, and that there has been no material adverse change in the Guarantor's financial circumstances since the date of such financial statements.

IN WITNESS WHEREOF the undersigned has hereunto set his hand as of
August 8, 2006.

West Valley Collection & Recycling, LCC



Worthing Jackman, Chief Financial Officer

EXHIBIT 3

PUBLIC FACILITIES AND EVENTS

CITY OF CAMPBELL

Front Load:

<u>FACILITY</u>	<u>ADDRESS</u>	<u># BINS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
City Hall	70 N. First St.	1	3 yard	3
Community Center	1 W. Campbell Ave.	2	3 yard	2

Can Service:

	<u>ADDRESS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Budd & Winchester	1 can	1
Bus Stop	Campbell & Winchester	1 can	1
Bus Stop	Campbell & Winchester	1 can	1
Bus Stop	Civic Center Dr. & Central	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Orchard City Dr. & Central	1 can	1
City Can	1265 Burrows	1 can	1
City Can	175 E. Campbell	1 can	1
City Can	1800 Winchester	1 can	1
City Can	1825 Winchester	1 can	1
City Can	1976 Bascom	1 can	1
City Can	2020A E. Campbell	1 can	1
City Can	2071 Winchester	1 can	1
City Can	2120 Winchester	1 can	1
City Can	2157 Winchester	1 can	1
City Can	2270 Bascom	1 can	1
City Can	2523 Winchester	1 can	1
City Can	276 E. Campbell	1 can	3
City Can	347 E. Campbell	1 can	3
City Can	360 E. Campbell	1 can	3
City Can	378 E. Campbell	1 can	3
City Can	415 E. Campbell	1 can	3
City Can	566 E. Campbell	1 can	3
City Can	Bascom & Campisi	1 can	1
City Can	Bascom @ Hamilton Plaza	1 can	3
City Can	Budd @ 7-11	1 can	3
City Can	Burrows, across from 1265	1 can	3
City Can	E. Campbell & Union	1 can	3
City Can	E. Campbell & @ Ainsley Park	1 can	3
City Can	E. Campbell @ Bank of America	1 can	3
City Can	E. Campbell @ Bradley Video	1 can	3
City Can	E. Campbell @ Subway	1 can	3
City Can	E. Campbell @ Subway	1 can	3
City Can	Hamilton @ Hamilton Plaza	1 can	3
City Can	Pollard & Bracebridge	1 can	1
City Can	Winchester & Friar	1 can	1
City Can	Winchester @ Community Center	1 can	1
City Can	Winchester @ Safeway	1 can	1
City Can	Winchester @ Winchester Hardware	1 can	1
City Can	Winchester @ Woolworth Garden	1 can	1
City Can	W. Campbell & Kim Louise Dr.	1 can	3
City Can	W. Hamilton @ Llewellyn	1 can	3

Drop-off-box:

<u>SIZE</u>	<u>PULLS</u>
18 Cubic Yard	137
30 Cubic Yard	49

Locations: Dillon Avenue Corporation Yard
1 West Campbell Avenue Community Center

Community Event
Prune Festival

CITY OF CAMPBELL

Front Load:

<u>FACILITY</u>	<u>ADDRESS</u>	<u># BINS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
City Hall	70 N. First St.	1	3 yard	3
Community Center	1 W. Campbell Ave.	2	3 yard	2

Can Service:

	<u>ADDRESS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Bascom & Campbell	1 can	1
Bus Stop	Budd & Winchester	1 can	1
Bus Stop	Campbell & Winchester	1 can	1
Bus Stop	Campbell & Winchester	1 can	1
Bus Stop	Civic Center Dr. & Central	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Hamilton & Winchester	1 can	1
Bus Stop	Orchard City Dr. & Central	1 can	1
City Can	1265 Burrows	1 can	1
City Can	175 E. Campbell	1 can	1
City Can	1800 Winchester	1 can	1
City Can	1825 Winchester	1 can	1
City Can	1976 Bascom	1 can	1
City Can	2020A E. Campbell	1 can	1
City Can	2071 Winchester	1 can	1
City Can	2120 Winchester	1 can	1
City Can	2157 Winchester	1 can	1
City Can	2270 Bascom	1 can	1
City Can	2523 Winchester	1 can	1
City Can	276 E. Campbell	1 can	3
City Can	347 E. Campbell	1 can	3
City Can	360 E. Campbell	1 can	3
City Can	378 E. Campbell	1 can	3
City Can	415 E. Campbell	1 can	3
City Can	566 E. Campbell	1 can	3
City Can	Bascom & Campisi	1 can	1
City Can	Bascom @ Hamilton Plaza	1 can	3
City Can	Budd @ 7-11	1 can	3
City Can	Burrows, across from 1265	1 can	3
City Can	E. Campbell & Union	1 can	3
City Can	E. Campbell & @ Ainsley Park	1 can	3
City Can	E. Campbell @ Bank of America	1 can	3
City Can	E. Campbell @ Bradley Video	1 can	3
City Can	E. Campbell @ Subway	1 can	3
City Can	E. Campbell @ Subway	1 can	3
City Can	Hamilton @ Hamilton Plaza	1 can	3
City Can	Pollard & Bracebridge	1 can	1
City Can	Winchester & Friar	1 can	1
City Can	Winchester @ Community Center	1 can	1
City Can	Winchester @ Safeway	1 can	1
City Can	Winchester @ Winchester Hardware	1 can	1
City Can	Winchester @ Woolworth Garden	1 can	1
City Can	W. Campbell & Kim Louise Dr.	1 can	3
City Can	W. Hamilton @ Llewellyn	1 can	3

Drop-off-box:

<u>SIZE</u>	<u>PULLS</u>
18 Cubic Yard	137
30 Cubic Yard	49

Locations: Dillon Avenue Corporation Yard
1 West Campbell Avenue Community Center

Community Event
Prune Festival

CITY OF MONTE SERENO

Front Load:

FACILITY
City Hall

ADDRESS
18041 Saratoga - Los Gatos Rd.

SERVICE
3 Comm Can

P/U WEEK
1

CITY OF SARATOGA

Front Load:

<u>FACILITY</u>	<u>ADDRESS</u>	<u># BINS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
City Hall	13777 Fruitvale	1	3 yard	3
Senior Center	19655 Allendale	1	3 yard	3
Museum	20460 Saratoga - Los Gatos Rd.	2	1.3 yard	1

Can Service:

	<u>ADDRESS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
Bus Stop	14363 Saratoga Ave.	1 can	0
Bus Stop	Saratoga Ave. @ Federated Church	1 can	0
Bus Stop	Saratoga & Seagraves	1 can	0
Bus Stop	Big Basin @ Corinthian Corners	1 can	0
Bus Stop	Prospect @ High School	1 can	0
Bus Stop	Saratoga Ave. @ Cox Ave.	1 can	0
Bus Stop	Saratoga-Los Gatos Rd. & Oak St.	1 can	1
Bus Stop	Saratoga-Sunnyvale & Blauer	1 can	1
Bus Stop	Saratoga-Sunnyvale & Prospect	1 can	1
City Can	14428 Big Basin	1 can	2
City Can	14429 Big Basin	1 can	2
City Can	14445 Big Basin	1 can	2
City Can	14471 Big Basin	1 can	2
City Can	14495 Big Basin	1 can	2
City Can	14500 Big Basin	1 can	2
City Can	14501 Big Basin	1 can	2
City Can	14510 Big Basin	1 can	2
City Can	14510 Big Basin	1 can	2
City Can	14523 Big Basin	1 can	2
City Can	14531 Big Basin	1 can	2
City Can	14550 Big Basin	1 can	2
City Can	14554 Big Basin	1 can	2
City Can	14555 Big Basin	1 can	2
City Can	14567 Big Basin	1 can	2
City Can	14572 Big Basin	1 can	2
City Can	14573 Big Basin	1 can	2
City Can	14583 Big Basin	1 can	2
City Can	Big Basin & 3rd St.	1 can	2
City Can	Big Basin & 4th St.	1 can	2
City Can	Big Basin @ Bank of America	1 can	2
City Can	Big Basin @ Saratoga Drug Store	1 can	2
City Can	Big Basin @ Saratoga Village Ctr.	1 can	2
City Can	Big Basin @ Saratoga Village Ctr.	1 can	2
City Can	Saratoga Ave. @ Post Office	1 can	2

Drop-off-box:

<u>SIZE</u>	<u>PULLS</u>
18 Cubic Yard	108

Locations: Allendale Corporations Yard

Community Event
Celebrate Saratoga

TOWN OF LOS GATOS

Front Load:

<u>FACILITY</u>	<u>ADDRESS</u>	<u># BINS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
LG Police Department	110 E. Main	1	3 yard	3
LG Recreation Center	123 E. Main	1	2 yard	1
Neighborhood Center	Main & Fiesta	1	2 yard	3
Museum	4 W. Main	1	1.3 yard	1

Can Service:

	<u>ADDRESS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
Bus Stop	131 E. Main	1 can	5
Bus Stop	230 University	1 can	5
Bus Stop	291 E. Main	1 can	5
Bus Stop	300 E. Main	1 can	5
Bus Stop	316 N. Santa Cruz	1 can	5
Bus Stop	332 N. Santa Cruz	1 can	5
Bus Stop	333 N. Santa Cruz	1 can	5
Bus Stop	375 Knowles	1 can	5
Bus Stop	440 N. Santa Cruz	1 can	5
Bus Stop	5157 Union	1 can	5
Bus Stop	555 Knowles	1 can	5
Bus Stop	657 N. Santa Cruz	1 can	5
Bus Stop	664 N. Santa Cruz	1 can	5
Bus Stop	80 University	1 can	5
Bus Stop	815 Pollard	1 can	5
Bus Stop	E. Main @ Civic Center	1 can	5
Bus Stop	E. Main @ Police Station	1 can	5
Bus Stop	Lark & Oka	1 can	2
Bus Stop	Lark & Oka	1 can	2
Bus Stop	LG Almaden Rd. & National	1 can	1
Bus Stop	LG Almaden Rd. & Peach Blossom	1 can	1
Bus Stop	LG Almaden Rd. & Verde Ct.	1 can	1
Bus Stop	Los Gatos Blvd. @ Anderson Chevy	1 can	1
Bus Stop	Los Gatos Blvd. @ New Town	1 can	1
Bus Stop	Los Gatos Blvd. @ Village Square	1 can	1
Bus Stop	Los Gatos Blvd. across from 371	1 can	1
Bus Stop	Los Gatos Blvd. @ Calvary Church	1 can	1
Bus Stop	Los Gatos-Saratoga & Monterey	1 can	2
Bus Stop	Winchester @ AAA	1 can	1
Bus Stop	Winchester @ Elks parking lot	1 can	1
Bus Stop	100 S. Santa Cruz	1 can	5
Town Can	100 W. Main St.	1 can	5
Town Can	101 W. Main St.	1 can	5
Town Can	101 S. Santa Cruz	1 can	5
Town Can	105 N. Santa Cruz	1 can	5
Town Can	130 N. Santa Cruz	1 can	5
Town Can	133 N. Santa Cruz	1 can	5
Town Can	137 N. Santa Cruz	1 can	5
Town Can	14 E. Main	1 can	5
Town Can	145 W. Main St.	1 can	5
Town Can	150 N. Santa Cruz	1 can	5
Town Can	151 N. Santa Cruz	1 can	5
Town Can	15695 Los Gatos Blvd.	1 can	5
Town Can	15780 Los Gatos Blvd.	1 can	5
Town Can	15951 Los Gatos Blvd.	1 can	5
Town Can	16 N. Santa Cruz	1 can	5
Town Can	160 W. Main St.	1 can	5
Town Can	1990 LG Almaden Road	1 can	5
Town Can	2 N. Santa Cruz	1 can	5
Town Can	20 Park	1 can	5
Town Can	20 S. Santa Cruz	1 can	5
Town Can	201 N. Santa Cruz	1 can	5
Town Can	204 Los Gatos Blvd.	1 can	5
Town Can	207 Los Gatos Blvd	1 can	5
Town Can	208 Bachman	1 can	5

TOWN OF LOS GATOS

Can Service (cont):

	<u>ADDRESS</u>	<u>SERVICE</u>	<u># P/U WEEK</u>
Town Can	208 Bachman	1 can	5
Town Can	208 N. Santa Cruz	1 can	5
Town Can	21 E. Main	1 can	5
Town Can	21 N. Santa Cruz	1 can	5
Town Can	224 E. Main	1 can	5
Town Can	227 N. Santa Cruz	1 can	5
Town Can	236 N. Santa Cruz	1 can	5
Town Can	244 E. Main	1 can	5
Town Can	27 E. Main	1 can	5
Town Can	301 N. Santa Cruz	1 can	5
Town Can	34 E. Main	1 can	5
Town Can	37 N. Santa Cruz	1 can	5
Town Can	40 N. Santa Cruz	1 can	5
Town Can	420 N. Santa Cruz	1 can	5
Town Can	470 N. Santa Cruz	1 can	5
Town Can	49 E. Main	1 can	5
Town Can	51 N. Santa Cruz	1 can	5
Town Can	51 University	1 can	5
Town Can	51 University	1 can	5
Town Can	51 University	1 can	5
Town Can	51 University	1 can	5
Town Can	51 University	1 can	5
Town Can	51 University	1 can	5
Town Can	55 N. Santa Cruz	1 can	5
Town Can	58 N. Santa Cruz	1 can	5
Town Can	61 E. Main	1 can	5
Town Can	7 Montebello	1 can	5
Town Can	88 W. Main	1 can	5
Town Can	9 N. Santa Cruz	1 can	5
Town Can	E. Main & High School Ct.	1 can	5
Town Can	E. Main & High School Ct.	1 can	5
Town Can	E. Main & High School Ct.	1 can	5
Town Can	Los Gatos Blvd. & Magneson Loop	1 can	5
Town Can	Los Gatos Blvd. & Shannon	1 can	5
Town Can	Los Gatos Blvd. & Thrifty	1 can	1
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5
Town Can	S. Santa Cruz @ Town Plaza	1 can	5

Drop-off-box:

<u>SIZE</u>	<u>PULLS</u>
18 Cubic Yard	388
30 Cubic Yard	12
30 Cubic Yard (Yard Waste)	50

Locations: Miles Avenue Corporation Yard
Oak Meadow Park

Community Event
Christmas Parade

EXHIBIT 4

CLARIFICATION OF COMPANY'S COMPENSATION

EXHIBIT 4

CLARIFICATION OF COMPANY'S COMPENSATION

This Exhibit provides information that shall be used in determining Company's Compensation with the exception of Company's Compensation for Rate Year One which is specified in Exhibit I.

A) ALLOWABLE PERSONNEL AND LABOR HOURS

Company developed Company's Proposal and estimated its compensation requirement based on a numerous assumptions related to provision of Collection services in the Authority, including assumptions with regards to the number of personnel and the number of labor hours that its personnel will incur. Award of this Agreement to the Company was based on several factors including its proposed compensation requirements of which a significant portion is attributed to labor costs. In order to ensure that the Authority continues, over the Term of the Agreement, to benefit from the Company's Proposal, labor costs shall not increase as a result of an increase in the number of personnel or the number of labor hours unless Company can demonstrate that the increased labor personnel and/or hours are necessary to provide service to additional Customers due to growth in the Authority or to adjust for changes in labor hours due to an Authority-approved interim compensation adjustment as described in Section 12.7. In recognition of this limitation on Company's Compensation, the personnel and labor hours listed in the following table shall be considered allowable personnel and labor hours for the purpose of determining Company's Compensation.

	Quantity	Labor Hours per Day per Person	Total Annual Labor Hours
ROUTE DRIVER PERSONNEL (including pool personnel)		See Attached Worksheet	
Residential Solid Waste route driver			
Residential Recyclable Materials route driver			
Residential Green Waste route driver			
Commercial Bin Solid Waste route driver			

Commercial Recyclable Materials route driver			
Drop Box Solid Waste route driver			
Subtotal		See Attached	
		Worksheet	
ROUTE-RELATED PERSONNEL			
Route supervisor			
Container distribution personnel			
Yard personnel			
Subtotal			
MACHINISTS			
Shop foreman			
Mechanics			
Container repair personnel			
Subtotal			
OTHER PERSONNEL			
General manager			
Operations manager			
Controller			
Dispatcher			
Residential education program coordinator			
Commercial education program coordinator			
Customer service manager			
Customer service representatives			
Subtotal			
Total			

The Company shall not be compensated for labor costs associated with any personnel and labor hours other than those listed in the table above unless the number of route drivers is increased based on the Company's demonstration to the Authority of the need to increase the number of routes in accordance with Section B of this Exhibit.

B) ALLOWABLE ROUTES

The number of allowable routes that shall serve as the basis for the Company's Compensation are listed in the table below. Note that the route list was prepared based on the Company's Proposal. Partial routes represent routes allocated across service segments.

Routes	Quantity/Day
Residential Solid Waste	
Residential Recyclable Materials	See Attached Worksheet
Residential Green Waste	
Commercial Bin Solid Waste	
Commercial Recyclables	
Drop Box Solid Waste	
Total	

The Company shall not be compensated for an increase in the number of routes unless the Company demonstrates to the Authority the increase is a direct result of growth in the number of Customers served in the community or is a result of changes due to an Authority-approved Interim Compensation Adjustment as provided in Section 12.7 of the Agreement.

C) ALLOWABLE ROUTE HOURS

The Company developed Company's Proposal and estimated its compensation requirement based on numerous assumptions related to provision of Collection services in the Authority, including assumptions with regards to the number of route hours that will be incurred. The number of route hours significant impacts the Company's Compensation because it impacts vehicle-related costs such as fuel, tires and tubes, parts, and supplies. Award of this Agreement to the Company was based on several factors including its proposed compensation requirements of which a significant portion is attributed to vehicle-related costs. In order to ensure that the Authority continues, over the Term of the Agreement, to benefit from the Company's Proposal, vehicle-related costs shall not increase as a result of an increase in route hours unless Company can demonstrate that the increased route hours are necessary to provide service to additional Customers due to growth in the Authority or to adjust for changes in route hours due to an Authority-approved interim compensation adjustment as described in Section 12.7 of this Agreement. In recognition of this limitation on Company's Compensation, the route hours listed in the following table shall be considered allowable route hours for the purpose of determining Company's Compensation.

Routes	Allowable Route Hours		Allowable Fuel Usage (Gallons)
	Hours per Day per Route	Total Hours Annually for All Routes	
Residential Solid Waste			
Residential Recyclable Materials			See Attached Worksheet
Residential Green Waste			
Commercial Bin Solid Waste			
Commercial Recyclables			
Drop Box Solid Waste			
Total			

D) ALLOWABLE LEASE AMOUNTS

Allowable annual lease amounts to be included in the Company's Compensation over the Term of the Agreement include the following:

Annual Allowable Lease Amounts

	Unit Amount (\$/yr)	Quantity	Total (\$/yr)
Corporation yard (including offices, vehicle maintenance facilities, and employee and vehicle parking)			
Customer service office			
Collection vehicles	See Attached Worksheet		
Residential Solid Waste			
Residential Recyclable Materials			
Residential Green Waste			
Commercial Bin Solid Waste			
Commercial Recyclable Materials			
Drop Box Solid Waste Materials			
Other Support Vehicles			
Collection Containers			
Carts			
Bins			
Drop Boxes			
Compactors			
Total Allowable Lease Amount			

If new vehicles or Containers are acquired with Authority approval to accommodate growth in the Authority at some point during the Term, the cost of the new equipment shall be depreciated over the Term including all optional extension periods, which may be granted under Section 3.4 of this Agreement, regardless of whether or not the Authority elects to exercise its option to extend the Agreement. If new vehicles or Containers are acquired with Authority approval, this Section of this Exhibit shall be amended to reflect any changes in lease amounts.

E) ALLOWABLE DEPRECIATION, INTEREST, AND LEASE AMOUNTS

Company shall depreciate equipment over a 10-year period. Allowable annual depreciation, interest, and lease amounts to be included in the Company's Compensation over the Term of the Agreement include the following:

Annual Allowable Amounts

	Depreciation (\$/yr)	Interest (\$/yr)	Lease (\$/yr)
Corporation yard (including offices, vehicle maintenance facilities, and employee and vehicle parking)			
Customer service office			
Collection vehicles	See Attached Worksheet		
Residential Solid Waste			
Residential Recyclable Materials			
Residential Organic Materials			
Commercial Bin Solid Waste			
Commercial Recyclable Materials			
Drop Box Solid Waste			
Other Support vehicles			
Collection Containers			
Carts			
Bins			
Drop Boxes			
Compactors			
Total			

If new vehicles or Containers are acquired with City approval to accommodate growth in the City at some point during the Term, the cost of the new equipment shall be depreciated using a depreciation method and period of depreciation agreed upon by the City and Company. If new vehicles or Containers are acquired with City

approval, this Section of this Exhibit shall be amended to reflect any changes in depreciation and interest amounts.

F) ALLOWABLE RECYCLABLE MATERIALS PROCESSING COSTS

The following Processing costs are allowable Processing costs during the Term of the Agreement based on Company's Proposal to use the Approved Recyclable Materials Processing Site. Processing costs shall reflect the net Processing cost (i.e., Processing cost less revenues earned from the sale of materials).

	Recyclable Processing (\$/ton)	Materials Costs
Rate Year One	See Worksheet	Attached

For Rate Years Two through Seven, the Processing costs shall be adjusted by multiplying the Processing cost for the prior Rate Year by most recently published "San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index (Urban Wage Earners; 1982-84=100)" and dividing by the index published 12 months prior to the most recently published index. For example, the Recyclables Material Processing cost for Rate Year Three shall be calculated as follows:

1. Most recently published index (May 2006) = 132.0
2. Index published twelve months period to most recently published index (May 2005) = 130.9
3. Rate Year Three Recyclable Materials Processing cost = \$_____ x (132.0/130.9) = \$_____ per Ton.

Note: The calculated Processing cost shall be rounded to the nearest cent.

G) TONNAGE ASSUMPTIONS

The Company developed Company's Proposal and estimated its compensation requirement based on numerous assumptions related to provision of Collection services in the Authority, including assumptions with regards to the quantity of Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris

that will be Collected from Generators. The quantity and type of materials Company assumed would be Collected has a direct impact on its overall compensation requirement. Award of this Agreement to the Company was based on several factors including Company's proposed compensation requirements and Diversion plan. In order to hold Company accountable to its Proposal, over the Term of the Agreement, Tonnage treated in Company's Proposal shall be treated as "actuals" unless Company can demonstrate that the increased Tonnages result from growth in the number of Customers or from adjustments due to an Authority-approved interim compensation adjustment as described in Section 12.7 of this Agreement. In recognition of this limitation on Company's Compensation, the Tonnages listed in the following table shall be considered "actual" Tonnages for the purpose of determining Company's Compensation.

Source	Estimated Tons Collected
	Rate Year One*
<u>Solid Waste</u>	
Residential Collection	See Attached Worksheet
Multi-Family Collection	
Commercial Collection	
Drop Box and Compactor Collection	
Drop-Off Event	
Subtotal	
<u>Recyclable Materials</u>	
Residential Collection	
Multi-Family Collection	
Commercial Collection	
Drop-Off Event	
Subtotal	
<u>Green Waste</u>	
Residential Collection	
Multi-Family Collection	
Commercial Collection	
Drop-Off Event	
Subtotal	
<u>Total Materials Collected</u>	
Diversion Percentage	

*Note that Rate Year One is a 16-month period

West Valley Collection and Recycling
 Exhibit #4 Worksheet

Operating Days	260	Labor Hours per Day per Person	Total Annual Labor Hours
A. Allowable Personnel and Labor Hours:			
ROUTE DRIVER PERSONNEL			
<i>Residential Solid Waste Route Drivers</i>	13		
Route Hours		9.60	32,448
Prorated Holiday:			
Total Hours	1,533		
Divide by Drivers	117.92		
Divide by Operating Days		0.45	1,533
Prorated Vacation:			
Total Hours	2,555		
Divide by Drivers	196.54		
Divide by Operating Days		0.76	2,555
Prorated Sick Leave:			
Total Hours	1,533		
Divide by Drivers	117.92		
Divide by Operating Days		0.45	1,533
Total Hours		11.26	38,069
<i>Residential Recyclable Materials Route Drivers</i>	8		
Route Hours		9.60	19,968
Prorated Holiday:			
Total Hours	944		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	944
Prorated Vacation:			
Total Hours	1,573		
Divide by Drivers	196.63		
Divide by Operating Days		0.76	1,573
Prorated Sick Leave:			
Total Hours	944		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	944
Total Hours		11.26	23,429
<i>Residential Green Waste Route Driver</i>		Included in Solid Waste above	
<i>Commercial Bin Solid Waste Route Drivers</i>	7		
Route Hours		9.44	17,181
Prorated Holiday:			
Total Hours	826		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	826
Prorated Vacation:			
Total Hours	1,376		
Divide by Drivers	196.57		
Divide by Operating Days		0.76	1,376
Prorated Sick Leave:			
Total Hours	826		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	826
Total Hours		11.10	20,209

West Valley Collection and Recycling
Exhibit #4 Worksheet

<u>Operating Days</u>		<u>Labor Hours per Day per Person</u>	<u>Total Annual Labor Hours</u>
	260		
A. Allowable Personnel and Labor Hours:			
<i>Commercial Recyclable Materials Route Drivers</i>			
	2		
Route Hours		9.44	4,909
Prorated Holiday:			
Total Hours	236		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	236
Prorated Vacation:			
Total Hours	393		
Divide by Drivers	196.50		
Divide by Operating Days		0.76	393
Prorated Sick Leave:			
Total Hours	236		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	236
Total Hours		<u>11.10</u>	<u>5,774</u>
<i>Drop Box Solid Waste Drivers</i>			
	3		
Route Hours		9.44	7,363
Prorated Holiday:			
Total Hours	354		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	354
Prorated Vacation:			
Total Hours	590		
Divide by Drivers	196.67		
Divide by Operating Days		0.76	590
Prorated Sick Leave:			
Total Hours	354		
Divide by Drivers	118.00		
Divide by Operating Days		0.45	354
Total Hours		<u>11.10</u>	<u>8,661</u>
<i>Annual City Wide Cleanup Drivers (Includes Second Los Gatos Cleanup)</i>			
Route Hours	Annual Operating Days		
	170	8.00	2,720
Prorated Holiday: (Drivers)			
Total Hours	2		
Divide by Drivers	125		
Divide by Operating Days	62.50		
Divide by Operating Days		0.37	125
Prorated Vacation:			
Total Hours	209		
Divide by Drivers	104.50		
Divide by Operating Days		0.61	209
Prorated Sick Leave:			
Total Hours	125		
Divide by Drivers	62.50		
Divide by Operating Days		0.37	125
Total Hours		<u>9.35</u>	<u>3,179</u>
SUBTOTAL		<u>11.13</u>	<u>99,321</u>

**West Valley Collection and Recycling
Exhibit #4 Worksheet**

	260	Labor Hours per Day <u>per Person</u>	Total Annual <u>Labor Hours</u>
Operating Days			
A. Allowable Personnel and Labor Hours:			
ROUTE RELATED PERSONNEL			
<i>Route Supervisors (Salaried)</i>	2	8	4,160
<i>Container Distribution Personnel</i>	2		
Route Hours		8.80	4,576
Prorated Holiday:			
Total Hours	240		
Divide by Drivers	120.00		
Divide by Operating Days		0.46	240
Prorated Vacation:			
Total Hours	400		
Divide by Drivers	200.00		
Divide by Operating Days		0.77	400
Prorated Sick Leave:			
Total Hours	240		
Divide by Drivers	120.00		
Divide by Operating Days		0.46	240
	Total Hours	10.49	5,456
	SUBTOTAL	9.25	9,616
MACHINISTS			
<i>Mechanics</i>	4		
Route Hours		9.00	9,360
Prorated Holiday:			
Total Hours	384		
Divide by Drivers	96.00		
Divide by Operating Days		0.37	384
Prorated Vacation:			
Total Hours	640		
Divide by Drivers	160.00		
Divide by Operating Days		0.62	640
Prorated Sick Leave:			
Total Hours	384		
Divide by Drivers	96.00		
Divide by Operating Days		0.37	384
	SUBTOTAL	10.35	10,768
OTHER PERSONNEL			
<i>Dispatcher</i>	1	8.00	2,080
<i>Commercial Education Program Manager</i>	1	8.00	2,080
<i>Residential Education Program Manager</i>	Included above		
<i>Customer Service Representatives</i>	2	8.00	4,160
<i>Accounting Clerk</i>	1	8.00	2,080
<i>Billing Clerk</i>	1	8.00	2,080
<i>Accounts Receivable Clerk</i>	1	8.00	2,080
	SUBTOTAL	8.00	14,560
TOTAL		10.76	134,265

West Valley Collection and Recycling
Exhibit #4 Worksheet

<u>B. Allowable Routes</u>		<u>Quantity/Day</u>
Residential Solid Waste		13
Residential Recyclable Materials		8
Residential Green Waste		
Commercial Bin Solid Waste		7
Commercial Recyclables		2
Drop Box Solid Waste		3
Annual Drop Off (w/extra Los Gatos Cleanup)	170 days	1

	<u>Hours per Day per Route</u>	<u>Total Hours Annually for All Routes</u>	<u>Usage (Gallons)</u>
<u>C. Allowable Route Hours</u>			
Residential Solid Waste	11.26	38,069	97,344
Residential Recyclable Materials	11.26	23,429	59,904
Residential Green Waste	Included in Solid Waste		
Commercial Bin Solid Waste	11.10	20,209	51,542
Commercial Recyclables	11.10	5,774	14,726
Drop Box Solid Waste	11.10	8,661	22,090
Annual Drop Off (w/extra Los Gatos Cleanup)	9.35	3,179	4,076

TOTAL	11.13	99,321	249,682
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<u>Unit Amount (\$/ yr)</u>	<u>Quantity</u>	<u>Total (\$/yr)</u>
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<u>D. Allowable Lease Amounts</u>		
Corporation yard (including offices, vehicle maintenance facilities, and employee and vehicle parking)	\$ 143,445	1 \$ 143,445

**West Valley Collection and Recycling
Exhibit #4 Worksheet**

	<u>Depreciation (\$/yr)</u>	<u>Interest (\$/yr)</u>	<u>Lease (\$/yr)</u>
E. Allowable depreciation, Interest, and Lease amounts			
Corporation yard (including offices, vehicle maintenance facilities, and employee and vehicle parking)			143,445
Collection Vehicles			
Residential Solid Waste	316,045	112,877	
Residential Recyclable Materials	183,027	65,369	
Residential Organic Materials	Included in Residential Solid Waste		
Commercial Bin Solid Waste	170,866	61,026	
Commercial Recyclable Materials	42,717	15,256	
Drop Box Solid Waste	56,391	20,606	
Annual Drop Off (w/extra Los Gatos Cleanup)	20,200	5,403	
Other Support Vehicles	26,968	9,821	
Office Equipment	5,286	1,321	
Carts	323,150	115,414	
Bins	134,662	48,095	
Drop Boxes	22,462	8,208	
Shop Equipment	1,071	268	
Facility Improvements	7,143	1,786	
Startup	34,080	8,527	
Initial Public Outreach	20,626	5,156	
Procurement Costs	14,286	3,571	
Working Capital		35,714	
TOTALS	<u>1,378,981</u>	<u>518,420</u>	<u>143,445</u>

Recyclable
Materials
Processing
Costs (\$/ton)

F. Allowable Recycling Materials Processing Costs (20.00) (Revenue)

West Valley Collection and Recycling
Exhibit #4 Worksheet

Estimated
Tons Collected
Rate Year One

G. Tonnage Assumptions

Solid Waste

Residential Collection	16,502
Multi-Family Collection	Included in Residential & Commercial
Commercial Collection	39,208
Drop Box and Compactor Collection	14,821
Drop Off Event (w/extra Los Gatos Cleanup)	<u>2,293</u>
Subtotal	<u>72,824</u>

Recyclable Materials

Residential Collection	14,043
Multi-Family Collection	2,440
Commercial Collection	3,500
Drop Off Event (w/extra Los Gatos Cleanup)	<u>2,293</u>
Subtotal	<u>22,276</u>

C&D

Drop Box and Compactor Collection	17,351
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Green Waste

Residential Collection	27,243
Multi-Family Collection	Included in Residential & Commercial
Commercial Collection	
Drop Off Event	
Subtotal	<u>27,243</u>

Total Materials Collected

139,693

Diversion Percentage

41.7%

Assumes 50% of C&D is recyclable.

EXHIBIT 5

PUBLIC EDUCATION AND COMMUNITY OUTREACH
PROGRAMS

EXHIBIT 5

PUBLIC EDUCATION AND COMMUNITY OUTREACH PROGRAMS

The Contractor shall perform the following services as part of the public education program. Contractor shall print all materials in English and Spanish. (Note to proposers: This Exhibit shall be revised to include additional public education and outreach activities described in Contractor's Proposal.)

Residential Education Program (minimum requirements)

Initial Start-Up Public Education Activities

- An initial mailing to residents explaining any transitions from the existing Collection program to the new program.
- A "how-to" brochure/calendar explaining the overall Recyclable Materials and Green Waste program and the materials to be Collected. Separate brochures shall be prepared for Single-Family, Multi-Plex, and Multi-Family residents.
- Door hanger/flyer/mailer of the specific Collection day and Holiday, holiday tree, and clean up event schedules.
- Attendance to at least four community workshops where Contractor explains Collection programs and answers questions.

Public Education Activities to Be Performed throughout the Term of the Agreement

- Prepare and distribute a brochure describing how to prepare Green Waste for Collection. Contractor shall instruct Customers as to any necessary preparation of Green Waste, such as the cutting of items, and the appropriate use and placement of Green Waste Containers.
- Prepare and distribute a brochure describing how to prepare Recyclable Material for Collection. Contractor shall inform residents as to the acceptable materials that can be included in the Recyclable Materials Containers and any common contaminants to be excluded from Collection.
- Prepare and distribute a brochure describing the dates and time of all holiday tree Collection.
- Prepare and distribute a flyer describing the Residential annual clean-up event. Public education materials for the annual clean-up event shall include preparation, printing, and mailing of a flyer announcing and describing the services and advertising in two local area newspapers approved by the Authority.
- An employee of Contractor shall visit homeowner associations or other groups to promote and explain the program throughout the term of the Agreement, as requested by the associations or scheduled by the Authority.

- A quarterly newsletter shall be distributed to all residents promoting and explaining the programs. The newsletter shall be reviewed and approved by the Authority and distributed to residents at the same time Residential bills are issued.
- A corrective actions notice shall be prepared and used in instances where Waste Generators set out inappropriate materials.
- Educational “door hangers” shall be prepared and distributed
- School education programs to teach students about source reduction, reuse, and recyclable materials shall be prepared and made available to schools.
- Non-program related information on source reduction, reuse and recyclable materials (e.g. junk mail reduction, household hazardous waste events, grass cycling, composting, etc.) shall be available.
- Specially designed public education materials and programs to reach Multi-Family residents shall be prepared.

Commercial Education Program (minimum requirements)

Initial Start-Up Public Education Activities

- An initial distribution to Commercial Customers of public education materials explaining the Recyclable Materials Collection services shall be provided for the different business types.
- Separate “how-to” brochures explaining the Recyclable Materials Collection programs that are tailored to each general business types (i.e., restaurants, office/Commercial buildings, strip malls, and large Commercial businesses).
- Promote and conduct a total of eight training meetings, two for each general business type (i.e., restaurants, office/Commercial buildings, strip malls, and large Commercial businesses) to educate Commercial Customers on the Recyclable Materials Collection programs, answer questions, and provide information to businesses to increase Diversion.
- Attendance at least six business association and organizations (e.g., Chamber of Commerce, churches, and other organizations) to educate Commercial Customers on the Recyclable Materials Collection programs, answer questions, and provide information to increase Diversion.

Public Education Activities to Be Performed throughout the Term of the Agreement

- Prepare and distribute a **Recyclable Materials resource guide** to provide vendors’ names, numbers and contacts for **purchasing recycled products**, re-use donation locations, and other recyclable materials companies, to be updated annually.

- Prepare and distribute a quarterly newsletter to be distributed to all businesses promoting and explaining the programs. The newsletter shall be reviewed and approved by the Authority.
- Prepare and distribute a corrective actions notice for use in instances where the resident sets out inappropriate materials.

All Customers

Contractor shall develop and implement a public education program designed to educate Generators regarding proper methods of handling and disposing of Hazardous Waste and a load inspection program for Contractor's personnel to detect and discover Hazardous Waste placed by Generator for Collection by Contractor.

EXHIBIT 6
INITIAL RATES

West Valley Solid Waste Management Authority
Garbage Collection Rates
Effective March 1, 2007

	Campbell	Los Gatos	Monte Sereno	Saratoga
Residential				
<i>Regular:</i>				
20-gallon	\$ 14.14	\$ 13.69	\$ 17.58	\$ 15.25
35-gallon	\$ 18.46	\$ 17.88	\$ 22.88	\$ 19.83
65-gallon	\$ 36.91	\$ 35.76	\$ 45.77	\$ 39.67
95-gallon	\$ 55.37	\$ 53.64	\$ 68.65	\$ 59.50
<i>Hard to Serve:</i>				
20-gallon		\$ 18.80	\$ 24.04	\$ 20.83
35-gallon		\$ 25.50	\$ 32.53	\$ 28.16
65-gallon		\$ 50.99	\$ 65.07	\$ 56.33
95-gallon		\$ 76.49	\$ 97.60	\$ 84.49
<i>Sr. Citizen:</i>				
20-gallon	\$ 9.43			
35-gallon	\$ 12.30			
Commercial				
<i>Commercial-1.5 Yards</i>				
1 p/u per week	\$ 93.91	\$ 104.68	\$ 132.54	\$ 128.56
2 p/u per week	\$ 189.16	\$ 210.92	\$ 267.01	\$ 259.07
3 p/u per week	\$ 284.41	\$ 317.15	\$ 401.47	\$ 389.58
4 p/u per week	\$ 379.66	\$ 423.38	\$ 535.94	\$ 520.09
5 p/u per week	\$ 474.91	\$ 529.61	\$ 670.40	\$ 650.60
6 p/u per week	\$ 570.16	\$ 635.84	\$ 804.87	\$ 781.11
Extra Dump	\$ 21.67	\$ 24.16	\$ 30.59	\$ 29.67
Saturday Dump	\$ 21.98	\$ 24.51	\$ 31.03	\$ 30.12
<i>Commercial-2 Yards</i>				
1 p/u per week	\$ 125.21	\$ 139.58	\$ 176.73	\$ 171.42
2 p/u per week	\$ 252.21	\$ 281.22	\$ 356.01	\$ 345.43
3 p/u per week	\$ 379.21	\$ 422.86	\$ 535.30	\$ 519.44
4 p/u per week	\$ 506.21	\$ 564.50	\$ 714.58	\$ 693.46
5 p/u per week	\$ 633.21	\$ 706.14	\$ 893.87	\$ 867.47
6 p/u per week	\$ 760.21	\$ 847.78	\$ 1,073.15	\$ 1,041.48
Extra Dump	\$ 28.90	\$ 32.21	\$ 40.78	\$ 39.56
Saturday Dump	\$ 29.31	\$ 32.69	\$ 41.37	\$ 40.16
<i>Commercial-3 Yards</i>				
1 p/u per week	\$ 187.82	\$ 209.37	\$ 265.09	\$ 257.12
2 p/u per week	\$ 378.32	\$ 421.83	\$ 534.02	\$ 518.14
3 p/u per week	\$ 568.82	\$ 634.29	\$ 802.95	\$ 779.16
4 p/u per week	\$ 759.32	\$ 846.75	\$ 1,071.87	\$ 1,040.18
5 p/u per week	\$ 949.82	\$ 1,059.21	\$ 1,340.80	\$ 1,301.20
6 p/u per week	\$ 1,140.32	\$ 1,271.67	\$ 1,609.73	\$ 1,562.22
Extra Dump	\$ 43.34	\$ 48.32	\$ 61.17	\$ 59.34
Saturday Dump	\$ 43.96	\$ 49.03	\$ 62.06	\$ 60.24

West Valley Solid Waste Management Authority
 Garbage Collection Rates
 Effective March 1, 2007

Commercial-4 Yards

1 p/u per week \$ 250.43 \$ 279.16 \$ 353.45 \$ 342.83

Commercial-6 Yards

1 p/u per week \$ 375.64 \$ 418.74 \$ 530.18 \$ 514.25

2 p/u per week \$ 756.64 \$ 843.66 \$ 1,068.03 \$ 1,036.29

3 p/u per week \$ 1,137.64 \$ 1,268.58 \$ 1,605.89 \$ 1,558.33

4 p/u per week \$ 1,518.64 \$ 1,693.50 \$ 2,143.75 \$ 2,080.37

5 p/u per week \$ 1,899.64 \$ 2,118.43 \$ 2,681.60 \$ 2,602.41

6 p/u per week \$ 2,280.64 \$ 2,543.35 \$ 3,219.46 \$ 3,124.45

Extra Dump \$ 86.69 \$ 96.63 \$ 122.35 \$ 118.67

Saturday Dump \$ 87.92 \$ 98.06 \$ 124.12 \$ 120.47

Commercial-Cans

1 \$ 9.39 \$ 10.47 \$ 13.25 \$ 12.86

2 \$ 18.78 \$ 20.94 \$ 26.51 \$ 25.71

3 \$ 28.17 \$ 31.40 \$ 39.76 \$ 38.57

4 \$ 37.56 \$ 41.87 \$ 53.02 \$ 51.42

5 \$ 46.95 \$ 52.34 \$ 66.27 \$ 64.28

6 \$ 56.35 \$ 62.81 \$ 79.53 \$ 77.14

7 \$ 65.74 \$ 73.28 \$ 92.78 \$ 89.99

8 \$ 75.13 \$ 83.75 \$ 106.03 \$ 102.85

9 \$ 84.52 \$ 94.21 \$ 119.29 \$ 115.70

12 \$ 112.69 \$ 125.62 \$ 159.05 \$ 154.27

13 \$ 122.08 \$ 136.09 \$ 172.31 \$ 167.13

15 \$ 140.86 \$ 157.02 \$ 198.81 \$ 192.84

18 \$ 169.04 \$ 188.43 \$ 238.58 \$ 231.41

22 \$ 206.60 \$ 230.30 \$ 291.59 \$ 282.83

27 \$ 253.56 \$ 282.64 \$ 357.87 \$ 347.11

30 \$ 281.73 \$ 314.05 \$ 397.63 \$ 385.68

34 \$ 319.29 \$ 355.92 \$ 450.64 \$ 437.10

43 \$ 403.81 \$ 450.14 \$ 569.93 \$ 552.81

50 \$ 469.55 \$ 523.42 \$ 662.71 \$ 642.80

54 \$ 507.11 \$ 565.29 \$ 715.73 \$ 694.22

Debris Box (cu. yds.)

8 \$ 265.92 \$ 265.92 \$ 265.92 \$ 265.92

20 \$ 455.10 \$ 455.10 \$ 455.10 \$ 455.10

30 \$ 549.70 \$ 549.70 \$ 549.70 \$ 549.70

40 \$ 644.29 \$ 644.29 \$ 644.29 \$ 644.29

Compactor (cu. yds.)

10 \$ 455.10 \$ 455.10 \$ 455.10 \$ 455.10

12 \$ 492.94 \$ 492.94 \$ 492.94 \$ 492.94

15 \$ 549.70 \$ 549.70 \$ 549.70 \$ 549.70

16 \$ 568.62 \$ 568.62 \$ 568.62 \$ 568.62

20 \$ 644.29 \$ 644.29 \$ 644.29 \$ 644.29

25 \$ 738.88 \$ 738.88 \$ 738.88 \$ 738.88

26 \$ 757.80 \$ 757.80 \$ 757.80 \$ 757.80

28 \$ 795.64 \$ 795.64 \$ 795.64 \$ 795.64

30 \$ 833.48 \$ 833.48 \$ 833.48 \$ 833.48

36 \$ 946.99 \$ 946.99 \$ 946.99 \$ 946.99

40 \$ 1,022.67 \$ 1,022.67 \$ 1,022.67 \$ 1,022.67

EXHIBIT 7
IMPLEMENTATION PLAN

EXHIBIT 7
IMPLEMENTATION PLAN

The implementation plan is included in the company's proposal at Exhibit 14.

EXHIBIT 8
PAYMENTS BY COMPANY

EXHIBIT 8

PAYMENTS BY COMPANY

1. Franchise Fees

Company shall pay a monthly Franchise Fee to each of the Cities using the following %'s:

City of Campbell	10%
City of Monte Sereno	10%
City of Saratoga	10%
Town of Los Gatos	10%

Such percentages may be changed at any time by Authority or the Cities.

2. Vehicle Impact Fees

Company shall pay a monthly Vehicle Impact Fee to each of the Cities as follows:

City of Campbell	\$ 0
City of Monte Sereno	\$ 0
City of Saratoga	\$ 0
Town of Los Gatos	\$ 0

EXHIBIT 9
FAITHFUL PERFORMANCE BOND

Bond No. 41073601
Premium \$11,000.00

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, West Valley Collection & Recycling, LLC as Principal, and PLATTE RIVER INSURANCE COMPANY, a corporation duly organized under the laws of the state of Nebraska and licensed to do business in the State of California, as Surety, are held and firmly bound unto West Valley Solid Waste Management Authority (Obligee), in the penal sum of One Million & 00/100 (\$1,000,000.00) Dollars, lawful money of the United States of America, for the payment of which sum, well and truly to be made, the Principal and Surety do bind themselves, their heirs, executors, administrators, and successors and assigns, jointly and severally, firmly by these presents.

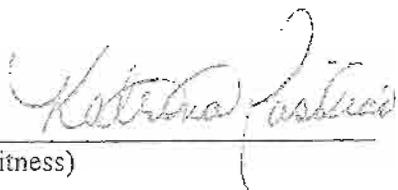
THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the above bounden Principal has entered into a certain written Contract with the above named Obligee, effective the 14th day of March, 2006, and terminating the 28th day of February, 2014, for the Collection of Solid Waste, Recyclable Materials, Green Waste, and Construction and Demolition Debris, the Transportation of Such Materials to Appropriate Places of Processing, Recycling, Composting and/or Disposal, and the Processing of Recyclable Materials and more fully described in said Contract, a copy of which is attached, which Agreement is made a part hereof and incorporated herein by reference, except that nothing said therein shall alter, enlarge, expand or otherwise modify the term of the bond as set out below.

NOW, THEREFORE, if Principal, its executors, administrators, successors and assigns shall promptly and faithfully perform the Contract, according to the terms, stipulations or conditions thereof, then this obligation shall become null and void, otherwise to remain in full force and effect. This bond is executed by the Surety and accepted by the Obligee subject to the following express condition:

Notwithstanding the provisions of the Contract, the term of this bond shall apply from August 14th, 2006, until August 14th, 2007, and may be extended by the Surety by Continuation Certificate. However, neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of nonrenewal, shall itself constitute a loss to the obligee recoverable under this bond or any renewal or continuation thereof. The liability of the Surety under this bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

Sealed with our seals and dated this 14th day of August, 2006.



(Witness)

(Attest)

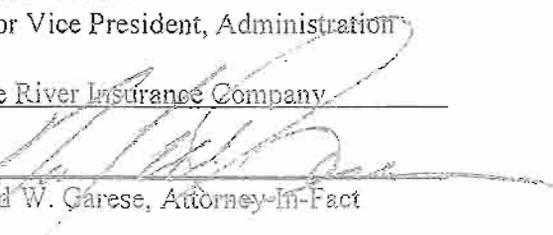
S-5025 (7/98)

West Valley Collection & Recycling, LLC
BY: Waste Connections of California, Inc., Manager

BY: 

Kenneth O. Rose
Senior Vice President, Administration

Platte River Insurance Company

BY: 

David W. Garese, Attorney-in-Fact

PLATTE RIVER INSURANCE COMPANY
POWER OF ATTORNEY

41073601

KNOW ALL MEN BY THESE PRESENTS, That the PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Madison, Wisconsin, does make, constitute and appoint

----- DAVID W. GARESE, AUDREY C. SKEEN & SARAH COLLINS -----

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

----- ALL WRITTEN INSTRUMENTS IN AN AMOUNT: \$2,500,000.00 -----

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2002.

"RESOLVED, that the President, and Executive Vice-President, the Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, one or more vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of the Corporation; the signature of such officers and seal of the Corporation may be affixed to such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Corporation in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

IN WITNESS WHEREOF, the PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 1st day of February, 2005.

Attest:

James J. McIntyre
James J. McIntyre
Executive Vice President



PLATTE RIVER INSURANCE COMPANY

David F. Pauly
David F. Pauly
President and CEO

STATE OF WISCONSIN }
COUNTY OF DANE } S.S.

On the 1st day of February, 2005 before me personally came David F. Pauly, to me known, who being by me duly sworn, did depose and say, that he resides in the County of Dane, State of Wisconsin; that he is President and CEO of PLATTE RIVER INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



Kathleen A. Paulson
Kathleen A. Paulson
Notary Public, Dane Co., WI
My Commission Expires 10-15-2006

STATE OF WISCONSIN }
COUNTY OF DANE } S.S.

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Madison, State of Wisconsin this 14th day of August, 2006



Alan A. Ogilvie
Alan A. Ogilvie
Secretary

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON GREEN SHADED BACKGROUND WITH A RED SERIAL NUMBER IN THE UPPER RIGHT HAND CORNER. IF YOU HAVE ANY QUESTIONS CONCERNING THE AUTHENTICITY OF THIS DOCUMENT CALL 800-475-4450.

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California
County of Sacramento
On August 14, 2006 before me, Sarah Collins, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared David W. Garese
Name(s) of Signer(s)

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledge to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS MY HAND AND OFFICIAL SEAL.

Sarah Collins
Signature of Notary Public

OPTIONAL
Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form to another document

Description of Attached Document

Title or Type of Document: _____

Document Date _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner -- Limited General
- Attorney-in-Fact
- Other: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner -- Limited General
- Attorney-in-Fact
- Other: _____

Signer is Representing:
Platte River Insurance Company

Signer is Representing:

EXHIBIT 10

DISPOSAL PAYMENT PROVISIONS

EXHIBIT 10

DISPOSAL PAYMENT PROVISIONS

The initial gate rates at the Designated Disposal Site are as follows:

	Disposal Rate	Yard Waste Processing Rate (Beneficial Use at Guadalupe Landfill)	Construction and Demolition Debris Rate
State AB1220 Fee	\$ 1.40/Ton	n/a	n/a
Santa Clara County AB 939 Fee	\$ 3.72/Ton	n/a	n/a
Santa Clara County Solid Waste Planning Fee	\$ 0.50/Ton	n/a	n/a
City of San Jose Business Tax	\$13.00/Ton	n/a	n/a
City of San Jose Solid Waste Enforcement Fee	\$ 0.80/Ton	\$ 0.80/Ton	\$ 0.80/Ton
Total Fee Component	\$19.42/Ton	\$ 0.80/Ton	\$ 0.80/Ton
Propriety Rate	\$20.40/Ton	\$18.58/Ton	\$36.70/Ton
Transportation Component			
TOTAL FEE	\$39.82/Ton	\$19.38/Ton	\$37.50/Ton

EXHIBIT 11

AUTHORITY APPROVED SUBCONTRACTORS

EXHIBIT 11

AUTHORITY APPROVED SUBCONTRACTORS

None

EXHIBIT 12
NOTARY CERTIFICATION
Intentionally Omitted

EXHIBIT 12

NOTARY CERTIFICATION

Intentionally Omitted

EXHIBIT 13
CART SPECIFICATIONS

EXHIBIT 13

CART SPECIFICATIONS

A. CART DESIGN REQUIREMENTS

1. General

The Carts shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to Authority approval.

2. Cart Handles

The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. The Cart handles will provide comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable.

3. Cart Lid

Each Container shall be provided with a lid that continuously overlaps and comes in contact with the Container body or otherwise causes an interface with the Container body that simultaneously:

- Prevents the intrusion of rainwater, rodents, birds, and flies;
- Prevents the emission of odors;
- Enables the free and complete flow of material from the Container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
- Permits users of the Container to conveniently and easily open and shut the lid throughout the serviceable life of the Container;

- The lid handle shall be an integrally molded part of the lid;
- The lid (and body) must be of such design and weight that would prevent an empty Container from tilting backward when flipping the lid open; and,
- The lid shall be hinged to the Cart body in such a manner so as to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the Container body.

4. Cart Colors

The Solid Waste, Recyclable Materials, and Green Waste Carts will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container. Solid Waste Carts shall be black or gray. Recyclable Materials Carts shall be blue. Green Waste Carts shall be brown. Company may propose other colors for Carts, which are subject to approval by the Authority. For all colors including those prescribed in this paragraph, the Company shall obtain written approval from the Authority for the Cart color before Company's purchase of the Carts.

5. Identification Markings

All markings on the Containers shall be approved by the Authority in advance of ordering Carts. An arrow (at least 3 inches by 5 inches) hot stamped in white color shall be placed on the lid, indicating the direction of Cart placement.

In character size of no less than 3/16 inch, the phrase:

PLACE CONTAINER WITH ARROW FACING

STREET FOR COLLECTION

Additionally, the **SOLID WASTE, RECYCLING** or **GREEN WASTE** must be hot stamped in white color on the front or sides of the Cart in characters no less than one inch.

B. CART PERFORMANCE REQUIREMENTS

1. General

All Carts shall be designed and manufactured to meet the minimum performance requirements described below.

2. Cart Load Capacity

Depending on the capacity, the Carts shall have a minimum load capacity as noted below without Container distortion, damage, or reduction in maneuverability or any other functions as required herein.

Cart Size (Gallons)	Minimum Load Capacity (LBS)
90-101	200
60-68	130
30-35	70
20	40

3. Cart Durability

Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy its intended use and performance, for the term of this Agreement:

- Maintain its original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;

- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with its intended use;
- Resist degradation from ultraviolet radiation;
- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Cart bodies must remain impervious to any damage, that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface;
- All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the Authority.

4. Chemical Resistant

Carts shall resist damage from common household or Residential products and chemicals. Carts, also, shall resist damage from human and animal urine and feces.

5. Stability and Maneuverability

The Carts shall be stable and self-balancing in the upright position, when either empty or loaded to its maximum design capacity with an evenly distributed load, and with the lid in either a closed or an open position.

The Carts shall be capable of maintaining its upright position in sustained or gusting winds of up to 25 miles per hour as applied from any direction.

The Carts shall be capable of being easily moved and maneuvered, with an evenly distributed load equal in weight to its maximum design capacity on a level, sloped or stepped surface.

6. Lid Performance

Cart lid assemblies shall meet the following minimum requirements:

- Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and closing of the lid by residents or in the dumping process as intended;
- Remain closed in winds up to 25 miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed or any position between the two extremes; and,
- Lid shall be designed and constructed such that it prevents physical injury to the user while opening and closing the Container.

7. Reparability

Minor cracks, holes, and other damages to hinges, wheels, axle, hardware, and other component parts shall be readily repairable by the Company personnel. All repairs must restore the Container to its full functionality to meet the design and performance requirements as set for herein.

EXHIBIT 14
COMPANY'S PROPOSAL

EXHIBIT 15

CORPORATE GUARANTY

GUARANTY

THIS GUARANTY (the "Guaranty") is given as of the _____ day of _____, 2006, by Waste Connections, Inc., a Delaware corporation ("Guarantor"), to the West Valley Solid Waste Management Authority ("Authority"). This Guaranty is made with reference to the following recitals:

WHEREAS, West Valley Collection & Recycling, LLC, a California limited liability company ("Contractor"), is a majority owned subsidiary of Guarantor; and

WHEREAS, Contractor has entered into an Agreement dated as of March 14, 2006 ("Agreement"), with the Authority for the collection of solid waste, recyclable materials, green waste, and construction and demolition debris, the transportation of such materials to appropriate places of processing, recycling, composting and/or disposal, and the processing of recyclable materials; and

WHEREAS, as an inducement to the Authority to enter into the Agreement with the Contractor, and for other good and valuable consideration, receipt of which is hereby acknowledged by Guarantor, Guarantor has agreed to provide the Authority with a guaranty of the obligations of Contractor under the Agreement as they now exist and may hereafter be extended, modified or amended;

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. Guaranty of the Agreement. Guarantor hereby irrevocably and unconditionally guarantees to Authority the complete and timely performance, satisfaction and observation by Contractor of each and every term and condition of the Agreement. If Contractor fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, satisfy or observe them in the place of Contractor. Guarantor hereby guarantees payment to Authority of any damages, costs or expenses which might become recoverable by Authority from Contractor due to its breach of the Agreement.
2. Guarantor's Obligations are Absolute. The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Contractor under the Agreement, shall constitute a guarantee of payment and not of collection.
3. Waivers. The Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (a) the insolvency, bankruptcy, reorganization or cessation of existence of Contractor; (b) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (c) any waiver, extension, release or modification with respect to any of the obligations of the Agreement or the impairment or suspension of any of Authority's rights or remedies against Contractor; or (d) any merger or consolidation of Contractor with any other entity, or any sale, lease or transfer of any or all the assets of Contractor. Without limiting the generality of the

foregoing, Guarantor hereby waives the rights and benefits under California Civil Code Section 2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code Sections 2845, 2849 and 2850, including, without limitation, the right to require Authority to: (a) proceed against Contractor; (b) proceed against or exhaust any security or collateral Authority may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that Authority may proceed against Guarantor for the obligations guaranteed herein without taking any action against Contractor or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral Authority may now or hereafter hold.

Guarantor hereby waives any right which it may have to reimbursement from Contractor for amounts disbursed by Guarantor and any right of subrogation to the rights of Authority against Contractor, including, without limitation, such rights as may be provided under California Civil Code Sections 2847 and 2848. Guarantor agrees that Authority may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Contractor or any other guarantor or pledgor without impairing Authority's rights and remedies in enforcing this Guaranty.

The Guarantor hereby waives and agrees to waive at any future time at the request of Authority, to the extent now or then permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its obligations under, or to terminate, cancel, quit or surrender this Guaranty. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time, without notice to the Guarantor, the time for Contractor's performance of or compliance with any of its obligations under the Agreement is extended, or such performance or compliance is waived; (b) the Agreement is modified or amended in any respect; (c) any other indemnification is modified or amended in any respect; (d) any other indemnification with respect to Contractor's obligations under the Agreement or any security therefor is released or exchanged in whole or in part or otherwise dealt with; or (e) any assignment of the Agreement is effected which does not require Authority's approval.

The Guarantor hereby expressly waives diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from Authority as a preference, fraudulent transfer or otherwise, irrespective of: (a) any notice of revocation given by Guarantor to Contractor prior to such avoidance or recovery; and (b) payment in full of any obligations then outstanding.

4. Term. This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed by Contractor, and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by Authority of any performance bond or other collateral to assure the performance of Contractor's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by Authority against Contractor arising out of the Agreement based on such entity's failure to perform which has not been settled or discharged.
5. No Waivers. No delay on the part of Authority in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligations of Guarantor or right of Authority to take other or further action without notice or demand. No modification or waiver of any of the provision of this Guaranty shall be effective unless it is in writing and signed by Authority and by Guarantor, nor shall any waiver be effective except in the specific instance or matter for which it is given.
6. Attorney's Fees. In addition to the amounts guaranteed under this Guaranty, Guarantor agrees to pay actual attorneys' fees and all other costs and expenses incurred by Authority in enforcing this Guaranty, or in any action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties hereunder.
7. Governing Law; Jurisdiction. This Guaranty is and shall be deemed to be a contract entered into in and pursuant to the laws of the State of California and shall be governed and construed in accordance with the laws of California without regard to its conflicts of laws rules for all purposes, including, but not limited to, matters of construction, validity and performance. Guarantor agrees that any action brought by Authority to enforce this Guaranty may be brought in any court of the State of California and Guarantor consents to personal jurisdiction over it by such courts.
8. Severability. If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity shall have no effect upon the remaining portions of this Guaranty, which shall be severable and continue in full force and effect.
9. Binding on Successors. This Guaranty shall inure to the benefit of Authority and its successors and shall be binding upon Guarantor and its successors, including transferee(s) of substantially all of its assets and its shareholder(s) in the event of its dissolution or insolvency.
10. Authority. Guarantor represents and warrants that it has the corporate power and authority to give this Guaranty, that its execution of this Guaranty has been authorized by all necessary action under its Certificate of Incorporation and By-Laws, and that the person signing this Guaranty on its behalf has the authority to do so.

11. Notices. Notice shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To Authority: Executive Director
West Valley Solid Waste Management Authority
% Hilton Farnkopf & Hobson, LLC
2175 North California Boulevard
Suite 990
Walnut Creek, CA
Phone: (925) 977-6950
Fax: (925) 977-6955

To Guarantor: Ron Mittelstaedt
Chairman and Chief Executive Officer
Waste Connections, Inc.
35 Iron Point Circle, Suite 200
Folsom, CA 95630
Phone: (916) 608-8200
Fax: (916) 608-8290

With a copy to Guarantor's General Counsel at the same address and facsimile number.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Guarantor has executed this Guaranty.

Date: August 7, 2006. WASTE CONNECTIONS, INC. (Guarantor)

By: _____


Ron Mittelstaedt
Chairman and Chief Executive Officer

AMENDMENT TO AGREEMENT BETWEEN
WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AND
WEST VALLEY COLLECTION & RECYCLING, LLC
FOR THE COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, GREEN
WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS, THE
TRANSPORTATION OF SUCH MATERIALS TO APPROPRIATE PLACES OF
PROCESSING, RECYCLING, COMPOSTING AND/OR DISPOSAL, AND THE
PROCESSING OF RECYCLABLE MATERIALS

THIS AMENDMENT TO AGREEMENT BETWEEN WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AND WEST VALLEY COLLECTION & RECYCLING, LLC FOR THE COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, GREEN WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS, THE TRANSPORTATION OF SUCH MATERIALS TO APPROPRIATE PLACES OF PROCESSING, RECYCLING, COMPOSTING AND/OR DISPOSAL, AND THE PROCESSING OF RECYCLABLE MATERIALS (the "Amendment") is hereby made by and between the West Valley Solid Waste Management Authority (the "Authority") and West Valley Collection & Recycling, LLC ("WVCR").

RECITALS

A. Authority is an public agency created pursuant to Government Code section 6500 et seq. by the Cities of Campbell, Monte Sereno and Saratoga and the Town of Los Gatos to manage and oversee the collection, disposal and recycling of solid waste originating in the participating municipalities.

B. Authority and WVCR entered into that certain agreement entitled AGREEMENT BETWEEN WEST VALLEY SOLID WASTE MANAGEMENT AUTHORITY AND WEST VALLEY COLLECTION & RECYCLING, LLC FOR THE COLLECTION OF SOLID WASTE, RECYCLABLE MATERIALS, GREEN WASTE, AND CONSTRUCTION AND DEMOLITION DEBRIS, THE TRANSPORTATION OF SUCH MATERIALS TO APPROPRIATE PLACES OF PROCESSING, RECYCLING, COMPOSTING AND/OR DISPOSAL, AND THE PROCESSING OF RECYCLABLE MATERIALS to provide for the collection of solid waste, recyclable materials, green waste, and construction and demolition debris dated March 14, 2006 (the "Agreement").

C. Authority and WVCR desire to amend the Agreement as herein provided.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions, the parties agree as follows:

AGREEMENT

1. Section 3.2 of the Agreement is hereby amended as follows

"8.2. Initial Rates

The rates for the Rate Year ending June 30, 2008, are those established by the Company and approved by the Authority by Resolution No. ____ (a copy of which is attached as Exhibit 6), unless amended in accordance with this Agreement. Unless and until the rates set forth on Exhibit 6 are adjusted by the Company and approved by the Authority, the Company will provide the service required by this Agreement, charging no more and no less than the rates authorized by Exhibit 6 unless authorized to so by the Authority.

The Authority and Company agree that the rates set forth on Exhibit 6 have been calculated in accordance with Authority policies to generate an amount of revenue necessary to compensate Company for its costs (including Disposal and Materials Processing) and profit and to cover the Authority's and Cities' Franchise Fees, Vehicle Impact Fees, and other fees and surcharges, if any.

The rates shall be fixed and shall not be increased to reflect decreases in revenues below those anticipated by the Authority and Company nor decreased to reflect increases in revenues above those anticipated by the Authority and Company."

2. Exhibit 8 is hereby eliminated in its entirety and replaced with a revised Exhibit 8 attached hereto and incorporated herein by this reference.

3. Except as otherwise provided herein, all other provisions of the Agreement shall remain the same.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on this 29th day of August, 2006.

WEST VALLEY SOLID WASTE
MANAGEMENT AUTHORITY


By: Nick Streit, Chairperson

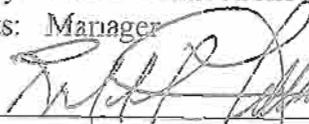
APPROVED AS TO FORM:


By: Kirsten Powell, Authority Counsel

WEST VALLEY COLLECTION &

RECYCLING, LLC

By: Waste Connections of California, Inc.,
Its: Manager


By: Ronald J. Mittelstaedt
Its: Chief Executive Officer


By: Robert D. Evans
Its: Secretary

EXHIBIT 8

PAYMENTS BY COMPANY

1. Franchise Fees

Company shall pay a monthly Franchise Fee to each of the Cities using the following %'s:

City of Campbell	16.5%
City of Monte Sereno	16.5%
City of Saratoga	16.5%
Town of Los Gatos	16.5%

Such percentages may be changed at any time by Authority or the Cities.

2. Vehicle Impact Fees

Company shall pay a monthly Vehicle Impact Fee to each of the Cities as follows:

City of Campbell	\$ -0-
City of Monte Sereno	\$ -0-
City of Saratoga	\$ -0-
Town of Los Gatos	\$ -0-

Revised 08/29/06